OFFICIALS AT CODIFICATION

_____

Steve Seibert

Chairman

_____

Sallie Parks

Vice-Chairman

_____

Bruce Tyndall

Charles E. Rainey

Robert Stewart

Board of County Commissioners

_____

Fred Marquis

County Administrator

_____

Susan H. Churuti

County Attorney

_____

Karleen F. DeBlaker

Clerk of the Circuit Court

CURRENT OFFICIALS

_____

Charlie Justice

Chairman

_____

Janet C. Long

Vice-Chairman

_____

Dave Eggers

Pat Gerard

Charlie Justice

Janet C. Long

John Morroni

Karen Williams Seel

Kenneth T. Welch

Board of County Commissioners

_____

Mark S. Woodard

County Administrator

_____

James L. Bennett

County Attorney

_____

Ken Burke, CPA

Clerk of the Circuit Court

PREFACE

This Code constitutes a complete codification of the general and permanent ordinances of Pinellas County, Florida, and consists of the Pinellas County Code (designated as part II) and the Pinellas County Land Development Code (designated as part III).

Source materials used in the preparation of the Code were the ordinances adopted by the board of county commissioners. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter sand section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

CHARTER	CHT:1
CHARTER COMPARATIVE TABLE	CHTCT:1
CODE	CD1:1
CODE APPENDIX	CDA:1 CDB:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT:1
CHARTER INDEX	CHTi:1
CODE INDEX	CDi:1

Indexes

The indexes have been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references

within the indexes themselves which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

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

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

Acknowledgments

This publication was under the direct supervision of Roger D. Merriam, Supervising Editor, and Charles Vignos, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Ms. Susan Churuti, County Attorney, and Mr. Jim Bennett, Chief Assistant County Attorney, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the county readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the county's affairs.

	MUNICIPAL CODE CORPORATION Tallahassee, Florida

ADOPTING ORDINANCE
ORDINANCE NO. 95-50

An Ordinance Adopting and Enacting a New Code for Pinellas County, Florida; Providing for the Amendment and/or Repeal of Certain Ordinances Not Included Therein as Described in a Memorandum on File with the Clerk of the Board of County Commissioners; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; and Providing When Such Code and This Ordinance Shall Become Effective; Providing for Other Modifications That May Arise From Review of the Ordinance at the Public Hearings and with Responsible Authorities.

Be It Ordained by the Board of County Commissioners of Pinellas County, Florida:

Section 1. The Code entitled "Pinellas County Code" published by Municipal Code Corporation consisting of Chapters 1 through 133, each inclusive, is adopted.

Section 2. With the following exceptions, all ordinances of a general and permanent nature enacted on or

before December 6, 1994, and not included in the Pinellas County Code or recognized and continued in force by reference therein, are repealed. Ordinances that establish or amend the actual zoning or land use designation of a parcel or parcels of land are not considered ordinances of a general or permanent nature.

A.

Exception 1: Ordinances exempt from the statutory codification requirement by Chapter 125.68(1)(b) and (c) Florida Statutes including the Pinellas County Comprehensive Plan (Ord. 89-32, as amended).

B.

Exception 2: Ordinances establishing and amending Countywide Comprehensive Plan (Ordinance 89-4, as amended).

C.

Exception 3: Ordinances included or recognized and continued in force by reference in the "Pinellas County Land Development Code" adopted contemporaneously with the Pinellas County Code.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Pinellas County Code or any ordinance, rule or regulation adopted or issued in pursuance thereof, shall be punished by a fine not to exceed $500.00 or by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided shall apply to the amendment of any Pinellas County Code section whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the board of county commissioners may pursue other remedies such as abatement of nuisances, injunctive relief, and revocation of licenses or permits.

Section 5. Additions or amendments to the Pinellas County Code when passed in the form as to indicate the intention of the board of county commissioners to make the same a part of the Pinellas County Code shall be deemed to be incorporated in the Pinellas County Code, so that reference to the Pinellas County Code includes the additions and amendments.

Section 6. Ordinances adopted after December 6, 1994, that amend or refer to ordinances that have been codified in the Pinellas County Code, shall be construed as if they establish new provisions to or amend or refer to like provisions of the Pinellas County Code. Such ordinances include, but are not limited to Ordinances 95-6, 95-11, 95-12, 95-13, 95-19, 95-24, 95-25, 95-26, 95-27, 95-28, 95-29, 95-30, 95-32, 95-35, 95-36, 95-36A, 95-36B, 95-36C, 95-40, 95-41, and 95-42.

Section 7. Pursuant to Section 125.66(2)(b), Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective July 18, 1995.

Certificate of Adoption

STATE OF FLORIDA

COUNTY OF PINELLAS

I, Karleen F. DeBlaker, Clerk of the Circuit Court and Ex-officio Clerk to the Board of County Commissioners, in and for the State and County aforesaid, do hereby certify that the above and foregoing is a true and correct copy of a resolution adopted by the Board of County Commissioners at a meeting held on the 11th day of July, 1995, relative to:

Ordinance No. 95-50

An Ordinance Adopting and Enacting a New Code for Pinellas County, Florida; Providing for the Amendment and/or Repeal of Certain Ordinances Not Included Therein as Described in a Memorandum on File with the Clerk of the Board of County Commissioners; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; and Providing When Such Code and This Ordinance Shall Become Effective; Providing for Other Modifications That May Arise From Review of the Ordinance at the Public Hearings and with Responsible Authorities.

In witness whereof, I hereunto set my hand and official seal this 12th day of July, 1995.

Karleen F. DeBlaker
Clerk of the Circuit Court and Ex-officio
Clerk of the Board of County Commissioners

By /s/ Norma Grant
Deputy Clerk

ADOPTING ORDINANCE
ORDINANCE NO. 95-51

An Ordinance Adopting and Enacting a New Land Development Code for Pinellas County, Florida; Providing for the Amendment and/or Repeal of Certain Ordinances Not Included Therein as Described in a Memorandum on File with the Clerk of the Board of County Commissioners; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; and Providing When Such Code and This Ordinance Shall Become Effective; Providing for Other Modifications That May Arise From Review of the Ordinance at the Public Hearings and with Responsible Authorities.

Be It Ordained by the Board of County Commissioners of Pinellas County, Florida:

Section 1. The Code entitled "Pinellas County Land Development Code" published by Municipal Code Corporation consisting of Chapters 134 through 170, each inclusive, is adopted.

Section 2. With the following exceptions, all ordinances of a general and permanent nature enacted on or before December 6, 1994, and not included in the Pinellas County Code or recognized and continued in force by reference therein, are repealed. Ordinances that establish or amend the actual zoning or land use designation of a parcel or parcels of land are not considered ordinances of a general or permanent nature.

A.

Exception 1: Ordinances exempt from the statutory codification requirement by Chapter 125.68(1)(b) and (c) Florida Statutes including the Pinellas County Comprehensive Plan (Ord. 89-32, as amended).

B.

Exception 2: Ordinances establishing and amending Countywide Comprehensive Plan (Ordinance 89-4, as amended).

C.

Exception 3: Ordinances included or recognized and continued in force by reference in the "Pinellas County Code" adopted contemporaneously with the Pinellas County Land Development Code.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Pinellas County Land Development Code or any ordinance, rule or regulation adopted or issued in pursuance thereof, shall be punished by a fine not to exceed $500.00 or by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided shall apply to the amendment of any Pinellas County Land Development Code section whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the board of county commissioners may pursue other remedies such as abatement of nuisances, injunctive relief, and revocation of licenses or permits.

Section 5. Additions or amendments to the Pinellas County Land Development Code when passed in the form as to indicate the intention of the board of county commissioners to make the same a part of the Pinellas County Land Development Code shall be deemed to be incorporated in the Pinellas County Land Development Code, so that reference to the Pinellas County Land Development Code includes the additions and amendments.

Section 6. Ordinances adopted after December 6, 1994, that amend or refer to ordinances that have been codified in the Pinellas County Land Development Code or that create new ordinances, shall be construed as if they establish new provisions to or amend or refer to like provisions of the Pinellas County Land Development Code. Such ordinances include, but are not limited to Ordinances 95-6, 95-11, 95-12, 95-13, 95-19, 95-24, 95-25, 95-26, 95-27, 95-28, 95-29, 95-30, 95-32, 95-35, 95-36, 95-36A, 95-36B, 95-36C, 95-40, 95-41, and 95-42.

Section 7. Pursuant to Section 125.66(2)(b), Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective July 18, 1995.

Certificate of Adoption

STATE OF FLORIDA

COUNTY OF PINELLAS

I, Karleen F. DeBlaker, Clerk of the Circuit Court and Ex-officio Clerk to the Board of County Commissioners, in and for the State and County aforesaid, do hereby certify that the above and foregoing is a true and correct copy of a resolution adopted by the Board of County Commissioners at a meeting held on the 11th day of July, 1995, relative to:

Ordinance No. 95-51

An Ordinance Adopting and Enacting a New Land Development Code for Pinellas County, Florida; Providing for the Amendment and/or Repeal of Certain Ordinances Not Included Therein as Described in a Memorandum on File with the Clerk of the Board of County Commissioners; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; and Providing When Such Code and This Ordinance Shall Become Effective; Providing for Other Modifications That May Arise From Review of the Ordinance at the Public Hearings and with Responsible Authorities.

In witness whereof, I hereunto set my hand and official seal this 12th day of July, 1995.

Karleen F. DeBlaker
Clerk of the Circuit Court and Ex-officio
Clerk of the Board of County Commissioners

By /s/ Norma Grant
Deputy Clerk

SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code Book and are considered "Includes." Ordinances that are not of a general and permanent nature are not codified in the Code Book and are considered "Omits."

In addition, by adding to this table with each supplement, users of this Code of Ordinances will be able to gain a more complete picture of the Code's historical evolution.

Ordinance Number	Date Adopted	Include/ Omit	Supplement Number
10-24	4-20-10	Include	70
10-47	10-12-10	Omit	70
10-48	10-12-10	Omit	70
10-49	10-12-10	Omit	70
10-50	10-26-10	Omit	70
10-51	10-26-10	Omit	70
10-52	10-26-10	Omit	70
10-53	10-26-10	Omit	70
10-54	10-26-10	Omit	70
10-55	10-26-10	Omit	70
10-56	10-26-10	Omit	70
10-57	10-26-10	Omit	70
10-58	10-26-10	Omit	70
10-59	10-26-10	Include	70

10-60	10-26-10	Include	70
10-61	11-16-10	Omit	70
10-62	11-16-10	Omit	70
10-63	11-16-10	Omit	70
10-64	11-16-10	Include	70
10-65	11-30-10	Include	70
10-66	11-30-10	Include	70
10-67	11-30-10	Include	70
10-68	12-14-10	Include	70
10-69	12-14-10	Omit	70
10-70	12-14-10	Omit	70
11-01	1-11-11	Omit	70
11-02	1-11-11	Omit	70
11-03	2- 8-11	Omit	71
11-04	2-22-11	Include	71
11-05	2-22-11	Include	71
11-06	3- 8-11	Omit	71
11-07	3- 8-11	Omit	71
11-08	3-22-11	Include	71
11-09	4-12-11	Omit	72
11-10	4-12-11	Omit	72
11-11	4-12-11	Include	72
11-12	4-26-11	Include	72
11-13	4-26-11	Omit	72
11-14	4-26-11	Omit	72
11-15	4-26-11	Omit	72
11-16	5-24-11	Omit	72
11-17	5-24-11	Omit	72
11-18	6-14-11	Omit	72
11-19	6-14-11	Include	72
11-20	6-14-11	Include	72
11-21	6-14-11	Omit	72
11-22	7-12-11	Omit	73
11-23	7-26-11	Include	73
11-24	7-26-11	Omit	73

11-25	7-26-11	Include	73
11-26	7-26-11	Omit	73
11-27	7-26-11	Omit	73
11-28	7-26-11	Omit	73
11-29	8- 9-11	Omit	73
11-30	8- 9-11	Omit	73
11-31	8- 9-11	Omit	73
011-32	8-23-11	Omit	73
11-33	8-23-11	Include	73
11-34	8-23-11	Omit	73
11-35	9-27-11	Include	74
11-36	9-27-11	Include	74
11-37	9-27-11	Include	74
11-38	9-27-11	Include	74
11-39	10-11-11	Omit	74
11-40	10-11-11	Omit	74
11-41	10-11-11	Omit	74
11-42	10-25-11	Include	74
11-43	10-25-11	Omit	74
11-44	11- 8-11	Include	74
11-45	11- 8-11	Omit	74
11-46	11- 8-11	Omit	74
11-47	11- 8-11	Omit	74
11-48	11- 8-11	Omit	74
11-49	12- 6-11	Omit	74
11-50	12- 6-11	Omit	74
11-51	12- 6-11	Omit	74
11-52	12-20-11	Include	75
11-53	12-20-11	Include	75
11-54	12-20-11	Omit	75
11-55	12-20-11	Omit	75
11-56	12-20-11	Include	75
11-57	12-20-11	Include	75
12-01	1-10-12	Omit	75
12-02	1-10-12	Include	75

12-08	2-21-12	Include	75
12-09	3-27-12	Omit	76
12-10	3-27-12	Omit	76
12-11	3-27-12	Omit	76
12-12	3-27-12	Omit	76
12-13	4-24-12	Omit	76
12-14	4-24-12	Omit	76
12-15	4-24-12	Omit	76
12-16	4-24-12	Omit	76
12-17	5- 8-12	Omit	76
12-18	5- 8-12	Omit	76
12-19	5- 8-12	Include	76
12-20	5-22-12	Omit	76
12-21	6- 5-12	Include	76
12-22	6- 5-12	Omit	76
12-23	6- 5-12	Omit	76
12-24	6- 5-12	Omit	76
12-25	6- 5-12	Omit	76
12-26	7-10-12	Include	76
12-27	7-10-12	Omit	76
12-28	7-10-12	Omit	76
12-29	7-24-12	Omit	77
12-30	7-24-12	Include	77
12-31	7-24-12	Omit	77
12-32	7-24-12	Include	77
12-33	7-24-12	Include	77
12-34	7-24-12	Include	77
12-35	8- 7-12	Omit	77
12-36	8- 7-12	Include	77
12-37	8- 7-12	Include	77
12-38	8-21-12	Include	78
12-39	8-21-12	Include	78
12-40	10-16-12	Omit	79
12-41	10-16-12	Include	79
12-42	12-11-12	Include	79

13-01	1-15-13	Include	79
13-02	1-15-13	Omit	79
13-03	1-29-13	Omit	80
13-04	1-29-13	Omit	80
13-05	2-12-13	Omit	80
13-06	2-26-13	Include	80
13-07	3-19-13	Include	80
13-08	4- 9-13	Include	80
13-09	4- 9-13	Omit	80
13-10	4- 9-13	Include	80
13-11	5-21-13	Include	81
13-12	6- 4-13	Omit	81
13-13	6-18-13	Omit	81
13-14	6-18-13	Include	81
13-15	7- 9-13	Omit	81
13-16	7- 9-13	Include	81
13-17	7- 9-13	Include	81
13-18	7-23-13	Omit	81
13-19	8- 6-13	Omit	81
13-20	8- 6-13	Omit	81
13-21	8-20-13	Include	81
13-22	8-20-13	Omit	81
13-23	8-20-13	Omit	81
13-24	9-17-13	Include	82
13-25	10- 8-13	Omit	82
13-26	10- 8-13	Omit	82
13-27	10- 8-13	Omit	82
13-28	10-22-13	Omit	82
14-01	1-14-14	Include	83
14-02	1-14-14	Include	83
14-03	1-14-14	Omit	83
14-04	1-14-14	Omit	83
14-05	1-14-14	Omit	83
14-06	1-28-14	Omit	83
14-07	1-28-14	Include	83

14-08	2-11-14	Omit	83
14-09	2-11-14	Omit	83
14-10	2-11-14	Include	83
14-11	2-11-14	Include	83
Current Officials	—	Include	83
10-105(Res.)	8-10-10	Include	84
13-29	11- 5-13	Omit	84
13-30	11- 5-13	Omit	84
13-31	11-19-13	Omit	84
13-32	11-19-13	Omit	84
13-33	12-10-13	Include	84
13-34	12-10-13	Omit	84
13-35	12-10-13	Omit	84
13-36	12-10-13	Include	84
14-12	2-25-14	Omit	84
14-13	2-25-14	Omit	84
14-14	3-18-14	Omit	84
14-15	3-18-14	Omit	84
14-16	3-18-14	Omit	84
14-17	3-18-14	Omit	84
14-18	4- 1-14	Omit	84
14-19	4- 1-14	Omit	84
14-20	4-15-14	Omit	84
14-21	5- 6-14	Omit	84
14-22	5- 6-14	Omit	84
14-23	5- 6-14	Omit	84
14-24	5- 6-14	Include	84
14-25	5-20-14	Include	84
14-26	6- 3-14	Include	84
14-27	6- 3-14	Omit	84
14-28	6- 3-14	Omit	84
14-29	6- 3-14	Omit	84
14-30	6-24-14	Include	84
14-31	7-15-14	Omit	84
14-32	7-15-14	Omit	84

14-33	7-15-14	Omit	84
14-34	8- 5-14	Omit	85
14-35	8-19-14	Omit	85
14-36	9-11-14	Include	85
14-37	9-23-14	Include	85
14-38	10- 7-14	Omit	85
14-39	10- 7-14	Omit	85
14-40	10-21-14	Include	85
14-41	10-21-14	Include	85
14-42	10-21-14	Include	85
14-43	10-21-14	Omit	85
14-44	10-21-14	Omit	85
14-45	10-21-14	Omit	85
14-46	11-18-14	Include	86
14-47	11-18-14	Omit	86
14-48	11-18-14	Omit	86
14-49	11-18-14	Omit	86
14-50	11-18-14	Omit	86
14-51	11-18-14	Omit	86
14-52	12- 2-14	Omit	86
14-53	12-16-14	Omit	86
14-54	12-16-14	Omit	86
14-55	12-16-14	Include	86
2014-56	12-16-14	Include	86
15-01	1-13-15	Omit	86
15-02	1-13-15	Omit	86
15-03	1-27-15	Omit	86
15-04	2-10-15	Omit	86
15-05	2-10-15	Omit	86
15-06	2-10-15	Omit	86
15-07	2-10-15	Omit	86
15-08	2-10-15	Include	86
15-09	2-10-15	Include	86
15-10	3-10-15	Omit	87
15-11	3-10-15	Omit	87

15-12	3-10-15	Omit	87
15-13	3-10-15	Omit	87
15-14	3-24-15	Include	87
15-15	3-24-15	Include	87
15-16	3-24-15	Omit	87
15-17	4- 7-15	Omit	87
15-18	5- 5-15	Omit	88
15-19	5- 5-15	Omit	88
15-20	5- 5-15	Include	88
15-21	5-19-15	Include	88
15-22	5-19-15	Omit	88
15-23	6- 2-15	Omit	88
15-24	6- 2-15	Omit	88
15-25	6- 2-15	Omit	88
15-26	6-23-15	Include	89
15-27	6-23-15	Include	89
15-28	7-21-15	Omit	89
15-29	7-21-15	Omit	89
15-30	8- 4-15	Omit	89
15-31	8- 4-15	Include	89
15-32	8-18-15	Include	89
15-33	8-18-15	Omit	89
15-34	10- 6-15	Omit	90
15-35	10- 6-15	Omit	90
15-36	10-20-15	Omit	90
15-37	11-10-15	Omit	90
15-38	11-10-15	Omit	90
15-39	11-10-15	Omit	90
15-40	11-10-15	Include	90
15-41	11-10-15	Include	90
15-42	11-10-15	Include	90
15-43	11-10-15	Include	90
15-44	11-10-15	Include	90
15-45	11-24-15	Omit	90
15-46	11-24-15	Omit	90

15-47	11-24-15	Include	90
15-48	12-15-15	Include	90
15-49	12-15-15	Omit	90
15-50	12-15-15	Omit	90
15-51	12-15-15	Omit	90
15-52	12-15-15	Omit	90
15-53	12-15-15	Omit	90
2016-01	1-12-16	Include	90
16-02	1-12-16	Omit	90
16-03	1-12-16	Omit	90
16-04	1-12-16	Omit	90

PART I - CHARTER[1]

PREAMBLE

Whereas, the board of county commissioners of Pinellas County, Florida, presently derives its legal authority from a combination of general laws, general laws of local application which apply only to Pinellas County, and special laws, all of which emanate from the Legislature of the State of Florida, and

Whereas, under this legal framework the powers, duties and responsibilities of the board of county commissioners are difficult, if not impossible to define, and

Whereas, the only legal method available to the board of county commissioners to define its powers, duties, and responsibilities under the Constitution of the State of Florida is the adoption of a Home Rule Charter, and

Whereas, the board of county commissioners believes that such a charter should be conceived in the interest of cooperation with the municipalities and other governmental units of this county, with the integrity of the rights of the municipalities guaranteed.

Footnotes:
--- (**1**) ---

Editor's note—Printed herein is the county's charter, being Laws of Fla. ch. 80-590, § 1. The charter was effective upon approval at referendum. The charter was approved at an election held on Oct. 7, 1980. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

ARTICLE I. - CREATION OF GOVERNMENT

Sec. 1.01. - Body corporate.

Pinellas County shall be a body corporate and politic, and shall have all rights and powers of local self-government which are now or may hereafter be provided by the constitution and laws of Florida and this Charter and as such may contract and be contracted with, and may sue and be sued and be impleaded in all the courts of this state and in all matters whatsoever.

Sec. 1.02. - Name and county seat.

The corporate name shall be Pinellas County, hereinafter referred to as the county. Said name shall be so designated in all legal actions or proceedings involving the county. The county seat shall be that presently designated by law.

ARTICLE II. - POWERS AND DUTIES OF THE COUNTY

Sec. 2.01. - Powers and duties.

The county shall have all powers of local self-government not inconsistent with general law, with special law approved by vote of the electors, or with this Charter.

In the event of a conflict between a county ordinance and a municipal ordinance, the county ordinance shall prevail over the municipal ordinance when general law provides that a county ordinance shall prevail over a municipal ordinance, or when it concerns a power of local county government lawfully and constitutionally enacted by special law at the time of the adoption of this Charter, except that the county shall not hereafter amend such special law or laws to increase or expand the county's power, jurisdiction, or services over the municipalities or their powers or services. The county ordinance shall prevail over the municipal ordinance when a special law enacted subsequent to the adoption of this Charter and approved by a vote of the electorate provides that a county ordinance shall prevail over a municipal ordinance or when the county is delegated special powers within an area of governmental service enumerated in this Charter. In all other cases where a county ordinance conflicts with a municipal ordinance, the municipal ordinance shall prevail.

Sec. 2.02. - Security of rights of citizens.

In order to secure protection to the citizens of the county against abuses and encroachments, the county shall use its powers, whenever appropriate, to provide by ordinance or to seek remedy by civil or criminal action for the following:

(a)

Prohibition of conflict of interest. The board of county commissioners shall enact a conflict of interest ordinance pertaining to all elected officials, appointed officials, and all employees of said officials of Pinellas County government, within ninety (90) days after the effective date of the Charter. By said ordinance the board shall be empowered to institute procedures by which any such official may be removed from office, except for those officers for which removal is provided under the state constitution.

(b)

Just and equitable taxation while recognizing other local governments' jurisdictions to set their own millage. The grant of the powers contained herein shall not be construed in any way to allow the county to claim any portion of any city's ten-mill taxing power.

(c)

[Public property.] Proper use of public property belonging to Pinellas County government.

(d)

[Public records.] Full access to public records and proceedings of Pinellas County government.

(e)

Protection of human rights. The county shall establish provisions, pursuant to state and federal law, for protection of human rights from discrimination based upon religion, political affiliation, race, color, age, sex, or national origin by providing and ensuring equal rights and opportunities for all people of Pinellas County.

(f)

Protection of consumer rights. The county shall establish provisions for the protection of consumers.

Sec. 2.03. - Exercise of powers.

All powers of the county shall be exercised in accordance with this Charter; or, if the Charter contains no provision for execution, then by ordinance, resolution or action of the board of county commissioners.

Sec. 2.04. - Special powers of the county.

The county shall have all special and necessary power to furnish within the various municipalities the services and regulatory authority listed below. When directly concerned with the furnishing of the services and regulatory authority described in this section, county ordinances shall prevail over municipal ordinances, when in conflict. Governmental powers not listed or described in this Charter or granted to the county by general statute or special act shall remain with the municipalities.

(a)

Development and operation of 911 emergency communication system.

(b)

Development and operation of solid waste disposal facilities, exclusive of municipal collection systems.

(c)

Development and operation of regional sewage treatment facilities in accordance with federal law, state law, and existing or future interlocal agreements, exclusive of municipal sewage systems.

(d)

Acquisition, development and control of county-owned parks, buildings, and other county-owned property.

(e)

Development and operation of public health or welfare services or facilities in Pinellas County.

(f)

Operation, development and control of the St. Petersburg-Clearwater International Airport.

(g)

Design, construction and maintenance of major drainage systems in both the incorporated and unincorporated area.

(h)

Design, construction and maintenance of county roads in accordance with law.

(i)

Implementation of regulations and programs for protection of consumers.

(j)

Implementation of animal control regulations and programs.

(k)

Development and implementation of civil preparedness programs.

(l)

Coordination and implementation of fire protection for the unincorporated areas of the county.

(m)

Operation of motor vehicle inspection facilities, including inspection of auto emissions systems.

(n)

Production and distribution of water, exclusive of municipal water systems and in accordance with existing and future interlocal agreements.

(o)

Implementation of programs for regulation of charitable solicitations.

(p)

All powers necessary to provide municipal services in the unincorporated areas of the county and in accordance with any existing and future interlocal agreement.

(q)

All powers necessary to transfer the functions and powers of any other governmental agency upon approval by the governing body of that agency and the board of county commissioners.

(r)

All power necessary, upon approval of a vote of the electors, to levy a one-mill increase in ad valorem taxes in order to make funds available to be used solely to acquire beachfront and other property to be dedicated as public parks for recreational use. This subsection shall in no manner limit a municipality from levying any such tax under any authorization it might have at this time or may receive in the future.

(s)

Countywide planning authority as provided by special law. In the event of a conflict between a county ordinance adopted pursuant to the county's countywide planning authority as provided by special law and a municipal ordinance, the county ordinance shall prevail over the municipal ordinance; however, a municipal ordinance shall prevail over a county ordinance in the event a municipal ordinance provides for a less intense land use or a lesser density land use within the corporate boundaries of the municipality than that provided by county ordinance.

(t)

Reserved.

(u)

Development and operation of countywide mosquito control programs.

(v)

Development and operation of water and navigation control programs, including: (1) regulating and exercising control over the dredging and filling of all submerged bottom lands in the waters of Pinellas County, together with all islands, sandbars, swamps and overflow lands including sovereignty lands, and regulating and exercising control over the construction of docks, piers, wharves, mooring piles and buoys therein; and (2) performing all things necessary to undertake projects for the construction, maintenance and improvement of portions of the Intracoastal Waterway and other channels within the navigable water of Pinellas County; and (3) undertaking programs for the dredging and maintenance of waterway channels within the incorporated and unincorporated areas of Pinellas County which have become or have been nonnavigable.

(Laws of Fla. ch. 88-458, § 1; Res. No. 88-496, 12-6-88; Ord. No. 00-66, § 2, 8-22-00; Res. 06-114, 7-11-06)

Editor's note— Laws of Fla. ch. 88-458, and Res. No. 88-496, adding subsection (s), were approved by referendum Nov. 8, 1988. Ord. No. 00-66, adding subsection (t), was approved by referendum Nov. 7, 2000.

Editor's note— Res. 06-114, adding subsections (t) and (u), was approved by referendum Nov. 7, 2006. At the direction of the county, said subsections were redesignated as subsections (u) and (v), respectively.

Editor's note— At the direction of the county, subsection (t) pertaining to annexation, was deleted as being unconstitutional and no longer valid or in effect pursuant to the case of Pinellas County v. Largo et al., 964 So. 2d 847 (Fla. 2d DCA 2007).

Sec. 2.05. - Contractual services and transfer of contractual services.

Additional services may be furnished within the municipalities when the county is requested to do so by a majority vote of the governing body of the municipality and is so authorized by a majority vote of the board

of county commissioners.

Sec. 2.06. - Limitation of powers.

The county shall not have the power, under any circumstances, to abolish any municipality or in any manner to change the status, duties, or responsibilities of the county officers specified in section 1(d), art. VIII of the state constitution. The county shall exercise its powers to ensure that property situate within municipalities shall not be subject to taxation for services rendered by the county exclusively for the benefit of the property or residents in unincorporated areas, nor shall property situate in unincorporated areas be subject to taxation for services provided by the county exclusively for the property or residents within municipalities, all in accordance with the laws of the State of Florida and the Constitution of the State of Florida as they now provide or as they may be amended from time to time.

Sec. 2.07. - Reserved.

Editor's note— At the direction of the county § 2.07, pertaining to annexation, was deleted as being unconstitutional and no longer valid or in effect pursuant to the case of Pinellas County v. Largo et al., 964 So. 2d 847 (Fla. 2d DCA 2007). Former § 2.07 derived from Ord. No. 00-66, § 3, adopted Aug. 22, 2000, and approved by referendum Nov. 7, 2000.

Sec. 2.08. - Environmental lands.

(a)

The preservation of environmental lands as defined herein within Pinellas County supports the sustainability of natural resources, watersheds, and natural habitat; provides resource-based recreational opportunities; and promotes a healthy environment and community.

(b)

Environmental lands subject to the provisions of this Charter are those county-owned lands designated as environmental lands pursuant to section 90-112, Pinellas County Code, and include county-owned lands within the Allen's Creek Management Area, Alligator Lake Management Area, Anclote Islands Management Area, Brooker Creek Preserve, Cabbage Key Management Area, Cow Branch Management Area, East Lake Management Area, Joe's Creek Management Area, King Islands Management Area, Lake Seminole Management Area, Lake Tarpon Management Area, Lake Tarpon West Management Area, Long Branch Management Area, Mariner's Point Management Area, Mobbly Bayou Preserve, Ozona Management Area, Shell Key Preserve, Travatine Island Management Area and Weedon Island Preserve.

(c)

Additional county-owned lands may be designated as environmental lands subject to the provisions of this Charter by adoption of an ordinance by the board of county commissioners.

(d)

The environmental lands designation may be removed from county-owned lands by adoption of an ordinance by the board of county commissioners and approval by a majority vote of the electors of Pinellas County in a referendum held at a general or special election called by the board of county commissioners, if the lands affected constitute more than one acre within a designated facility, or by adoption of an ordinance by the

board of county commissioners if the lands affected constitute one acre or less within a designated facility.

(e)

The county shall not sell, convey, or transfer any fee simple interest in county-owned lands designated as environmental lands subject to the provisions of this Charter, and the county shall not lease or license for a period longer than ten years any interest in county-owned lands designated as environmental lands subject to the provisions of this Charter, unless authorized by a majority vote of the electors of Pinellas County in a referendum held at a general or special election called by the board of county commissioners.

(Ord. No. 08-45, § 1, 8-26-08)

Editor's note— Ord. No. 08-45 was approved by referendum Nov. 4, 2008.

ARTICLE III. - LEGISLATIVE BRANCH

Sec. 3.01. - Board of county commissioners.

The legislative body of county government shall be the Board of County Commissioners. The Board of County Commissioners shall be increased from five commissioners to seven commissioners, with four of the seven commissioners residing one in each of four county commission districts, the districts together covering the entire county and as nearly equal in population as practicable, and each commissioner being nominated and elected only by the qualified electors who reside in the same county commission district as the commissioner, and with three of the seven commissioners being nominated and elected at large. Each of the three at-large commissioners shall reside one in each of three districts, the three districts together covering the entire county and as nearly equal in population as practicable. Initial redistricting shall be accomplished by the Board of County Commissioners in accordance with Section 1(e) of Article VIII of the Florida Constitution. The election, term of office, and compensation of members shall all be in accordance with general law.

(Laws of Fla. ch. 99-472, § 1)

Editor's note— The changes authorized by Laws of Fla. ch. 99-472 were approved by referendum Nov. 2, 1999.

Sec. 3.02. - Enactment of ordinances and resolutions.

All ordinances and resolutions shall be passed by an affirmative vote of a majority of the members of the board of county commissioners voting, in accordance with the procedures established by general law.

Sec. 3.03. - Non-interference.

(a)

It is the intent of the county to separate the legislative and administrative branches of government. Except for the purpose of inquiry and information or as otherwise permitted by law, the board of county commissioners and its members shall deal with county employees who are subject to the direction or supervision of the administrator solely through the administrator, and neither the board nor its members shall give any commands, directives or instructions to, or make any other demands or requests of, any such employee, either publicly or privately.

(b)

Nothing in this section shall be construed to prohibit individual members of the board from interaction, communication and observation of all aspects of county government operations so as to obtain independent information to assist the board in the formulation of policies to be considered by the board. It is the express intent of this section, however, that any such action not interfere with the administrative operations of the county and that recommendations for change or improvement in county administrative operations be made to, and through, the administrator.

(Res. No. 04-123, 7-27-04)

Editor's note— Res. No. 04-123 was approved by referendum Nov. 2, 2004.

ARTICLE IV. - ADMINISTRATION OF COUNTY GOVERNMENT

Sec. 4.01. - County administrator.

(a)

There shall be a county administrator selected and appointed by the affirmative vote of five (5) members of the board of county commissioners, who shall serve until such time as the county administrator shall be removed either by a vote for removal of four (4) members of the board of county commissioners voting for removal in two (2) consecutive, regularly scheduled meetings of the board, or by a vote of removal of five (5) members of the board of county commissioners at any one meeting of the board.

(b)

The county administrator shall be a full-time position. He shall serve at the pleasure of the board of county commissioners and shall be appointed solely on the basis of his executive and administrative qualifications.

(c)

The county administrator shall have the following duties:

(1)

To administer and carry out the directives and policies issued to him by the board of county commissioners, acting as an official body, except that he shall not be directed or given authority to make appointments of members to any county boards, commissions or agencies.

(2)

Subject to the provisions of county merit or civil service plans, to select and employ personnel to fill all vacancies, positions or employment after the board of county commissioners has authorized that such vacancies, positions or employment be filled. Employment of persons in unclassified positions shall be subject to confirmation by the board of county commissioners.

(3)

To supervise all departments, department heads and employees of the board of county commissioners and, in his discretion, to terminate for cause the employment of any employees of the board of county

commissioners. Termination of persons in unclassified positions shall be subject to confirmation by the board of county commissioners.

(4)

After policy has been established by the board of county commissioners, to supervise all aspects of carrying into effect such policy to its completion. He shall thereupon report or order a full report to the board of county commissioners of the action taken upon such policy and directives of the board of county commissioners.

(5)

To act as the county budget officer and carry out the duties of such budget officer as required by law or as directed by the board of county commissioners.

(6)

To perform such other duties as may be required of him by the board of county commissioners, acting as an official body, or by this Charter.

(Ord. No. 00-69, § 2, 9-12-00; Res. No. 04-123, 7-27-04)

Editor's note— Ord. No. 00-69, amending subsection (a), was approved by referendum Nov. 7, 2000. Res. No. 04-123, amending subsection (a), renumbering subsection (5) as subsection (6), and adding a new subsection (5) was approved by referendum Nov. 2, 2004.

Sec. 4.02. - County attorney.

(a)

There shall be a county attorney selected by the board of county commissioners who shall serve at the pleasure of the board. The office of county attorney shall not be under the direction and control of the county administrator but shall instead be responsible directly to the board of county commissioners.

(b)

The county attorney shall be an attorney licensed to practice law in the State of Florida for at least three (3) years. Upon appointment, he shall be employed full time by said county. The county attorney shall employ such assistant county attorneys and special assistant county attorneys, on either a full-time or part-time basis, as may be necessary, upon approval of the board of county commissioners.

(c)

The office of county attorney shall be responsible for the representation of county government, the board of county commissioners, the county administrator, constitutional officers and all other departments, divisions, regulatory boards and advisory boards of county government in all legal matters relating to their official responsibilities. The office of county attorney shall prosecute and defend all civil actions for and on behalf of county government and shall review all ordinances, resolutions, contracts, bonds and other written instruments.

Sec. 4.03. - County officers.

This document [Charter] shall in no manner change the status, duties, or responsibilities of the [following] county officers of Pinellas County:

The clerk of the circuit court, property appraiser, tax collector, sheriff, and supervisor of elections.

ARTICLE V. - GENERAL PROVISIONS

Sec. 5.01. - Effect on local county laws.

All existing laws, ordinances, resolutions, rules, regulations, and policies of the county shall remain operative except where inconsistent or in direct conflict with this Charter, until amended or repealed by the board of county commissioners.

Sec. 5.02. - Special laws.

(a)

Special laws of the State of Florida relating to or affecting Pinellas County and general laws of local application which apply only to Pinellas County, except those laws relating exclusively to a municipality, the school board or one of the boards, authorities, districts or councils listed in subsection (b) and except those laws dealing with saltwater fishing, wetlands, aquatic preserves, or bird sanctuaries, shall become county ordinances of Pinellas County and shall remain in full force and effect to the extent they are not in conflict with this Charter, subject to amendment or repeal by the board of county commissioners.

(b)

This document shall in no manner change the status, duties or responsibilities of the following boards, authorities, districts and councils: Pinellas Suncoast Transit Authority, Emergency Medical Services Authority, Fresh Water Conservation Board, Indian Rocks Special Fire Control District, Juvenile Welfare Board, License Board for Children's Centers and Family Day Care Homes, Ozona-Palm Harbor-Crystal Beach Special Fire Control District, Pinellas County Construction Licensing Board, Pinellas County Industry Council, Pinellas County Planning Council, Pinellas County Personnel Board, Pinellas Park Water Management District, Pinellas Police Standards Council, and Pinellas Sports Authority.

(c)

In order to provide government which is responsive to the people, the powers granted by this Charter shall be construed liberally in favor of the county government, except in those areas where jurisdiction is granted to, or reserved to, the municipalities. This Charter shall not be construed to authorize or grant power to county government to perform services within the various municipalities beyond those specifically enumerated in this Charter. The specified powers in this Charter shall not be construed as limiting, in any way, the general or specific powers of the government.

(Res. 06-114, 7-11-06)

Editor's note— Res. 06-114 was approved by referendum Nov. 11, 2006.

ARTICLE VI. - CHARTER AMENDMENTS

Sec. 6.01. - Proposed by county.

The board of county commissioners by ordinance passed by an affirmative vote of not less than majority plus one (1) member shall have the authority to propose amendments to this Charter. Any such amendment shall be subject to referendum at the next scheduled countywide election; provided, however, the board of county commissioners may call a special referendum election for said purpose. Said referendum shall be called by the board of county commissioners and notice of said referendum, together with the exact language of the proposed amendment, shall be published once a week for four (4) consecutive weeks in a newspaper of general circulation in the county, the first such publication being at least forty-five (45) days prior to the referendum. Passage of proposed amendments shall require approval of a majority of electors voting in said election on such amendment.

Sec. 6.02. - Charter initiative.

1)

Amendments to the Charter may be proposed by a petition signed by registered electors equal to at least ten (10) percent of the number of registered electors of the county at the time of the last preceding general election. No more than forty (40) percent of those registered electors signing petitions shall reside in any one (1) at-large county commission district. No more than thirty (30) percent of those registered electors signing petitions shall reside in any one (1) single-member county commission district. Such petition shall be filed with the clerk of the circuit court in his capacity as clerk of the board of county commissioners, together with an affidavit from the supervisor of elections certifying the number of signatures which has been verified as registered electors of Pinellas County at the time the signature was verified. Each such proposed amendment shall embrace but one (1) subject and matter directly connected therewith. Each charter amendment proposed by petition shall be placed on the ballot by resolution of the board of county commissioners for the general election occurring in excess of ninety (90) days from the certification by the supervisor of elections that the requisite number of signatures has been verified. However, the County Commissioners may call a special referendum election for said purpose. Notice of said referendum, together with the exact language of the proposed amendment as submitted on the petition, shall be published by the board of county commissioners once a week for four (4) consecutive weeks in a newspaper of general circulation in the county, the first such publication being at least forty-five (45) days prior to the referendum. Passage of proposed amendments shall require approval of a majority of electors voting in said election on such amendment.

2)

The sponsor of a petition amendment shall, prior to obtaining any signatures, submit the text of the proposed amendment to the supervisor of elections, with the form on which the signatures will be affixed, and shall obtain the approval of the supervisor of elections of such form. The style and requirements of such form shall be specified by ordinance. The beginning date of any petition drive shall commence upon the date of approval by the supervisor of elections of the form on which signatures will be affixed, and said drive shall terminate one hundred eighty (180) days after that date. In the event sufficient signatures are not acquired during that one hundred eighty (180) day period, the petition initiative shall be rendered null and void and none of the signatures may be carried over onto another identical or similar petition. The sponsor shall submit signed and dated forms to the supervisor of elections and upon submission pay all fees as required by general law. The supervisor of elections shall within forty-five (45) days verify the signatures thereon. Notwithstanding the time limits hereinabove signatures on a petition circulated prior to one general election shall not be valid beyond the date of that election.

3)

If approved by a majority of those electors voting on the amendment at the general election, the amendment shall become effective on the date specified in the amendment, or, if not so specified, on January 1 of the succeeding year.

(Amd. of 11-03-98; Ord. No. 00-68, § 2, 9-12-00)

Editor's note— Ord. No. 00-68, amending subsection 1), was approved by referendum Nov. 7, 2000.

Sec. 6.03. - Charter review commission.

(a)

Not later than August 1 of the year 2015 and every eight (8) years thereafter, there shall be established a charter review commission composed of thirteen (13) members. The members of the commission shall be appointed by the board of county commissioners of Pinellas County from the following groups:

(1)

One (1) member from the Pinellas County Legislative Delegation residing in Pinellas County;

(2)

One (1) constitutional officer;

(3)

One (1) member from the elected city officials;

(4)

One (1) member from the elected board of county commissioners;

(5)

Nine (9) members from the public at large, none of whom shall be an elected official.

Vacancies shall be filled within thirty (30) days in the same manner as the original appointments.

(b)

Each charter review commission shall meet prior to the end of the third week in August 2015, and every eight (8) years thereafter for the purposes of organization. The charter review commission shall elect a chairman and vice-chairman from among its membership. Further meetings of the commission shall be held upon the call of chairman or any three (3) members of the commission. All meetings shall be open to the public. A majority of the members of the charter review commission shall constitute a quorum. The commission may adopt other rules for its operations and proceedings as it deems desirable. The members of the commission shall receive no compensation but shall be reimbursed for necessary expenses pursuant to law.

(c)

Expenses of the charter review commission shall be verified by a majority vote of the commission and forwarded to the board of county commissioners for payment from the general fund of the county. The board

of county commissioners shall provide space, secretarial and staff assistance. The board of county commissioners may accept funds, grants, gifts, and services for the charter review commission from the state, the government of the United States, or other sources, public or private.

(d)

The charter review commission shall review, on behalf of the citizens of Pinellas County, the operation of county government in order to recommend amendments to this Charter, if any.

(e)

Each charter review commission established pursuant to this section shall complete its review and submit a report to the citizens of Pinellas County by July 31, 2016, and each eight (8) years thereafter in order to coincide with the presidential election cycle. Included within the report shall be any proposed amendments to the Charter, together with the wording of the question or questions which shall be voted on at referendum. Proposed amendments may, at the discretion of the charter review commission, be included in a single question or multiple questions. If proposed amendments are included in the report, the charter review commission may, at its discretion, remain constituted through the general election. The board of county commissioners shall call a referendum election to be held in conjunction with the 2016 general election and each eight (8) years thereafter, for the purpose of voting on the proposal or proposals submitted by the charter review commission. Notice of each such referendum, together with the exact language of the proposed amendment or amendments as submitted in the report of the charter review commission, shall be published by the board of county commissioners once a week for four (4) consecutive weeks in a newspaper of general circulation in the county, the first such publication being at least forty-five (45) days prior to the referendum. If an amendment or revision to the charter is to be recommended, the charter review commission shall conduct at least two (2) public hearings on any amendment or revision, at intervals of not less than ten (10) days but not more than twenty-one (21) days, immediately prior to its transmittal of its recommendations to the board of county commissioners. Passage of proposed amendments shall require approval of a majority of electors voting in said election on such amendment.

(Amd. of 11-3-98; Res. No. 10-105, 8-10-10)

Editor's note— Amendments to § 6.03 were approved at referendum in Nov. 1984. Res. No. 10-105, amending subsections (a), (b), and (e) of § 6.03, was approved by referendum Nov. 2, 2010.

Sec. 6.04. - [Placement on ballot.]

Any other section of the Pinellas County Charter, chapter 80-590, Laws of Florida, notwithstanding, except for any proposed amendments affecting the status, duties, or responsibilities of the county officers referenced in §§ 2.06 and 4.03 of this Charter, charter amendments proposed under § 6.01 (proposed by Pinellas County Commission), § 6.02 (proposed by citizens' initiative), or § 6.03 (proposed by a Charter Review Commission) shall be placed directly on the ballot for approval or rejection by the voters and it shall not be a requirement that any such proposed amendments need to be referred to or approved by the Legislature prior to any such placement on the ballot. However, any charter amendment affecting any change in function, service, power, or regulatory authority of a county, municipality, or special district may be transferred to or performed by another county, municipality, or special district only after approval by vote of the electors of each transferor and approval by vote of the electors of each transferee. Such amendments proposed by the Board of County Commissioners must be approved by ordinance passed by a majority plus one member. The power to amend, revise, or repeal this Charter by citizens' initiative shall not include amendments relating to the county

budget, debt obligations, capital improvement programs, salaries of county officers and employees, the levy or collection of taxes, or the rezoning of less than 5 percent of the total land area of the county.

(Laws of Fla. ch. 99-451, § 1)

Editor's note— The additions authorized by Laws of Fla. ch. 99-451 were approved by referendum Nov. 2, 1999.

Sec. 6.05. - Reconstitution of 2004 Charter review commission.

(a)

The members of the charter review commission appointed to serve in 2003 shall be deemed members of a reconstituted 2004 charter review commission, which shall serve from November 8, 2004 through December 1, 2006. Vacancies shall be filled within thirty (30) days in the same manner as the original appointments.

(b)

On behalf of the citizens of Pinellas County, the reconstituted charter review commission shall continue to examine the Pinellas County Charter, the operations of the Pinellas County government and any limitations imposed upon those operations by the charter or any special acts of the Legislature. This examination will include review of the Pinellas Assembly process, further investigation by consultants as deemed necessary and discussions with municipal officials and members of the Pinellas County Legislative Delegation. After such examination, the reconstituted charter review commission will have the authority to make recommendations for amendments, including substantial revision of the Charter. Prior to submitting such recommendations, the reconstituted charter review commission shall hold three public hearings at intervals of not less than ten (10) nor more than twenty (20) days. At the final hearing, the reconstituted charter review commission shall incorporate any recommendations it deems desirable, vote upon a proposed form of revised charter, and forward said charter to the board of county commissioners.

(c)

The reconstituted charter review commission established pursuant to this section shall complete its review and submit a report to the board of county commissioners no later than June 30, 2006, unless such time is extended by the board of county commissioners. Included within the report shall be any proposed amendments to the Charter, which may include substantial revisions of the Charter, together with the wording of the question or questions, which shall be voted on at referendum. Proposed amendments may, at the discretion of the reconstituted charter review commission, be included in a single question or multiple questions. The board of county commissioners shall call a referendum election to be held in conjunction with the 2006 general election, for the purpose of voting on the proposal or proposals submitted by the charter review commission. Notice of each such referendum, together with the exact language of the proposed amendment or amendments as submitted in the report of the charter revision commission, shall be published by the board of county commissioners once a week for four (4) consecutive weeks in a newspaper of general circulation in the county, the first such publication being at least forty-five (45) days prior to the referendum. Passage of proposed amendments shall require approval of a majority of electors voting in said election on such amendment.

(d)

Except as otherwise provided in this Section 6.05, the provisions of Section 6.03 of the Charter shall apply to

the operation of the reconstituted 2004 charter review commission.

(e)

This section 6.05 shall be repealed effective January 1, 2007.

(Res. No. 04-123, 7-27-04)

Editor's note— Res. No. 04-123, adding section 6.05, was approved by referendum Nov. 2, 2004.

ARTICLE VII. - SEVERABILITY

[Sec. 7.01. - Provisions severable.]

If any article, section, subsection, sentence, clause, or provision of this Charter is held invalid or unconstitutional, such invalidity or unconstitutionality shall not be construed to render invalid or unconstitutional the remaining provisions of this Charter.

ARTICLE VIII. - TRANSITION PROVISIONS

Sec. 8.01. - Proceedings continued.

All petitions, hearings and other proceedings pending before any office, officer, department or board on the effective date of this Charter shall be continued and completed under Charter government.

Sec. 8.02. - Outstanding bonds.

All bonds, revenue certificates, and other financial obligations of the county outstanding on the effective date of this Charter shall continue to be obligations of the county.

CHARTER COMPARATIVE TABLE

This table shows the location of the sections of the basic Charter and any amendments thereto.

Referendum Date	Section this Charter	
10- 7-80	1.01—8.02	
11- 3-98	6.02	
11- 3-98	6.03	
11- 2-99	3.01	
	6.04	

Laws of Fla. Chapter	Section	Section this Charter
80-590	1	1.01—8.02

88-458	1	2.04
99-472	1	3.01
99-451	1	6.04

Resolution/ Ordinance	Adoption Date	Section this Charter
88-496	12- 7-88(Res.)	2.04
00-66	8-22-00(Ord.)	2.04
		2.07
00-68	9-12-00(Ord.)	6.02
00-69	9-12-00(Ord.)	4.01
04-123	7-27-04(Res.)	3.03
		4.01
		6.05
06-114	7-11-06(Res)	2.04
		5.02
08-45	8-26-08(Ord.)	2.08
10-105	8-10-10(Res.)	6.03(a), (b), (e)

Chapter 1 - GENERAL PROVISIONS

Sec. 1-1. - Designation and citation of Code.

The ordinances embraced in the following chapters and sections shall constitute and be designated as the "Pinellas County Code."

State Law reference— Requirement that county codify its ordinances, F.S. § 125.68.

Sec. 1-2. - Definitions and rules of construction.

In the construction of this Code and of all ordinances, the definitions and rules set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the board of county commissioners. The definitions set out in this section shall not be applied to any section of this Code which shall contain any express provisions excluding such construction, or where the subject matter or context of such section may be repugnant thereto.

Generally. All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the board of county commissioners may be fully carried out. The provisions of this Code shall be liberally construed so as to effect its purposes. Terms used in this Code, unless otherwise specifically provided, shall have the meanings prescribed by the statutes of the state

for the same terms.

State Law reference— Construction of statutes, F.S. ch. 1.

In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

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

Board of county commissioners. "Board of county commissioners" means the board of county commissioners of Pinellas County, Florida. The term "board of county commissioners" shall include the county chairman.

Charter or county charter. "Charter" or "county charter" means the Pinellas County Charter.

Circuit court. "Circuit court" means the circuit court of the sixth judicial circuit in and for Pinellas County.

Clerk of the circuit court or county clerk. "Clerk of the circuit court" or "county clerk" means the clerk of the circuit court of the sixth judicial circuit in and for Pinellas County.

Code. "Code" means the Pinellas County Code, as designated in section 1-1.

Computation of time. In computing any period of time prescribed or allowed by ordinance, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

State Law reference— Similar provisions, Fla. R.Civ.P. 1.090(a).

Conjunctions. Where a provision involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or" or "either…or," the conjunction shall be interpreted as follows:

(1)

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

(2)

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

(3)

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

County. "County" means Pinellas County, Florida.

County court. "County court" means the county court of Pinellas County, Florida.

County limits. "County limits" means the legal boundaries of Pinellas County.

State Law reference— Boundaries of Pinellas County, F.S. § 7.52.

Delegation of authority. Whenever a provision requires the head of a county department or some other county officer or county employee to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer or employee to designate, delegate and authorize subordinates to perform the required act or perform the duty.

F.A.C. "F.A.C." means the Florida Administrative Code, as amended.

F.S. "F.S." means the latest edition of Florida Statutes, as amended.

Gender. Words importing the masculine gender shall include the feminine and neuter.

Includes. "Includes" does not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

Joint authority. All words giving a joint authority to three or more persons or officers are to be construed as giving such authority to a majority of such persons or officers.

Keeper and proprietor. "Keeper" or "proprietor" means and includes persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or through a servant, agent or employee.

May. "May" is to be construed as being permissive.

May not. "May not" has a prohibitory effect and states a prohibition.

Month. "Month" means a calendar month.

Must. "Must" is to be construed as being mandatory.

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing. The use of the plural number includes any single person or thing.

Oath. "Oath" includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" are equivalent to the words "affirm" and "affirmed."

Officer, official. Whenever reference is made to any officer or official, the reference will be taken to be to such officer or official of Pinellas County, Florida.

Or/and. "Or" may be read "and" and "and" may be read "or" if the sense requires it.

Owner. "Owner," applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of any part of such building or land.

Person. "Person" extends and applies to individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups and legal entities or combinations thereof.

State Law reference— Similar provisions, F.S. § 1.01(3).

Property. "Property" includes real and personal property.

Shall. "Shall" is to be construed as being mandatory.

Sidewalk. "Sidewalk" means any portion of a street between the curbline and the adjacent property line intended for the use of pedestrians.

State. "State" means the State of Florida.

Street or road. "Street" or "road" includes streets, avenues, boulevards, roads, alleys, viaducts and all other public highways in the county.

Tenant or occupant. "Tenant" or "occupant," applied to a building or land, includes any person holding a written or oral lease of or who occupies the whole or any part of such building or land, either alone or with others.

Tense. Words used in the present or past tense include the future as well as the present and past.

Week. "Week" means seven days.

Written or in writing. "Written" or "in writing" includes any representation of words, letters or figures, whether by printing or otherwise.

Year. "Year" means a calendar year.

Sec. 1-3. - Catchlines of sections; effect of history notes; references in Code.

(a)

The catchlines of the several sections of this Code set in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of such sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(b)

The history or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the sources of matter contained in the section. Cross references, editor's notes and state law references which appear after sections or subsections of this Code or which otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.

(c)

All references to chapters, articles or sections are to chapters, articles and sections of this Code unless otherwise specified, but references to provisions found in chapters 134—170 are to the Pinellas County Land Development Code.

Sec. 1-4. - Effect of repeal of ordinances.

(a)

The repeal or amendment of an ordinance shall not revive any ordinance in force before or at the time the ordinance repealed or amended took effect.

(b)

The repeal or amendment of any ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal for an offense committed under the ordinance repealed or amended.

Sec. 1-5. - Amendments to Code; effect of new ordinances; amendatory language.

(a)

All ordinances passed subsequent to the adoption of this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. Repealed chapters, sections and subsections, or any part thereof, by subsequent ordinances may be excluded from this Code by the omission thereof from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of these subsequent ordinances until such time that this Code and subsequent ordinances are readopted as a new Code.

(b)

Amendments to any of the provisions of this Code may be made by amending those provisions by specific reference to the section number of this Code in the following language:

"Section _____ of the Pinellas County Code is hereby amended to read as follows:…."

The new provisions may then be set out in full as desired.

(c)

If a new section not then existing in the Code is to be added, the following language may be used:

"The Pinellas County Code is hereby amended by adding a section (or article or chapter) to be numbered _____, which section (or article or chapter) reads as follows:…."

The new section may then be set out in full as desired.

(d)

All provisions desired to be repealed should be specifically repealed by section, article or chapter number, as

the case may be, and/or by setting them out at length in the repealing ordinance.

Sec. 1-6. - Supplementation of Code.

(a)

Supplements to this Code shall be prepared and printed whenever authorized or directed by the county. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of adoption of the latest ordinance included in the supplement.

(b)

In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c)

When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the person may:

(1)

Organize the ordinance material into appropriate subdivisions.

(2)

Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles.

(3)

Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.

(4)

Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code).

(5)

Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code.

(d)

In no case shall the person preparing a supplement to this Code make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-7. - Severability.

It is declared to be the intent of the board of county commissioners that if any section, subsection, sentence, clause, phrase or portion of this Code or any ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Code or any ordinance, and it shall be construed to have been the legislative intent to pass this Code or such ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Code or such ordinance after the exclusion of such part or parts shall be deemed and held to be valid as if such part or parts had not been included in this Code. If this Code or any ordinance or any provision thereof shall be held inapplicable to any person, group of persons, property or kind of property, or circumstances or set of circumstances, such holding shall not affect the applicability of this Code or any such ordinance to any other person, property or circumstance.

Sec. 1-8. - General penalty; continuing violations.

(a)

As used in this section, "violation of this Code" means:

(1)

Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by ordinance or by rule or regulation authorized by ordinance;

(2)

Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance; or

(3)

Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.

(b)

As used in this section, "violation of this Code" does not include the failure of a county officer or county employee to perform an official duty unless it is provided that failure to perform the duty is to be punished as provided in this section.

(c)

Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code shall be punished by a fine not to exceed $500.00. With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense.

(d)

The imposition of a penalty does not prevent the revocation or suspension of a license, permit or franchise, or the imposition of civil fines or other administrative actions, including action pursuant to F.S. ch. 162 and article VIII of chapter 2 of the Pinellas County Code, nor does it preclude other civil judicial remedies.

(e)

The board of county commissioners is authorized and empowered to institute legal proceedings in the circuit court of the county for the purpose of obtaining injunctive relief and such other relief as may be proper under the law against violators of this Code. This remedy is in addition to all other remedies. The imposition of a penalty does not prevent equitable relief.

(Ord. No. 75-9, § 1, 4-15-75; Ord. No. 06-07, § 1, 1-24-07; Ord. No. 07-05, § 1, 1-9-07)

State Law reference— Penalty for violation of county ordinances, F.S. § 125.69.

Sec. 1-9. - Certain ordinances not affected by Code.

(a)

Nothing in this Code shall affect any ordinance:

(1)

Promising or guaranteeing the payment of money by or to the county or authorizing the issuance of any bonds of the county, or any evidence of the county's indebtedness, or any contract or obligation assumed by the county;

(2)

Relating to fixing positions, classifications, benefits or salaries of county officers or employees;

(3)

Granting a right or franchise;

(4)

Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating or prescribing the grades of any road or public way in the county;

(5)

Levying or imposing taxes not codified in this Code;

(6)

Providing for local improvements and assessing taxes therefor;

(7)

Relating to subdivisions or zoning not codified in this Code;

(8)

Adopted for purposes which have been consummated;

(9)

Which is temporary, although general in effect;

(10)

Which is special, although permanent in effect;

(11)

Declaring a moratorium that is not codified in this Code; or

(12)

Creating any special district not codified in this Code.

(b)

All ordinances specified in subsection (a) of this section are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

(c)

Nothing in this Code or the ordinance adopting this Code repeals or modifies any exhibit, attachment or appendix to an ordinance referenced in this Code if the exhibit, attachment or appendix is not published in this Code.

Sec. 1-10. - Provisions considered as continuation of existing ordinances.

(a)

The provisions appearing in this Code, so far as they are the same as those of ordinances existing at the time of the adoption of this Code, shall be considered as a continuation thereof and not as new enactments.

(b)

The adoption of this Code does not alter the effective date of any ordinance in this Code, it being the intent of the board of county commissioners that the adoption of this Code shall not be interpreted as creating any new preexisting uses or altering the date by which preexisting uses must comply with a county ordinance.

Sec. 1-11. - Code does not affect prior offenses, penalties or rights.

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

Sec. 1-12. - Official seal.

(a)

Adopting an official county seal. The seal attached as exhibit "A" to Ordinance No. 03-55 is hereby designated as the official county seal of Pinellas County.

(b)

Areas embraced. This section shall be effective in the incorporated as well as the unincorporated areas of the county.

(Ord. No. 97-3, §§ 1, 2, 1-14-97; Ord. No. 03-55, § 1, 7-29-03)

Editor's note— Ordinance No. 97-3, adopted Jan. 7, 1997, did not specifically amend this Code; hence, its inclusion as § 1-12 was at the discretion of the editor.

Sec. 1-13. - Liens; priorities.

Each and every lien in favor of Pinellas County existing from the delivery of services, including liens for special assessments, code enforcement and the like, shall be deemed to be prior in dignity to any other lien, including mortgages, irrespective of the date of recording of the lien or the date of recording any mortgage or other lien on real property and such lien shall survive any action to foreclose such inferior lien, whether such inferior lien, arises by virtue of a mortgage, mechanic's lien or other security interest in real property; provided, however, that nothing herein contained shall be construed to be inconsistent with or repugnant to any law or statute respecting the priority of liens, and where such law or statute specifically provides for the priorities of liens, the provisions hereof shall be construed to achieve harmony therewith.

(Ord. No. 05-5, § 1, 1-18-05)

Chapter 2 - ADMINISTRATION[1]
Footnotes:
--- (**1**) ---

Charter reference— General powers of county, § 2.01.

Cross reference— Personnel, ch. 94; special assessments, ch. 110; special districts, ch. 114.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g); county government generally, F.S. chs. 124—157.

ARTICLE I. - IN GENERAL

Sec. 2-1. - County seat.

The Town [now City] of Clearwater shall be the county seat of said county.

(Laws of Fla. ch. 6247(1911), § 3)

Editor's note— The act contained in the above section apparently retains its status as a special act because of

the nature of the act, being a part of the act that originally created the county. The county seat cannot be changed without a referendum. See Fla. Const. art. VIII, § 1(k); F.S. ch. 138. The source is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within the section has been made consistent with the scheme used in this Code; however deleted paragraphs are reserved to maintain sequence. Additions for clarity are indicated by brackets.

Charter reference— County seat continued, § 1.02.

Sec. 2-2. - Guidelines for charter amendment petitions.

(a)

Intent. It is the intent of the board of county commissioners to provide guidelines for the style and form for citizens' initiative petitions proposing an amendment to the County Charter. It is further the intent of the board of county commissioners that citizens' initiative petitions contain all the necessary information including, but not limited to, specification of the article and section being created or amended, the proposed ballot title, the ballot summary, and the full text of the proposed amendment. Additionally, it is necessary for the supervisor of elections to have certain essential information on the individual signing such petitions so that their signature may be verified accurately. Such voter information includes printed name, address, voter registration number or date of birth, signature line, date of signature, and whether it is a change of address for voter registration.

(b)

Submission to the supervisor of elections. Any petition proposing an amendment to the County Charter to be placed on the ballot by citizens' initiative shall be submitted to county supervisor of elections for approval as to format prior to circulation of the petition and shall include a copy or facsimile of the form proposed to be circulated. The supervisor shall review the petition form for sufficiency of the format and render a decision within 15 days following receipt. The supervisor shall not review the petition form for legal sufficiency.

(c)

Form for petition. In order to be sufficient as to form, an initiative petition to amend the Charter must have the following information and meet the following requirements:

(1)

It must be printed on individual sheets of paper, 8½ × 11 inches in size or other size as the supervisor of elections may deem appropriate;

(2)

It must be clearly and conspicuously entitled, "Pinellas County Charter Amendment Petition Form;"

(3)

It must contain adequate designated spaces for the following voter information: signature, printed name, street address, name of city, zip code, voter registration number or date of birth, date of signature, and any other information deemed necessary by the supervisor;

(4)

It must provide for a single signature only for each page;

(5)

It must provide a statement that the petition is deemed a "paid political advertisement," and that it is paid for by the sponsor, whose identity and mailing address shall be designated on the form;

(6)

It shall provide a ballot title, which is not to exceed 15 words, as provided in the Florida Statutes. Said title shall be prepared by the sponsor;

(7)

It must provide an explanatory summary of the substance of the proposed amendment, which is not to exceed 75 words in length, as provided in the Florida Statutes. Said summary shall be prepared by the sponsor;

(8)

It must provide a statement of the full text of the amendment being proposed, including the article and section of the Charter proposed to be amended or added. Said statement is to be prepared by the sponsor. If the text of the proposed amendment is printed on both sides of the form, it should be clearly indicated on the form that the text is continued on the other side.

(d)

Sample forms. The physical layout of the form prescribed herein may be patterned after the form approved by the secretary of state for use with citizens' initiative to amend the Florida Constitution, modified for county use. The supervisor of elections, in his or her discretion, may provide a copy of a sample petition form to prospective initiative sponsors.

(Ord. No. 04-13, §§ 1—4, 2-17-04)

Secs. 2-3—2-25. - Reserved.

ARTICLE II. - BOARD OF COUNTY COMMISSIONERS[2]

Footnotes:
--- (**2**) ---

Charter reference— Board of county commissioners, § 3.01.

Cross reference— Elections, ch. 50.

State Law reference— Board of county commissioners generally, F.S. chs. 124, 125.

Sec. 2-26. - Reserved.

Sec. 2-27. - Authority as to control of sewage treatment and waste disposal.

(a)

The board of county commissioners is hereby authorized and empowered to supervise and control the methods and means of providing for disposal of drainage, sewage, refuse or waste material or for the treatment of sewage, waste or refuse by any person, entity or community within the county and outside the corporate limits of any municipality, as the board deems advisable; to provide for the planned development of sewers, sewage and waste material disposal or treatment within the county as the board deems advisable; to protect the public health and general welfare of the county thereby; to cooperate with all other governmental agencies and entities towards the accomplishment of the purposes of this section; to establish by proper resolution such reasonable rules, regulations and/or codes as the board deems necessary to carry out the purposes of this section, including, but not exclusively, the issuance of permits, the conducting of inspections, the determination as to whether a nuisance does exist or reasonably may come into existence and the issuance of such orders as the board deems necessary and proper to correct such improper conditions as are found to exist; to prescribe such requirements relative to the use, development and improvement of subdivisions and/or other property and filing of plats as are necessary to carry out the purposes of this section; and to do all other acts and things necessary and proper to carry out the purposes of this section. Anyone aggrieved by any order of the board shall have the right to a hearing before the board in addition to such other right as such person may have under the law, and any request for such a hearing must be made in writing within ten days to the clerk of the board after the date of the issuance of such order, and such order shall be in abeyance after such notice until such hearing is held and an order thereon issued by the board; such hearing to be held within 20 days after the filing of the request for such hearing.

(b)

All rules and regulations adopted by the board of county commissioners pursuant to this section shall be published in full in a newspaper of general circulation in the county one time ten days before the date set for public hearing thereon, at which hearing all persons objecting to any of such rules and regulations, or any part or all thereof, shall be heard by the board; such rules and regulations may after such hearing be adopted by the board or amendments made thereto relative to such objections, if any, if deemed necessary and proper, and upon adoption shall thereby be in full force and effect; the notice provided in this section is declared to be notice to all persons affected or to be thereafter affected by such rules and regulations.

(Laws of Fla. ch. 29437(1953), §§ 1, 2)

Editor's note— The act contained in the above section assumed ordinance status pursuant to charter § 5.02.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g); authority to provide and regulate waste and sewage collection and disposal programs, F.S. § 125.01(1)(k).

Sec. 2-28. - Quasi-judicial proceedings before the board of county commissioners.

All quasi-judicial hearings before the board arising from the provisions of the Pinellas County Code shall be governed by the procedures established in section 134-14 of the Pinellas County land development regulations.

(Ord. No. 96-23, § 2, 2-20-96)

Editor's note— Section 2 of Ord. No. 96-23, adopted Feb. 20, 1996, set out to add § 2-40 to this Code, which the editor has codified as § 2-28 to maintain consistency in this Code.

Secs. 2-29—2-50. - Reserved.

ARTICLE III. - OFFICERS AND EMPLOYEES[3]

Footnotes:

--- (**3**) ---

Cross reference— Elections, ch. 50; county sheriff, § 74-61 et seq.; personnel, ch. 94.

State Law reference— General authority relative to officers and employees, F.S. § 125.01(1)(s), (1)(u), (1)(v), (1)(bb); public officers and employees, F.S. chs. 111, 112; bonds of county officials, F.S. ch. 137; compensation of county officials, F.S. ch. 145.

DIVISION 1. - GENERALLY

Secs. 2-51—2-60. - Reserved.

DIVISION 2. - COUNTY ADMINISTRATOR[4]

Footnotes:

--- (**4**) ---

Charter reference— County administrator, § 4.01.

Sec. 2-61. - Political activity limited.

The county administrator shall engage in no political activity other than casting his ballot at the polls. He may belong to political organizations but is prohibited from acting as an officer in any political party or organization. It is the specific intent of this division that the county administrator be aligned in no manner whatsoever with factions, groups or individuals in county government. Violation of the provisions of this section shall be grounds for removal of the county administrator from office.

(Laws of Fla. ch. 69-1484, § 8)

Editor's note— The act contained in the above section assumed ordinance status pursuant to charter § 5.02.

State Law reference— Political party committee membership allowed, F.S. § 112.046.

Sec. 2-62. - Approval authority.

(a)

The county administrator or his/her designee shall have the authority to approve and execute the following contracts, documents and instruments:

(1)

Any and all contracts, including, but not limited to, grants, revenue contracts, interlocal agreements, intergovernmental contracts, joint and cooperative purchasing contracts with other governmental agencies, contracts for the acquisition of interests in real property, litigation settlement stipulations and agreements for the acquisition of interests in real property, litigation settlement stipulations and agreements not governed by the risk finance program as provided in section 2-142 of this Code, leases of real and personal property to the county, contracts governed by the purchasing division of this Code, and any amendments, extensions, renewals, or assignments thereof, including changes in price, terms and conditions, that involve the receipt or payment by the county of not to exceed $250,000.00 in a fiscal, contract, or calendar year.

For the purposes of this section, "interests in real property" means any interest in real property, the acquisition of which is specifically budgeted within and will advance the completion of any specifically described capital improvement project in the county's capital improvement program work plan ("CIP"). Any acquisition of interests in real property funded from project contingency accounts in the CIP must be approved by the board of county commissioners.

(2)

Amendments to contracts or leases approved by the board of county commissioners that involve: (i) time only extensions; (ii) a name change of a party, or substitution of a party as a result of an acquisition (stock, membership or partnership interest or asset sale), merger, court order (such as the appointment of a receiver or trustee, federal or state forfeiture, by way of illustration and not limitation), or a change of ownership of leased real or personal property; (iii) amendments, extensions, or renewals of leases of real or personal property to or from third parties, including changes in terms and conditions, decreases in rent, or increases in rent or other lease financial obligations of not more than the sums authorized in subsection (a)(1) of this section or ten percent of the total fees, costs, or compensation payable pursuant to the lease, whichever is less, if delegated authority is provided for in the lease; (iv) decreases in fees, costs, or compensation paid by the county, or cumulative increases in fees, costs, or compensation paid by the county of not more than the sums authorized in subsection (a)(1) of this section or ten percent of the total fees, costs, or compensation, whichever is less; (v) revisions or amendments to plans, specifications, pay items, or the scope of work or services; and/or (vi) mutual releases or terminations of contracts approved by all parties to the contract.

(3)

Contract closeout documents for contracts referenced in subsections (a)(1) and (2) above approved by either the county administrator or designee, or the board of county commissioners, including, but not limited to, releases of surety bonds and retainages, and releases of completion and maintenance security for subdivision improvements.

(4)

Grant applications in amounts not to exceed $1,000,000.00 excluding local match or in-kind contributions, in a fiscal or calendar year.

(5)

Licenses, access agreements, permits for right-of-way, temporary use permits, and the acceptance or conveyance of temporary or permanent easements for construction, utility or other governmental purposes on any real property, whether or not owned by the county, and any assignments, consents, extensions,

amendments, releases, or terminations of the foregoing documents or instruments, including changes in price, terms and conditions.

(6)

Subordination agreements, landlord estoppel agreements/certificates, attornment agreements, and assignments including consents thereof, relating to any real property, whether or not owned, by the county.

(7)

Corrective contracts and instruments.

(8)

Releases, satisfactions or assignments of liens and mortgages, upon full payment thereof, if a mortgage, and upon full or partial payment thereof, if an inferior lien other than a mortgage.

(9)

Any instrument required for the exercise of an option of renewal or extension of a lease or license agreement for a term of a year or years, upon the same terms and conditions as set forth in any original lease or license agreement approved by the board of county commissioners.

(10)

Applications to the state or other political subdivisions, including the county to vacate unopened right of way and abandoned easements.

(11)

Approval of sublease of lease agreement if the original lease agreement allows a sublease upon county approval, and if the original tenant remains ultimately liable under the lease agreement.

(12)

Any instrument required for the exercise of option of renewal or extension, or acceptance of contractor's exercise of option of renewal or extension of use, access, concession or similar agreement (such as the United Parcel Services agreement with the airport, by way of illustration and not limitation) for a term of a year or years, upon the same terms and conditions as set forth in the original agreement approved by the board of county commissioners.

(b)

The approval of the above specified agreements and/or documents by the county administrator or his/her designee shall include the exercise of such authority on behalf of the county industrial development authority, emergency medical services authority, and fire protection authority. Additionally, the county administrator or his/her designee shall have the authority to approve and execute leases, and amendments, releases and terminations thereof, on behalf of the county industrial development authority, including leases previously approved by the board of county commissioners.

(c)

The county administrator or his/her designee shall have the authority to approve and to authorize the payment of state assessments and fees relating to the self insurance workers compensation program administered by the county risk management department.

(d)

All documents approved under this section shall be subject to the county's contract review procedures, and shall be placed on a receipt and filed report on the consent agenda of the board of county commissioners at least quarterly.

(Ord. No. 02-44, § 1, 5-21-02; Ord. No. 02-68, 8-20-02; Ord. No. 03-95, § 1, 12-2-03; Ord. No. 04-63, § 1, 9-21-04; Ord. No. 06-67, § 1, 8-22-06; Ord. No. 08-50, § 1, 10-7-08; Ord. No. 14-10, § 1, 2-11-14)

Sec. 2-63. - Reserved.

Editor's note— Ord. No. 12-02, § 1, adopted Jan. 10, 2012, repealed § 2-63, which pertained to lump sum bonus payments to employees and derived from Ord. No. 06-71, § 1, adopted Sept. 7, 2006. See § 2-104 for provisions pertaining to employee bonuses.

Sec. 2-64. - Enforcement authority.

Any provision of the Pinellas County Code or Pinellas County Land Development Code which authorizes a particular department or official to perform duties on behalf of Pinellas County shall be deemed to vest such authority in the county administrator. The county administrator may, by subsequent delegation, authorize any department or official of Pinellas County to perform such duties. The county administrator shall list such delegations in Appendix D of this Code, which may be administratively amended by the county administrator without further action by the board of county commissioners.

(Ord. No. 10-46, § 1, 9-28-10)

Secs. 2-65—2-70. - Reserved.

DIVISION 3. - CLERK OF THE CIRCUIT COURT[5]

Footnotes:

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Cross reference— Courts, ch. 46; elections, ch. 50.

State Law reference— Clerk of the circuit court, F.S. ch. 28.

Sec. 2-71. - Notations upon margin of record of instrument.

(a)

From and after the effective date of this section, no entry or cross reference notation shall be made or permitted to be made upon the margin of the record of any instrument filed for record in the office of the clerk of the circuit court in the county.

(b)

Any matter other than cross reference notations heretofore required or permitted to be entered upon the margin of such records shall be contained in a separate instrument and recorded as other instruments.

(Laws of Fla. ch. 69-1481, §§ 1, 2)

Editor's note— The act contained in the above section assumed ordinance status pursuant to charter § 5.02.

State Law reference— Clerk to be county recorder, F.S. § 28.222.

Sec. 2-72. - Reserved.

Editor's note— Ord. No. 07-03, § 1, adopted Jan. 9, 2007, repealed § 2-72, which pertained to acceptance by grantee as a prerequisite to recording of certain instruments and derived from Ord. No. 73-8, §§ 1—3, adopted Sept. 11, 1973.

Secs. 2-73—2-84. - Reserved.

DIVISION 4. - CONFLICT OF INTEREST[6]

Footnotes:

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Editor's note—Ord. No. 14-42, § 1, adopted Oct. 21, 2014, substantially amended the former div. 4, §§ 2-86—2-88, adding additional restrictions related to voting conflicts as § 2-86, renumbering and amending former § 2-86 as § 2-85 and amending § 2-87 to read as herein set out.

Sec. 2-85. - Florida Code of Ethics.

The Florida Code of Ethics for Public Officers and Employees set forth in F.S. ch. 112, pt. III shall have full effect upon all employees and officeholders under Pinellas County's Charter Government.

(Ord. No. 98-17, § 1, 1-27-98; Ord. No. 14-42, § 1, 10-21-14)

Sec. 2-86. - Additional restrictions related to voting conflicts.

(a)

The following terms and phrases shall have the meanings ascribed to them when used in this section:

Appointed board member means any non-elected person appointed to an advisory or quasi-judicial board created by the board of county commissioners.

Conflict form means the State of Florida Commission on Ethics Conflict Form 8B, or any successor form promulgated by the commission on ethics for disclosure of voting conflicts.

Participate means any attempt to influence a decision by oral or written communication, whether made by the appointed board member or at such member's direction.

Relative means any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.

(b)

No appointed board member shall vote upon or participate in any matter that would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained, or to the parent organization or subsidiary of a corporate principal by which he or she is retained; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the board member. Such board member shall, prior to the vote being taken or any discussion being had on the matter, disclose the conflict by publicly stating to the assembly the nature of the board member's interest in the matter from which he or she is abstaining from voting and participating. Such board member shall complete and file with the person responsible for recording the minutes for the meeting a conflict form, which shall be incorporated into the minutes. The conflict form shall be filed at or before the meeting at which the vote is to be taken. In the event that disclosure has not been made prior to the meeting, or that any conflict is unknown prior to the meeting, the disclosure shall be made orally at the meeting when it becomes known a conflict exists and the conflict form shall be filed within seven calendar days, as set forth herein.

(c)

Any elected official appointed to an advisory board created by the board of county commissioners as an additional duty to his or her existing office shall abide by the Florida Code of Ethics for Public Officers and Employees.

(d)

This section shall not be construed to authorize or permit any conduct or activity that is in violation of the Florida Code of Ethics, and shall be deemed additional and supplemental thereto.

(Ord. No. 14-42, § 1, 10-21-14)

Sec. 2-87. - Penalty for violation.

The penalty for violation of the Florida Code of Ethics shall be as provided by general law. The board of county commissioners may, by resolution, provide for procedures by which a covered public official or employee may be removed from office for violation of the abovementioned Florida Code of Ethics.

(Ord. No. 98-17, § 1, 1-27-98; Ord. No. 14-42, § 1, 10-21-14)

Sec. 2-88. - Regulation of former employees.

In addition to the restrictions in the Code of Ethics for Public Officers and Employees found in the Florida Statutes, the following restrictions shall apply to the Pinellas County Administrator and his or her former employees:

Post employment restrictions. For a period of one year following separation from service, regardless of the reason or cause of such separation, no former county employee holding a position designated for Equal Employment Opportunity reporting in the Officials and Administrators Category in the last EEO report filed prior to such employee's separation shall personally represent another person or entity for compensation before board of county commissioners or any of its divisions, departments, agencies or boards. This restriction does not apply to representation for the purposes of collective bargaining.

(Ord. No. 11-38, § 1, 9-27-11; Ord. No. 14-26, § 1, 6-3-14)

Secs. 2-89—2-100. - Reserved.

ARTICLE IV. - EMPLOYEE BENEFITS[7]

Footnotes:

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Cross reference— Personnel, ch. 94.

DIVISION 1. - GENERALLY

Sec. 2-101. - Employees' group insurance.

(a)

Authorized. The board of county commissioners, and the officers or other boards of the county, may enter into agreements with insurance companies or agencies to provide group life, health, accident or hospitalization insurance for the benefit of their employees and the officers of the county.

(b)

Payment of premiums. When such agreements referred to in subsection (a) of this section provide that the county or the officers thereof shall pay all or a part of the premiums for such insurance, the county or the officers thereof are hereby authorized to pay the county's contribution of such premiums, including the cost of premiums for the officers' and employees' dependents' coverage under such health, accident or hospitalization insurance policies, from such revenues of the county or fees which would ordinarily be available for salaries of such employees.

(c)

Limitation of coverage for group life insurance. When such agreements referred to in subsection (a) of this section provide for group life insurance policies for the benefit of the employees and officers of the county, the maximum coverage of such insurance shall be not greater than the annual salary of such employee or officer, unless the annual salary of such employee or officer is less than $1,000.00, in which case insurance coverage may be a maximum of $1,000.00.

(d)

Participation to be voluntary. The participation in group insurance authorized in this section shall be entirely voluntary at all times.

(Laws of Fla. ch. 69-1483, §§ 1—4)

Editor's note— The act contained in the above section assumed ordinance status pursuant to charter § 5.02.

State Law reference— Group insurance for public officers and employees, F.S. § 112.08.

Sec. 2-102. - Sick leave.

(a)

Authority of officials. The elected public officials of the county are hereby authorized and empowered to establish sick leave for county employees, the offices, departments and agencies thereof, to provide and establish rules and regulations with regard to such sick leave for such employees, including reasonable requirements with regard to proof of sickness or inability to perform the duties ordinarily and reasonably required of such employees, reasonable requirements with regard to periodical proof of continued sickness and inability, and such other reasonable requirements as such elected public officials deem advisable and consistent with their duties. Such elected public officials are authorized to make payment of salaries during such periods of sickness of such employees as comply with and are within the terms and conditions of the reasonable rules and regulations established by such officials pursuant to this section.

(b)

Uniform system. It is the purpose of this section that all public officials of the county may establish as nearly as possible and practicable a uniform system and policy with regard to sick leave for the employees hereby affected, the purpose of this section hereby being declared to be a proper public and county purpose.

(Laws of Fla. ch. 67-1912, §§ 1, 2)

Editor's note— The act contained in the above section assumed ordinance status pursuant to charter § 5.02.

Sec. 2-103. - Membership in professional associations; educational courses; resolution required.

(a)

The board of county commissioners is hereby authorized to appropriate and expend monies from the county general fund for membership fees and dues for county employees and officials for professional associations, including but not limited to the Florida Bar, engineering associations, and governmental associations.

(b)

The board of county commissioners is hereby authorized to appropriate and expend monies from the county general fund for the actual cost of educational courses for county employees and officials, including but not limited to extension courses of state and private universities, evening high school and adult education courses.

(c)

Prior to appropriation and expenditure of the monies referred to in subsections (a) and (b) of this section, the board of county commissioners shall find by way of resolution that such appropriation and expenditure will be of benefit to the county, and no such appropriation and expenditure shall be made without such finding.

(Laws of Fla. ch. 65-2105, §§ 1—3)

Editor's note— The act contained in the above section assumed ordinance status pursuant to charter § 5.02.

State Law reference— Reimbursement of county employees for educational expenses, F.S. § 112.063.

Sec. 2-104. - Employee bonuses.

(a)

[Purpose.] The purpose of this section is to establish an employee bonus policy in accordance with Florida law to promote efficiency and productivity in the delivery of services to the constituents of Pinellas County. This policy shall establish criteria pursuant to which specific bonus programs may be implemented and bonuses granted to recognize Pinellas County employees for their contributions and reward them for their service.

(b)

Definitions:

(1)

Appointing authority means the executive director of business technology services, county administrator, county attorney, human resources director, human rights director, executive director of the Pinellas Planning Council, and executive director of the Pinellas County Construction Licensing Board.

(2)

Bonus means a non-recurring lump sum payment or series of payments made to an employee to reward or enhance performance, recognize contributions, or promote efficiency and productivity.

(3)

Bonus program means the specific criteria, including the performance standards and evaluation process, pursuant to which bonuses authorized under this section may be granted.

(4)

Pinellas County employee means an employee of the Pinellas County Unified Personnel System, whether in the classified or exempt service, working under the board of county commissioners or the appointing authorities under the budgetary authority of the board of county commissioners.

(5)

Work performance means the contributions of employees to the mission of the county.

(c)

Requirements of a bonus program.

(1)

The basis for any bonus program implemented hereunder shall be the recipient employee's work performance.

(2)

Budgeted funds must be available to support the awards made hereunder.

(3)

Any bonus program implemented pursuant to this section shall be available to all employees under the

sponsoring appointing authority, shall include a description of the performance standards and evaluation process by which any bonus award will be granted and provide for notice of the program to all eligible employees before the start of the evaluation period for the program.

(4)

The board of county commissioners and unified personnel system appointing authorities under the board of county commissioners may implement a bonus program by providing posted notice, including a written description of the bonus program which includes the minimum requirements necessary to satisfy sections (c)(1), (2) and (3) above, as well as any other information necessary, where other required postings are placed.

(d)

The granting of a bonus pursuant to a bonus program implemented hereunder is at the sole discretion of the appointing authority.

(Ord. No. 12-02, § 2, 1-10-12)

Secs. 2-105—2-115. - Reserved.

DIVISION 2. - DEFERRED COMPENSATION[8]

Footnotes:

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State Law reference— Government Employees' Deferred Compensation Plan Act, F.S. § 112.215.

Sec. 2-116. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Employee means any person, whether appointed, elected or under contract, providing services for the county for which compensation or statutory fees are paid and who is subject to the state retirement system, including but not limited to elected officials, officers or employees of the board of county commissioners, clerk of the circuit court, property appraiser, sheriff, supervisor of elections, tax collector, personnel board, affirmative action-equal employment opportunity committee, Pinellas Industry Council, and any other entity of county government.

(Ord. No. 77-7, § 1, 3-15-77)

Cross reference— Definitions generally, § 1-2.

Sec. 2-117. - Adoption of program.

(a)

The county hereby adopts and establishes a deferred compensation program.

(b)

The county is hereby authorized and empowered to agree with any employee to defer all or any portion of that employee's otherwise payable compensation in accordance with a plan or plans duly approved and administered in accordance with this division.

(Ord. No. 77-7, § 2, 3-15-77)

Sec. 2-118. - Approval of plans.

(a)

For the purpose of carrying out the deferred compensation program adopted by this division, the board of county commissioners is hereby authorized and empowered to approve, by resolution, one or more deferred compensation plans, as the board may deem desirable.

(b)

The board of county commissioners may approve any plan of deferred compensation, involving any type of placement or investment of compensation which is deferred, provided that such plan is not prohibited by state or federal law.

(c)

No deferred compensation plan shall become effective until the board of county commissioners is satisfied by opinion from such federal agency or agencies as may be deemed necessary that the compensation deferred thereunder and/or the investment products purchased pursuant to the plan will not be included in the employee's taxable income under federal or state law until it is actually received by such employee under the terms of the plan, and that such compensation will nonetheless be deemed compensation at the time of deferral for the purposes of social security coverage, for the purposes of the retirement system of the county and for any other retirement, pension, or benefit program established by or in accordance with law.

(Ord. No. 77-7, § 3, 3-15-77)

Sec. 2-119. - Administration of program.

(a)

Any employee desiring to have all or any portion of his compensation deferred under an approved plan shall enter into a written contract with the county. The board of county commissioners is hereby empowered to authorize the county administrator to sign such contracts in the name of the county.

(b)

In addition to the requirements of subsection (a) of this section, any contract with an employee appointed by the clerk of the circuit court, property appraiser, sheriff, supervisor of elections or tax collector shall not become effective until such contract is approved by the officer who appointed him.

(c)

Any deferred compensation plan established under this division shall be administered in accordance with the plan approved by the board of county commissioners.

(d)

Each payroll department of county government shall have authority to make appropriate payroll deductions for an employee taking part in the program established under this division.

(Ord. No. 77-7, § 4, 3-15-77)

Sec. 2-120. - Supplement to other systems.

The deferred compensation program adopted and established by this division, and any plan approved as provided in this division, shall exist and serve in addition to any other retirement, pension or benefit systems established by the state or county and shall not supersede, make inoperative or reduce any benefits provided by the state retirement system or by another retirement, pension, or benefit program established by or in accordance with law.

(Ord. No. 77-7, § 5, 3-15-77)

Sec. 2-121. - Liability.

The financial liability of county government under any plan of deferred compensation shall be limited in each instance to the value of the particular insurance or annuity contract or other such investment options purchased on behalf of any employee.

(Ord. No. 77-7, § 6, 3-15-77)

Secs. 2-122—2-140. - Reserved.

ARTICLE V. - FINANCE[9]

Footnotes:

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Cross reference— Special assessments, ch. 110; taxation, ch. 118; impact fees, ch. 150.

State Law reference— Investment of surplus public funds, F.S. § 125.31; county annual budget, F.S. ch. 129; county bonds, F.S. ch. 130; refunding bonds, F.S. chs. 131, 132; county depositories, F.S. ch. 136; local government finance, F.S. ch. 218.

DIVISION 1. - GENERALLY

Sec. 2-141. - Disbursement of race track funds accruing to Pinellas County.

(a)

All monies accruing to Pinellas County under the provisions of F.S. ch. 550 shall be disbursed by the comptroller as follows:

(1)

Fifty percent of such monies shall be paid directly to the board of county commissioners, and

(2)

Fifty percent of such monies shall be paid directly to the district school board.

(b)

The monies received by the district school board of Pinellas County, Florida, as provided for in subsection (a) hereof may be used for the payment of principal and interest on certificates of indebtedness issued by the district school board from time to time for the purpose of construction, building, enlarging and improving of school buildings and the furnishing and equipping of said buildings to provide facilities for the kindergarten program of the district school board of Pinellas County, Florida.

(c)

The monies received by the district school board of Pinellas County, Florida, as provided for in subsection (a) hereof shall be used for the purpose of construction, building, enlarging, and improving of school buildings, and the furnishing and equipping of said buildings to provide facilities for the kindergarten program of the district school board of Pinellas County, Florida.

(Laws of Fla. ch. 70-895, §§ 1—3)

Editor's note— The act contained in the above section retains its status as a special act. See charter § 5.02. The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

State Law reference— Distribution of pari-mutual funds, F.S. § 550.135.

Sec. 2-142. - Risk finance program.

(a)

There is hereby established a risk finance program through an intergovernmental service fund to be administered by the office of risk management under the direction of the county administrator. The risk finance program shall be administered within the following guidelines:

(1)

The county administrator or his/her designee shall have sole discretion to resolve all risk matters up to $25,000.00.

(2)

The county administrator or his/her designee and the county attorney shall have joint discretion to settle all

matters up from $25,000.00 to $50,000.00.

(3)

All matters above $50,000.00 shall be brought before the county commission for a vote.

(4)

All matters above the sovereign immunity limits set forth in F.S. § 768.28, as amended, shall require review and approval by outside counsel.

(b)

The risk finance program funding shall be set at a level adequate to meet the costs of insurance and services, administration and reserve necessary to meet any self-insured losses.

(c)

The fund shall not be reduced except by a majority vote of the members of the board of county commissioners.

(Ord. No. 79-15, §§ 1—3, 5-22-79; Ord. No 02-70, § 1, 9-10-02)

Sec. 2-143. - Prohibition of sale or lease of county's interest in real property to governmental entities or not-for-profit corporations for less than appraised value.

(a)

Prohibition. The board of county commissioners, when acting in pursuance of the authority granted by F.S. § 125.38, shall not convey or lease its interest in any real property to another governmental entity or not-for-profit corporation or organization for less than the appraised value of the county's interest in such real property, except as otherwise exempted under this section.

(b)

Exemption for low and moderate income housing. Upon application and in accordance with the provisions of F.S. § 125.38, as amended, the county may convey, for such price, whether nominal or otherwise, as the board of county commissioners may fix, to the United States, or any department or agency thereof, the state, or any political subdivision or agency thereof, or any municipality of the state, or other not-for-profit corporation or organization which may be organized for the purpose of promoting community interest and welfare, any county-owned single-family or multifamily residence or any county-owned residential lot which could accommodate a single-family or multifamily residence which has become county-owned property from whatever source or means, for the purpose of providing, within the county, affordable housing to very low income, low income and moderate income persons, as defined by law. The board of county commissioners shall have the sole discretion to determine what residences or properties, if any, are of no governmental use to the county and are suitable for conveyance; the entity that will receive the property; and the conditions, if any, to be attached to the conveyance. Unless the conveyance of the single-family or the multifamily residence includes the conveyance of the real property upon which it is located, the board of county commissioners may provide, as a condition of the conveyance, the terms and conditions for the removal of the residence from the county-owned property by the recipient.

(c)

Application to property acquired by eminent domain. The authority granted pursuant to subsection (b) of this section shall not authorize the sale or lease of real property acquired by the exercise of the county's power of eminent domain or condemnation for less than the appraised value of the county's interest in such real property; provided, however, that the county may, on the condition that such structure shall be removed from such property, convey residential structures located on such real property in accordance with the provisions of subsection (b) of this section.

(d)

Exemption for governmental purposes or projects. The provisions of subsection (a) of this section shall not apply to the conveyance or lease of real property to the United States, or any department or agency thereof, the state or any political subdivision or agency thereof, or any municipality of the state, or to any not-for-profit corporation or association formed by or for the purpose of conducting the business of the governmental entities listed in this subsection, when such conveyance or lease is intended for any governmental purpose or project, which real property may be conveyed or leased in accordance with the provisions of F.S. § 125.38, as amended, at the board of county commissioners' sole discretion. This exemption includes, by way of illustration and not limitation, East Lake Fire and Rescue, Inc., organized for the purpose of providing fire prevention and firefighting services to a portion of the county, and the state department of health and rehabilitative services, which leases property from the county as part of a contractual arrangement to provide health services to the citizens of the county.

(e)

Existing leases to specific not-for-profit corporations. The existing leases between the county and Palm Harbor Day Care Center and Cross Bayou Little League, and Ridgecrest Day Care Center, Inc., formerly known as the Central Pinellas Preschool Health and Education Association, Inc., respectively, shall be excluded and exempt from the provisions of subsection (a) of this section, and the county may continue to lease or rent the property to the respective named lessees for the current uses and purposes only at a negotiated rental rate.

(f)

Properties escheating to the county. Properties which have in the past or will in the future escheat to the county shall be excluded and exempt from the provisions of subsection (a) of this section and the county may sell such escheated properties to municipalities gratis or at prices less than appraised value, for low income and moderate income housing described in subsection (b) of this section, gratis or at prices less than appraised value, or to one or more adjoining owners willing to acquire such property gratis or at prices less than appraised value, which prices are to be determined in the sole discretion of the board of county commissioners.

(g)

Exemption for uses benefitting public or community interest and welfare. The provisions of subsection (a) of this section shall not apply to the conveyance of certain houses, structures or other improvements which must be removed from county real property to the United States, or any department or agency thereof, the state or any political subdivision or agency thereof, or any municipality of the state, or to any not-for-profit corporation or organization which operates for the benefit of public or community interest and welfare, when

such conveyance is intended for the furtherance of the public or community interest and welfare, which house, structure or improvement may be conveyed in accordance with the provisions of F.S. § 125.38, as amended, at the board of county commissioners' sole discretion. This exemption includes, by way of illustration and not limitation, houses which could be used for the United Way and clubhouse space for the Boy Scouts or the Girl Scouts.

(Ord. No. 90-90, § 1, 12-4-90; Ord. No. 92-13, § 1, 2-25-92; Ord. No. 98-13, § 1, 1-20-98)

Sec. 2-144. - Investment of surplus public funds.

(a)

Definitions. Unless the context or use indicates another meaning or intent, the following words and terms as used in this section shall have the following meanings:

Authorized institutions means:

(1)

Financial institutions which are qualified as public depositories by the treasurer of the state;

(2)

Primary securities dealers as designated by the Federal Reserve Bank of New York; and

(3)

Securities dealers who are members of the National Association of Securities Dealers, Inc.

Fiscal year means the fiscal year of the county commencing October 1 of any year and ending September 30 of the immediately succeeding year.

Investment policy means the investment policy approved by the board of county commissioners by resolution in accordance with F.S. § 218.415, as may be amended from time-to-time.

Permitted investments means any of the following instruments:

(1)

The local government surplus funds trust fund, or any intergovernmental investment pool authorized pursuant to the Florida Interlocal Cooperation Act of 1969, as provided in F.S. § 163.01;

(2)

Securities and exchange commission registered money market funds with the highest credit quality rating from a nationally-recognized rating agency;

(3)

Non-negotiable interest bearing time certificates of deposit, demand deposits or savings accounts in banks organized under the laws of this state and in national banks organized under the laws of the United States and doing business and situated in this state;

(4)

Certificates of deposit in state-certified qualified public depositories, as defined in F.S. § 280.02;

(5)

Direct obligations of the U.S. Treasury;

(6)

Obligations of federal agencies and government sponsored enterprises;

(7)

Commercial paper, credit quality rated A1, P1;

(8)

Asset-backed corporate notes;

(9)

Repurchase agreements; and

(10)

Any other investment permitted by applicable Florida law, and authorized by the investment policy.

Surplus funds means funds in any general or special account or fund of the county, held or controlled by the board of county commissioners, which funds are not reasonably contemplated to be needed for the purposes intended within a reasonable time from the date of such investments.

(b)

Findings. It is hereby ascertained, determined and declared that:

(1)

It furthers the public interest for the county to invest any monies not immediately required to be disbursed and to maximize the net earnings on such funds;

(2)

It is the intent of the board to invest county surplus funds in certain permitted investments allowed by Florida law.

(c)

Authorization of investments. Subject to the limitations and conditions of any bond resolution or trust indenture, surplus funds managed or held by or on behalf of any officer, board, authority or agency of the county may be invested in permitted investments in accordance with the standards and requirements of the investment policy; provided, however, no surplus funds may be invested in a "derivative," as that term is

defined in F.S. § 218.415(5), issued by a federal agency or instrumentality, regardless of whether such agency or instrumentality is otherwise authorized. Except for instruments in the local government surplus funds trust fund and in money market funds, surplus funds shall be invested in permitted investments to match maturities with known cash needs and anticipated cash-flow requirements.

(d)

Investment objective and standard. The primary investment objectives of the county are the protection of taxpayer moneys and sufficient liquidity to meet the county's operating, payroll and capital requirements. In keeping with these objectives, investments shall be made with judgment and care, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety for their capital, as well as the probable income to be derived from the investment.

(e)

Requirement of offer. Prior to making any investment, a competitive process shall be utilized for the purpose of soliciting offers for the permitted investment in question when feasible and appropriate. Such offer must be in writing. Offers will be held in confidence until the highest bid is determined and awarded or as otherwise provided by applicable law.

(f)

Reports. The clerk shall submit, or cause to be submitted, a report to the board on the performance of the county's investments on a quarterly basis and an annual report for each fiscal year.

(Ord. No. 94-80, §§ 1—6, 10-4-94; Ord. No. 94-81, §§ 1—3, 10-4-94; Ord. No. 96-46, § 1, 5-14-96; Ord. No. 01-15, §§ 1, 2, 3-27-01; Ord. No. 09-47, § 1, 7-21-09; Ord. No. 10-02, § 1, 1-5-10)

Sec. 2-145. - Expenditure of funds for incentives, awards and recruitment.

(a)

Findings of fact. It is hereby found and determined by the board of county commissioners that the expenditure of public funds in compliance with the requirements of this section can serve a proper and valid public purpose, and that the requirements set forth herein and policies to be adopted provide controls to guard against abuse and assure accountability to the taxpayers and the public.

(b)

Purpose. The purpose of this section is to provide a more efficient and responsive local government to serve the needs of the people of Pinellas County by the development of programs to provide for the enhancement of productivity, efficiency and community understanding, and to engender a spirit of cooperation and goodwill.

(c)

Expenditures authorized. The board of county commissioners determines that the following would accomplish the above stated public purposes, and therefore the expenditure of funds for any of the following is hereby authorized:

(1)

All or a portion of the cost of food, non-alcoholic refreshments and miscellaneous expenses in connection with county-sponsored functions, special meetings, strategic planning meetings, orientation meetings, educational or training programs, recognitions or award ceremonies, and other similar special events.

(2)

Travel, meals and non-alcoholic refreshments in connection with recruitment proceedings for management associate program, managerial employees, and professional or technical positions approved by job classification.

(3)

Reimbursement of relocation expenses in connection with recruitment proceedings for managerial employees, at the department head level or higher.

(4)

Frames, plaques, certificates, trophies, pins, paperweights and other suitable tokens of recognition to acknowledge significant contributions by county employees, volunteers, other individuals, advisory board members, or other groups or organizations.

(5)

Token prizes including savings bonds, gift certificates, or personal property in connection with contests and competitions that are county-sponsored.

(6)

Souvenirs and other tokens commemorating and or promoting programs, events and undertakings of the county.

(7)

Meals and non-alcoholic refreshments when employees and others are not permitted to leave for meals by emergency circumstances, as approved by the county administrator.

(8)

Payments for meals, non-alcoholic refreshments and tokens of appreciation for Employee Appreciation Week, as set forth in policy approved by the board of county commissioners.

(9)

Refrigerators, coffee-makers, and microwave ovens in common areas used by county employees.

(10)

In-county business travel including mileage and meals, as required and approved by managers, including professional education.

(11)

Other expenditures specifically approved by the board of county commissioners similar to the nature of expenditures authorized herein.

(d)

Establishment of programs and development of rules and procedures.

(1)

The county administrator shall prepare a policy for all programs established and expenditures authorized under this section, which shall be approved by the board of county commissioners.

(2)

Nothing herein shall prohibit the use of personal property, goods or services donated to the county to fulfill the purposes of this section, provided that the donations have been officially accepted by the county for those purposes.

(3)

The provisions of this subsection (d) shall not apply to expenditures authorized pursuant to other provisions of law including Florida Statutes and other county ordinances, to annual and sick leave, compensated holidays, health care, and retirement benefits, or conditions of employment provided as a part of the county's personnel policies or employment contracts.

(e)

Expenditures. All expenditures approved pursuant to this section shall be placed on the consent agenda of the board of county commissioners on a quarterly basis, and filed with the clerk of the circuit court for placement in board records.

(f)

Application. This section applies to all county departments, and divisions as well as the governing body of Pinellas County. The expenditures authorized in subsection (c) are declared to be expenditures of budgeted funds for valid public purposes for offices established pursuant to Article VIII, Section 1(d) of the Constitution of the State of Florida.

(Ord. No. 00-16, §§ 1—5, 2-8-00; Ord. No. 07-26, § 1, 5-1-07)

Sec. 2-146. - Reserved.

Editor's note— Ord. No. 12-02, § 1, adopted Jan. 10, 2012, repealed § 2-146, which pertained to exempt employee bonuses and derived from Ord. No. 02-5, § 1, adopted Jan. 8, 2002. See § 2-104 for provisions pertaining to employee bonuses.

Secs. 2-147—2-155. - Reserved.

DIVISION 2. - PURCHASING[10]

Footnotes:

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State Law reference— Consultants' Competitive Negotiation Act, F.S. § 287.055; bids required for certain road work, F.S. §§ 336.41, 336.44.

Subdivision I. - In General

Sec. 2-156. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agencies means the departments or offices under the board of county commissioners and county departments or offices created by special act, including but not limited to the Pinellas Planning Council, the Pinellas County Construction Licensing Board, and the Management Information Services Department.

Bid criteria means the bases upon which the county will rely to determine acceptability of a bid or proposal, as stated in the bid, the proposal, or this division, including, but not limited to, inspection, testing, quality, workmanship, delivery, price, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs.

Bidders list means the list of vendors, suppliers or contractors for an individual commodity or trade compiled through the contracting experience of the county or at the request of the vendors, suppliers or contractors.

Constitutional officer means one or more of the following: Clerk of circuit court, property appraiser, sheriff, supervisor of elections, and county tax collector, collectively referred to in this division as the constitutional officers.

County means the board of county commissioners, the constitutional officers and the agencies of the county.

Evaluation criteria shall have the same meaning as the term bid criteria.

Lowest and best bid/price means the apparent lowest bidder or proposer whose bid or proposal best meets the needs of the county as stated in the invitation to bid, the request for proposal, or this division.

Public notice means the required notification or advertisement of an invitation to bid, request for proposal, or other competitive solicitation provided for in this division, to be given to prospective vendors for a reasonable period of time as determined by the director of purchasing, which shall, at a minimum, include: (i) direct notice to prospective vendors on an applicable bidders list maintained by the purchasing department; (ii) posting public notice on the purchasing department website; and (iii) notice in a newspaper of general circulation when required by applicable law. The public notice shall describe the goods or services sought, and state the date, time and place of the bid/proposal/solicitation opening.

Purchase/procurement means the acquisition of goods and/or services.

Qualified bidder shall have the same meaning as the term responsible bidder.

Responsible bidder means a bidder who has the capability in all respects to perform fully the contract requirements and who has the integrity and reliability which will assure good faith performance.

Responsible proposer means a proposer who has the capability in all respects to perform fully the contract requirements and who has the integrity and reliability which will assure good faith performance.

Responsive bid means a bid submitted by a responsive and responsible bidder which conforms in all material respects to the invitation for bids.

Responsive bidder means a bidder who has submitted a bid which conforms in all material respects to the invitation for bids.

Responsive proposal means a proposal submitted by a responsive and responsible proposer which conforms in all material respects to the request for proposal.

Responsive proposer means a proposer who has submitted a proposal which at a minimum conforms in all material respects to the request for proposal.

(Ord. No. 94-51, § 1(a), 6-7-94; Ord. No. 06-19, § 1, 2-21-06; Ord. No. 08-49, § 1, 10-7-08)

Cross reference— Definitions generally, § 1-2.

Sec. 2-157. - Purpose.

The purpose of this division is to provide for the fair and equitable treatment of all persons involved in public purchasing by the county, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

(Ord. No. 94-51, § 1(b), 6-7-94)

Sec. 2-158. - Applicability.

(a)

This division applies to contracts for the procurement of goods and services entered into by the county after the effective date of the ordinance from which this division derives. This division shall apply to every expenditure of public funds by the board of county commissioners for public purchasing, irrespective of the source of the funds. When the procurement involves the expenditure of federal assistance of contract funds, the procurement shall be conducted in accordance with applicable federal law and regulations. Nothing in this division shall prevent the county from complying with the terms and conditions of any grant, gift or bequest that is otherwise consistent with law.

(b)

Notwithstanding the general principles of application of this division expressed in this section, the clerk of circuit court, property appraiser, sheriff, supervisor of elections and tax collector (the "constitutional officers") may participate in all or part of the county's purchasing process without the obligation of complying with the full procedures outlined in this division. Authorized partial compliance includes, but is not limited to, the following:

(1)

No contract to be entered into by any of the constitutional officers needs approval by the board of county commissioners for the constitutional officer's portion of the contract except as otherwise specifically required

by state law;

(2)

A constitutional officer, either during or after the bidding or award procedures, may deviate from the strict criteria of this division and may award on the bid or proposal criteria, and as otherwise permitted by state law, or may reject all bids for the constitutional officer's portion of the contract;

(3)

No constitutional officer needs the authority from the board of county commissioners to exempt any bid, proposal or contract from the requirements of this division.

(Ord. No. 94-51, § 1(c), (d), 6-7-94)

Sec. 2-159. - Principal public purchasing official.

(a)

Except as otherwise provided in this division, the director of purchasing, and the assistant director of purchasing when authorized by the director in writing, shall serve as the principal public purchasing official for the county and shall be responsible to the board of county commissioners and shall be responsible for the procurement of supplies, services and construction in accordance with this division. Additionally, the purchasing department shall serve as a servicing agency for the constitutional officers and other nonboard county agencies, and the director of purchasing shall provide such assistance and service as possible to the constitutional officers and other nonboard county agencies for the procurement of goods and services.

(b)

In accordance with this division and any other applicable laws, the director, and the assistant director when authorized by the director in writing, shall:

(1)

Procure or supervise the procurement of all goods and services needed by the county;

(2)

Approve all purchase orders, regardless of amount, for all goods and services procured as authorized in this division;

(3)

Sell, trade, or otherwise dispose of surplus supplies and tangible personal property belonging to the county, pursuant to F.S. ch. 274;

(4)

With the exception of contract review policies approved by the board of county commissioners, have the authority and responsibility to establish and maintain written administrative procedures governing procurement of goods and services, in accordance with this division and purchasing policies adopted by

resolution of the board of county commissioners. These procedures shall include, but are not limited to, procedures for complaints against vendors, inspection and acceptance of delivered goods, prequalification of contractors, change orders, and consideration of single bids. Once developed, and as amended, the administrative procedures implementing this division and purchasing policies adopted by the board of county commissioners shall be approved by the county administrator.

(c)

The director of purchasing may not delegate procurement authority to other county officials, except as authorized herein, or pursuant to rules and regulations adopted by the board of county commissioners. Notwithstanding the general principles of application of this division expressed herein, any of the constitutional officers may utilize all or part of the county's purchasing process without the obligation of complying with the full procedure and without the obligation to obtain the lowest and best bid or price.

(Ord. No. 94-51, § 2, 6-7-94; Ord. No. 06-19, § 2, 2-21-06; Ord. No. 07-42, § 1, 9-18-07; Ord. No. 08-49, § 1, 10-7-08)

Sec. 2-160. - Waiver of provisions.

The board of county commissioners may waive any provision of this division by resolution.

(Ord. No. 94-51, § 9, 6-7-94)

Sec. 2-161. - Bidder qualifications and prequalifications; suspension and debarment.

(a)

Qualifications.

(1)

Responsible and responsive bidder who submits the lowest responsive bid. In determining the responsible and responsive bidder who submits the lowest responsive bid, in addition to price, the board of county commissioners or the constitutional officer, as applicable, shall consider, as a minimum:

a.

The ability, capacity and skill of the bidder to perform the contract or provide the service required;

b.

Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;

c.

The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

d.

The quality of performance of previous contracts or services;

e.

The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;

f.

The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;

g.

The quality, availability and adaptability of the goods or services to the particular use required;

h.

The ability of the bidder to provide future maintenance and service;

i.

The number and scope of conditions attached to the bid.

(2)

Prequalification of general contractors. General contractors wishing to bid on the board's construction projects in excess of $100,000.00 are required to be prequalified with the county administrator or his/her designee prior to bid opening. Types of construction requiring prequalification, include but are not limited to, road and street, building, water and sewer, marine, bridge, and well drilling. The establishment, deletion and modification of the prequalification categories for specific types of construction and the dollar amounts of the subcategories may be accomplished by resolution of the board. The primary criteria considered in determining qualification are financial capability and previous job experience and performance.

a.

Prequalification is recommended to the county administrator or his/her designee for final approval by a prequalification committee consisting of representatives from each of the following professional associations:

Associated Builder's and Contractors

Pinellas Chapter of the Florida Engineering Society

Florida Central Chapter of American Institute of Architects

West Coast Chapter of the Florida Institute of C.P.A.'s

Contractors' and Builders' Association of Pinellas County

Suncoast Utility Contractors Association

b.

Prequalification is not a conclusive determination of responsibility, and a prequalified bidder may be rejected

as nonresponsible on the basis of subsequently discovered information.

(b)

Integrity of public contracting; purchasing authority to suspend or debar. Maintaining the integrity of the public contracting and purchasing process is vital and a matter of great public interest. Selecting and contracting with highly qualified persons or entities ("vendors") that engage in ethical and responsible business practices protects the public and supports the integrity of the public contracting and procurement process. Because the opportunity to participate in competitive procurements or to supply goods or services to the county is a privilege, not a right, this privilege should be denied to persons or entities that engage or are involved in activities or actions as described herein that adversely impact the quality of goods and services provided to the county for the benefit of the public. In those instances, it is in the best interests of the public to disqualify vendors by suspension or debarment from inclusion on future vendor lists or from consideration for award of new contracts, work, or any work assignments on existing contracts, based upon documentation that the grounds for suspension or debarment as provided herein exist.

(1)

Suspension. A vendor shall be suspended for a period of two years or until the conditions described herein have been rectified or resolved, whichever occurs first, as determined by the purchasing director based upon the following:

a.

The county has formally declared the vendor in breach of a contract that has resulted in the termination of the contract by the county for failure to comply with the conditions, specifications or terms of a contract with the county; or

b.

The county has formally disqualified or declared a vendor's bid, quotation, or proposal nonresponsive, based on the vendor's fraud or misrepresentation; or

c.

The vendor is charged by a court of competent jurisdiction with the commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract; or is charged by a court of competent jurisdiction with the following: embezzlement, theft, forgery, bribery, fraud, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously and directly affects responsibility as a county government contractor; or

d.

The vendor becomes insolvent, has proceedings in bankruptcy instituted against it, or has a receiver or trustee appointed over its property; or

e.

The vendor has three or more violations of the code as defined in section 1-8 of the Code in any two-year

period arising from or related to vendor's business activities, as determined in a court or administrative proceeding, including by plea; or

f.

The vendor and the county are engage in adversarial proceedings (i.e., court proceedings, arbitration, or administrative proceeding) arising from or related to the vendor's performance of a contract with the county; or

g.

The vendor is suspended by another government entity.

(2)

Debarment. A vendor shall be permanently debarred by the purchasing director based on the following:

a.

The county obtains a judgment in an adversarial proceeding between the county and the vendor (i.e., court proceeding, arbitration, or administrative proceeding) arising from the vendor's performance of a contract with the county which remains unsatisfied for a period of 30 days from the expiration of any appeal period or final resolution of any appeal; or

b.

Vendor conviction by or judgment obtained in a court of competent jurisdiction for commission of those offenses in connection with the vendor's business activities stated in subsection (b)(1)c above; [or]

c.

Vendor is debarred by another government entity.

(3)

Public entity crime. Notwithstanding any other provision herein, any vendor who has been convicted of a public entity crime as defined by F.S. § 287.133 shall not be able to transact business with the county to the extent as specified in the statute.

(4)

Decision. The purchasing director shall issue a written notification to suspend or debar based on documentation of the existence of one or more of the conditions described herein. The suspension or debarment shall take effect as of the date of the notification. The notification shall state the basis for the action taken and the period of the suspension, or that the vendor has been debarred. Prior to issuance of written notification, the purchasing director may schedule an informational meeting with the vendor to review the documentation supporting the suspension or debarment. The only issue that shall be considered at the informational meeting is whether the condition giving rise to the suspension or debarment has occurred or taken place.

(5)

Effects of suspension and debarment.

a.

Suspended or debarred vendors are excluded from receiving any new contracts, awards or otherwise providing new goods or additional services during the period of suspension or during debarment; from having any bids, proposals, quotations or qualifications considered by the county or responding to other solicitations of the county; and from conducting business with the county as a subcontractor, representative, or joint venturer of other vendors. For the purposes of this subsection (b)(5)a, "new goods or additional services" does not include goods or services provided by the vendor pursuant to a contract, purchase order or work assignment in effect as of the date of suspension.

b.

Any business entity controlled by or affiliated with any vendor ineligible for new business pursuant to subsection (b)(5)a may also be prohibited from contracting with the county if the relationship or affiliation is such that the person or business entity by reason of the relationship with the ineligible person or entity could directly benefit from the contract. Such factors as ownership interest, one or more members of the board of officials in common, control of one entity by the other, interlocking or shared management or principals, and limited management and ownership among family members shall be considered in determining ineligibility under this section of this article.

(6)

Reinstatement. After suspension or debarment, a vendor is not eligible to contract or be awarded work with Pinellas County until reinstated by the purchasing director. The vendor must supply information and reasonable documentation indicating that the conditions causing the suspension or debarment have been rectified or resolved. If the charges referenced in subsection (b)(1)c are dismissed or the vendor is found not guilty, the suspension shall be lifted automatically upon written notification and proof of final court disposition provided by the vendor to the county. If the conviction or judgment referenced in subsection (b)(2)b is reversed through the appellate process, the debarment shall be removed immediately upon written notification and proof of final court disposition from the vendor to the county. As a condition of reinstatement, and with approval of the county administrator, the purchasing director may limit the nature and scope of contractual undertakings that must be satisfactorily completed before seeking additional contracts from the county. Nothing herein prevents the county from granting reinstatement prior to the end of the suspension period or debarment where, in the purchasing director's judgment, the county's interests have been addressed and the vendor to be reinstated is not likely to engage in similar conduct again.

(Ord. No. 94-51, § 4, 6-7-94; Ord. No. 02-19, § 1, 3-19-02; Ord. No. 04-6, § 1, 1-20-04; Ord. No. 10-09, § 1, 2-16-10; Ord. No. 14-11, § 1, 2-11-14)

Sec. 2-162. - Protest procedure.

(a)

Right to protest. Any prospective bidder or proposer who is aggrieved by the contents of the bid or proposal package, or any bidder or proposer who is aggrieved in connection with the recommended award on a bid or proposal solicitation, may file a written protest to the director of purchasing as provided herein. This right to protest is strictly limited to those procurements of goods or services solicited through invitations to bid or requests for proposals, including solicitations pursuant to F.S. § 287.055, the "Consultants' Competitive

Negotiation Act." No other actions or recommendations in connection with a solicitation can be protested, including: (i) requests for quotations or requests for qualifications; (ii) rejection of some, all or parts of bids or proposals; (iii) disqualification of bidders or proposers as non-responsive or nonresponsible; or (iv) recommended awards less than the mandatory bid or proposal amount. Protests failing to comply with the provisions of this section shall not be reviewed.

(b)

Posting. The purchasing department shall post the recommended award on the departmental website no less than five full business days after the decision to recommend the award is made.

(c)

Requirements to protest.

(1)

If the protest relates to the content of the bid/proposal package, a formal written protest must be filed no later than 5:00 p.m. on the fifth full business day after issuance of the bid/proposal package.

(2)

If the protest relates to the recommended award of a bid or proposal, a formal written protest must be filed no later than 5:00 p.m. on the fifth full business day after posting of the award recommendation.

(3)

The formal written protest shall identify the protesting party and the solicitation involved; include a statement of the grounds on which the protest is based; refer to the statutes, laws, ordinances or other legal authorities which the protesting party deems applicable to such grounds; and specifically request the relief to which the protesting party deems itself entitled by application of such authorities to such grounds.

(4)

A formal written protest is considered filed with the county when the purchasing department receives it. Accordingly, a protest is not timely filed unless it is received within the time specified above by the purchasing department. Failure to file a formal written protest within the time period specified shall constitute a waiver of the right to protest and result in relinquishment of all rights to protest by the bidder/proposer.

(d)

Rights of interested parties. Bidders or proposers, other than the protestor, which would be directly affected by the favorable resolution of a protest relating to a recommended award, shall have the right to provide written documentation related to the protested solicitation. Said interested parties shall be solely responsible for determining whether a protest has been filed. Any documentation submitted by an interested party must be filed with the director of purchasing no later than 5:00 p.m. on the fifth full business day after the purchasing department posts notification that a protest has been filed. Any interested party submitting documentation shall bear all costs, including legal representation, relating to the submission.

(e)

Sole remedy. These procedures shall be the sole remedy for challenging the content of the bid or proposal package or the recommended award.

(f)

Lobbying. Protestors, and interested parties as defined subsection (d), and anyone acting on their behalf, are prohibited from attempts to influence, persuade, or promote a bid or proposal protest through any other channels or means, and contacting any county official, employee, advisory board member, or representative to discuss any matter relating in any way to the solicitation being protested, other than the purchasing department's or county attorney's office employees. The prohibitions provided for herein shall begin with the filing of the protest and end upon the final disposition of the protest; provided, however, at all times protestors shall be subject to the procurement lobbying prohibitions in section 2-189 of this Code. Failure to adhere to the prohibitions herein shall result in the rejection of the protest without further consideration.

(g)

Time limits. The time limits in which protests must be filed as specified herein may be altered by specific provisions in the bid/request for proposal.

(h)

Authority to resolve. The director of purchasing shall resolve the protest in accordance with the documentation and applicable legal authorities and shall issue a written decision to the protestor no later than 5:00 p.m. on the tenth full business day after the filing thereof.

(i)

Review of purchasing director's decision.

(1)

The protesting party may request a review of the purchasing director's decision to the county administrator by delivering written request for review of the decision to the director of purchasing by 5:00 p.m. on the fifth full business day after the date of the written decision. The written notice shall include any materials, statements, and arguments which the bidder/proposer deems relevant to the issues raised in the request to review the decision of the purchasing director.

(2)

The county administrator shall issue a decision in writing stating the reason for the action with a copy furnished to the protesting party no later than 5:00 p.m. on the seventh full business day after receipt of the request for review. The decision shall be final and conclusive as to the county unless a party commences action in a court of competent jurisdiction.

(j)

Stay of procurement during protests. There shall be no stay of procurement during protests.

(Ord. No. 94-51, § 5, 6-7-94; Ord. No. 04-87, § 1, 12-7-04; Ord. No. 14-11, § 2, 2-11-14)

Sec. 2-163. - Bid and contract security.

(a)

Bid security.

(1)

Requirement for bid security. Bid security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the director of purchasing to exceed $100,000.00. Bid security shall be in a form satisfactory to the county attorney. Nothing herein shall prevent the requirement of such security on other contracts when the circumstances warrant.

(2)

Amount of bid security. Bid security for all other competitive sealed bids and proposals shall be in an amount equal to at least five percent of the amount of the bid, unless the director of purchasing determines that the nature of the industry is such that the bid security requirement would work a hardship on most potential bidders.

(3)

Rejection of bids for noncompliance with bid security requirements. When the invitation for bids requires bid security, a bid shall be rejected in the event of noncompliance unless it is determined that the bid fails to comply only in a nonsubstantial manner with the security requirements.

(b)

Contract security. When a construction contract is awarded in excess of $100,000.00, security shall be provided in conformance with the minimum requirements of F.S. § 255.05, and shall become binding upon the execution of the contract.

(1)

A performance bond satisfactory to the county attorney, executed by a surety insurer authorized to do business in the state as a surety, in an amount equal to 100 percent of the price specified in the contract, conditioned that the contractor perform the contract in the time and manner prescribed in the contract; and

(2)

A payment bond satisfactory to the county attorney, executed by a surety insurer authorized to do business in the state as a surety, in an amount equal to 100 percent of the price specified in the contract, conditioned that the contractor promptly make payments to all persons supplying labor, materials or supplies used directly or indirectly in the performance of the work provided for in the contract, and who are claimants as defined in F.S. § 255.05(1).

(c)

Authority to require additional security. Nothing in this section shall be construed to limit the authority of the county to require a performance bond or other security in addition to those bonds, or in circumstances other than, as specified in subsection (b) of this section.

(Ord. No. 94-51, § 6, 6-7-94)

Sec. 2-164. - Intergovernmental relations.

(a)

Approval authority for contracts of $250,000.00 or less. Approval of contracts for cooperative purchasing and acquisition or use of supplies under this section which are $100,000.00 or less in a fiscal or calendar year shall be granted to the director of purchasing, and which are more than $100,000.00 and do not exceed $250,000.00 in a fiscal or calendar year shall be granted to the county administrator or his/her designee.

(b)

Cooperative purchasing authorized. The county's purchasing department may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies, services or construction with one or more public procurement units. Such cooperative purchasing may include, but is not limited to, joint or multiparty contracts between public procurement units and open-ended state or federal public procurement unit contracts which are made available to local public procurement units.

(c)

Acquisition or use of supplies by a public procurement unit. The county's purchasing department may acquire from, or use any supplies belonging to, another public procurement unit independent of the requirements of subdivision II of this division, pertaining to source selection and contract formation, unless prohibited by law.

(Ord. No. 94-51, § 7, 6-7-94; Ord. No. 02-19, § 1, 3-19-02; Ord. No. 06-19, § 3, 2-21-06)

Sec. 2-165. - Affirmative assistance to small and disadvantaged businesses.

The board of county commissioners recognizes that the county's growth and prosperity depends on the full participation of all its citizens, and is firmly committed to the principles of equal opportunity, recognizes the need and is desirous of improving the opportunities and participation of minority and female-owned businesses. The county endorses the utilization of minority and female-owned businesses in the purchasing of goods and services for the county whenever possible and shall establish, through an affirmative program, procedures fostering utilization.

(Ord. No. 94-51, § 8, 6-7-94)

Secs. 2-166—2-175. - Reserved.

Subdivision II. - Source Selection and Contract Formulation

Sec. 2-176. - Competitive sealed bidding.

(a)

Conditions for use. All contracts of the county for the purchase of goods and services valued in excess of $100,000.00 shall be awarded by competitive bidding, except as otherwise provided in section 2-177, pertaining to competitive sealed proposals, section 2-178, pertaining to contracting for designated professional services, section 2-180, pertaining to noncompetitive procurement, section 2-181, pertaining to emergency procurement, section 2-182, pertaining to used equipment/supplies procurement or purchases made pursuant to section 2-185 allowing for purchases under F.S. §§ 413.032—413.037 (1999), pertaining to qualified nonprofit agencies for the blind or the severely handicapped, or state bid or negotiated contracts.

(b)

Invitation to bid. An invitation to bid shall be issued and shall include specifications and conditions applicable to the procurement and shall set forth the time for preparation of bids prior to the date set forth in the public notice for the opening of bids.

(c)

Bidders list. Bids shall be invited from all responsible prospective vendors who have requested their names to be added to a bidders list, which the director of purchasing shall maintain, by sending them a copy of such newspaper notice or such other notice as will acquaint them with the proposed purchase. Vendor invitations to bid shall be limited to goods and services that are similar in character and ordinarily handled by the trade group to which the invitations are sent.

(d)

Bid opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation to bid. The name of each bidder and other relevant information deemed appropriate to properly identify each bid shall be recorded.

(e)

Bid receipt and bid evaluation. Bids shall be received without alteration or correction, except as authorized in this division. Bids shall be evaluated based on the criteria set forth in the invitation for bids. No criteria may be used in bid evaluation that are not set forth in the invitation for bids.

(f)

Award. The contract shall be awarded with reasonable promptness by appropriate written notice to the responsible and responsive bidder who submits the lowest and best responsive bid. The bid must meet the requirements and criteria set forth in the invitation for bids. Any board contract, which has a value of $100,000.00 or less in a fiscal or calendar year may be awarded and subsequently extended by the director of purchasing, or if the director is unavailable, his/her designee; a bid to be awarded which is more than $100,000.00 and does not exceed $250,000.00 in a fiscal or calendar year may be awarded and subsequently extended by the county administrator or his/her designee; a bid to be awarded which exceeds $250,000.00 in a fiscal or calendar year may be awarded only by the board of county commissioners. Awards made by the board of county commissioners will include authority for all subsequent contract extension. The aforementioned contract extension shall be approved at the option of the county administrator if, after review of past performance under the contract, the county administrator determines in his/her sole discretion that contract extension is in the best interests of the county. The county administrator shall thereafter place a receipt and file a report that the contract has been extended on the consent agenda of the board of county commissioners at least quarterly.

(g)

Rejection of bids. The respective constitutional officer, county administrator on behalf of the board of county commissioners or within his/her delegated financial approval authority, or director of purchasing within his/her delegated financial approval authority shall have the authority, when the public interest will be served thereby, to reject all bids or parts of bids at any stage of the procurement process through the award of a contract.

(h)

Multi-step sealed bidding. When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers, or information relating to the experience and capabilities of the prospective bidders, to be followed by an invitation for bids limited to those bidders whose offers or experience and capabilities have been determined to be acceptable under the criteria set forth in the first solicitation.

(i)

Tie bids. If two or more bids received are for the same total amount or unit price, or in the case of proposals, the qualifications, quality and service are equal, the contract shall be awarded to the local bidder/proposer. A local firm is defined as a firm with headquarters in geographical Pinellas County. Headquarters shall mean the office location that serves as the administrative center and principal place of business. If two or more bids received are for the same total amount or unit price or in the case of proposals, the qualifications, quality and service are equal and no firms are deemed local, then the contract shall be awarded by drawing lots in public.

(j)

Right to audit. This division establishes the authority to audit contract and pricing documents of vendors and contractors. The right to audit would apply to those agreements which the board of county commissioners determines to be of a nature to justify this provision. All vendors and contractors may be required to retain contract and pricing documents for audit purposes for a minimum time period specified in the invitation for bids, request for proposals, request for quotations, contract, or other agreement with the county, which time period shall be computed beginning after the completion or termination of the purchase, contract or agreement.

(Ord. No. 94-51, § 3(a), 6-7-94; Ord. No. 98-16, § 1, 1-27-98; Ord. No. 99-4, § 1, 1-5-99; Ord. No. 00-92, § 1, 11-7-00; Ord. No. 02-19, § 1, 3-19-02; Ord. No. 02-68, 8-20-02; Ord. No. 04-64, § 1, 9-21-04; Ord. No. 06-19, § 4, 2-21-06; Ord. No. 08-49, § 3, 10-7-08; Ord. No. 10-09, § 2, 2-16-10; Ord. No. 14-11, § 3, 2-11-14)

State Law reference— Bids required for certain road work, F.S. §§ 336.41, 336.45.

Sec. 2-177. - Competitive sealed proposals.

(a)

Conditions for use. When the goods or services to be acquired dictate that the use of competitive sealed bidding is not practicable, reasonable or advantageous to the county, a contract may be entered into by use of the competitive sealed proposals method.

(b)

Request for proposals. Proposals shall be solicited through a request for proposals (RFP), and public notice of the RFP shall be given.

(c)

Receipt of proposals. No proposals shall be opened until the time designated in the public notice of the

request for proposals. A register of proposals shall be prepared containing the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the item offered.

(d)

Evaluation factors. The request for proposals shall state the evaluation factors, including, but not limited to, price, vendor approach and methodology, capability and experience.

(e)

Discussion with responsible offerors and revisions to proposals. Discussions may be conducted with responsible proposers who submit proposals for the purpose of clarification to assure full understanding of the solicitation requirements. Proposers shall be accorded fair and equal treatment and notice with respect to any opportunity for discussion and correction of proposals and such corrections may be permitted prior to award.

(f)

Award. Award of the contract shall be made by the board of county commissioners, constitutional officer, county administrator or director of purchasing, as applicable, to the responsible and responsive proposer who submits the proposal which best meets the evaluation criteria described in the RFP. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made. For any board contract, a proposal to be awarded which is $100,000.00 or less in a fiscal or calendar year may be awarded by the director of purchasing; a proposal to be awarded which is $250,000.00 or less in a fiscal or calendar year may be awarded by the county administrator or his/her designee; a proposal to be awarded which exceeds $250,000.00 in a fiscal or calendar year may be awarded only by the board of county commissioners.

(g)

Rejection of proposals. The respective constitutional officer, county administrator on behalf of the board of county commissioners or within his/her delegated financial approval authority, or director of purchasing within his/her delegated financial approval authority shall have the authority, when the public interest will be served thereby, to reject all or any parts of proposals at any stage of the procurement process through the award of a contract.

(Ord. No. 94-51, § 3(b), 6-7-94; Ord. No. 98-16, § 2, 1-27-98; Ord. No. 02-19, § 1, 3-19-02; Ord. No. 04-64, § 2, 9-21-04; Ord. No. 10-09, § 3, 2-16-10; Ord. No. 14-11, § 4, 2-11-14)

Sec. 2-178. - Contracting for designated professional services.

(a)

Consultants' Competitive Negotiation Act. Contracts for architectural, professional engineering, landscape architectural and registered land surveying and mapping services shall be procured in accordance with F.S. § 287.055, referred to as the Consultants Competitive Negotiation Act (CCNA). All contracts for CCNA services shall be procured under the supervision of the director of purchasing and purchasing department.

(b)

Design-build and construction management services. Design-build and construction management services, as defined in F.S. § 255.103, shall be procured pursuant to the process defined in the CCNA or unless the county, through its director of purchasing, elects to bid construction management and design build contracts through an invitation to bid or request for proposal process as provided in F.S. § 255.20(1), where cost is considered in the award process.

(c)

Continuing contract. The county is authorized to enter into a continuing contract for CCNA services in accordance with F.S. § 287.055, whereby the firm provides professional services to the county for projects in which construction costs do not exceed $2,000,000.00, for study activity if the fee for each individual study under the contract does not exceed $200,000.00; or for work of a specified nature as outlined in the contract required by the county, with the contract being for a fixed term or no time limitation, except that the contract must provide a termination clause.

(d)

CCNA oversight. The county administrator shall appoint a minimum of three members of his/her executive management team to provide oversight for the CCNA process. Such oversight will include, but not be limited to, composition of evaluation committees, evaluator pool members, the evaluation process, and any other matters deemed appropriate by the county administrator.

(e)

Evaluator pool. The director of purchasing shall be responsible for developing and maintaining a pool of qualified evaluators to participate in CCNA evaluation committees, consisting of, but not limited to, representatives from county departments, professional organizations, and internal and external subject matter experts.

(f)

Evaluation committee. The CCNA evaluation committee shall consist of at least three but typically not more than seven members (unless deemed to be in the best interest of the county) selected based upon their expertise and/or association with the project. The evaluation committee must consist of at least one person from the requesting department (or the requesting division within a multi-divisional requesting department). The requesting department (or the requesting division within a multi-divisional requesting department) cannot have majority representation on the evaluation committee. The committee shall also include non-requesting department representatives, internal/external subject matter experts and local professional organization representatives (if deemed appropriate or necessary). Final composition and qualifications of evaluation committees shall be subject to CCNA oversight as provided in subsection (d) herein.

(g)

Ranking of firms. The county, through the competitive proposal process, shall make a finding that the firm or individual to be employed is duly qualified to render the required service. The evaluation committee shall review statements of qualifications and performance data submitted in response to the public solicitation and shall select, in order of preference, no fewer than three firms deemed to be the most highly qualified, if at least three firms respond to the solicitation. If less than three firms respond, and after meeting due diligence, it is decided by the director of purchasing that every effort was made to comply with F.S. § 287.055, requirements, the county will interview all respondents and proceed with the evaluation process. The

evaluation committee may conduct public presentations with a minimum of three firms (if three firms submitted).

(h)

Evaluation criteria. Pursuant to the CCNA, the evaluation criteria for ranking shall include: ability of firm and its professional personnel; firm experience with projects of a similar size and type; firm's willingness and ability to meet the schedule and budget requirements; volume of work previously awarded by the county; effect of the firms recent/current and projected workload; minority business status; location; past performance and when required, the public presentation. For continuing contracts, ranking and award shall be based on the criteria as stated above. For non-continuing contracts or project specific contracts, public presentation may be required. That requirement shall be stated in the RFP document.

(i)

Public presentation. The evaluation criteria for public presentation shall include but not be limited to the firm's understanding of the project, ability to provide required services within the schedule and budget, qualifications and approach to the project.

(j)

Due diligence. The director of purchasing shall be responsible for conducting due diligence of the firm approved for contract negotiations with an estimated contract value exceeding $100,000.00, when the county has not awarded a contract to the specific number one ranked firm within the last 12-month period prior to the ranking approval by the board of county commissioners.

(k)

Contract negotiations. The ranking of firms for all CCNA contracts shall be presented to the board of county commissioners for consideration. Upon board of county commissioners' approval of firm rankings, staff shall negotiate a contract with the most qualified firm (number one ranked firm) for professional services for compensation which is deemed to be fair and reasonable. Detailed discussions must be held by the firm and the county to establish the scope of the project and the exact services to be performed by the firm. Should the county and the firm fail to agree upon the terms of an acceptable contract, negotiations with the top firm shall be terminated and negotiations with the second ranked firm shall commence. If again unsuccessful, the process is repeated with the next ranked firm. This process is continued until a mutually agreeable contract is concluded or the project is abandoned, or the procurement process is otherwise terminated.

The firm awarded the contract must execute a truth-in-negotiation certificate stating that the wage rates and other unit costs are accurate, complete and current at the time of contracting. Any professional service agreement in which the certificate is required shall contain a provision that the agreement price shall be adjusted to exclude any significant sums where the county determines the agreement price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such agreement adjustments shall be made within one year following the end of the agreement.

(l)

Award. Based upon the final negotiated contract, a contract which is $100,000.00 or less in a fiscal or calendar year may be awarded by the director of purchasing; a contract which is $250,000.00 or less in a fiscal or calendar year may be awarded by the county administrator and all contracts exceeding $250,000.00

in a fiscal or calendar year shall only be awarded by the board.

(m)

Contracts for professional services. Notwithstanding the foregoing provision of this section, the noncompetitive procurement of contracts for legal, medical, independent certified public accounting, or other professional services is hereby authorized by negotiation with organizations or persons on the basis of experience, skill, and financial capacity to perform and shall be approved as provided in subsection (o) herein. Notwithstanding the foregoing, selection of an independent financial auditor to perform a "financial audit" as defined by F.S. § 11.45(1)(c) and other audit functions as may be requested shall be by the following described procedure, as permitted by the Pinellas County Home Rule Charter and F.S. § 218.391. A selection committee shall be established consisting of a designee of the board of county commissioners, the clerk of the circuit court or his/her designee, the director of the office of management and budget or his/her designee, the supervisor of elections or his/her designee, the tax collector or his/her designee, the property appraiser or his/her designee, and the sheriff or his/her designee. The selection committee shall prepare or cause to be prepared a request for proposal for independent financial auditor services, and the auditor shall be selected by competitive sealed proposal pursuant to Pinellas County Code, section 2-177.

(n)

Contracts for expert witnesses. Expert witnesses are exempt from the purview of this division.

(o)

Award of professional service contracts.

(1)

Contracts for services of a value greater than $250,000.00 in a fiscal or calendar year shall be authorized by the board of county commissioners or the constitutional officer, as applicable.

(2)

Contracts for services of a value greater than $100,000.00 and less than or equal to $250,000.00 in a fiscal or calendar year shall be authorized by the constitutional officer, or by the county administrator or his/her designee, as applicable.

(3)

Contracts for services of a value less than or equal to $100,000.00 in a fiscal or calendar year shall be authorized by the constitutional officer or the director of purchasing, as applicable.

(Ord. No. 94-51, § 3(c), 6-7-94; Ord. No. 98-16, § 3, 1-27-98; Ord. No. 99-4, § 2, 1-5-99; Ord. No. 02-19, § 1, 3-19-02; Ord. No. 04-64, § 3, 9-21-04; Ord. No. 06-44, § 1, 6-6-06; Ord. No. 10-09, § 4, 2-16-10; Ord. No. 11-23, § 1, 7-26-11)

Sec. 2-179. - Small purchases.

(a)

Generally. Any contract for $100,000.00 in a fiscal or calendar year or less may be made in accordance with

the small purchase procedures authorized in this section. A purchase shall not be artificially divided so as to constitute a small purchase under this section.

(b)

Small purchases of $5,000.00 or more. Insofar as it is practical for small purchases of $5,000.00 or more, no less than two quotations shall be solicited. Award shall be made on the basis of lowest and best quotation. The names of the vendors submitting quotations, and the date and amount of each quotation, shall be recorded and maintained as a public record.

(c)

Small purchases under $5,000.00. The director of purchasing shall adopt operational procedures for making small purchases of less than $5,000.00. Such procedures may provide for obtaining adequate and reasonable competition when deemed to be in the best interest of the county for the goods or services being purchased and shall require the maintenance of adequate written records to document the purchasing decision. Purchases below $5,000.00 are not subject to competitive quotation.

(d)

Award.

(1)

Small purchases of a value up to $100,000.00 in a fiscal or calendar year may be authorized by the purchasing director or his/her designee responsible for the administrative oversight of the purchasing department, or the constitutional officer, as applicable.

(2)

Small purchases of a value determined by the county administrator to be reasonable may be purchased by an operating department through the use of field purchase orders or procurement cards.

(Ord. No. 94-51, § 3(d), 6-7-94; Ord. No. 99-4, §§ 3, 4, 1-5-99; Ord. No. 02-19, § 1, 3-19-02; Ord. No. 03-25, § 1, 5-6-03; Ord. No. 04-64, § 4, 9-21-04; Ord. No. 06-19, § 5, 2-21-06; Ord. No. 08-49, § 4, 10-7-08)

Sec. 2-180. - Sole source/noncompetitive procurement.

(a)

Definitions:

(1)

"Sole source" purchase. A sole source purchase exists when research has determined there is only one potential provider for an item.

(2)

Noncompetitive purchase. A noncompetitive purchase exists when it is advantageous to the county to declare a purchase noncompetitive because it will result in verifiable financial savings to the county, is a trial

program, or utilizing a competitive process will be detrimental to timely securing the goods or services. More than one potential supplier may exist for a good or service; however, written documentation must be forwarded to the director of purchasing, clearly documenting the advantages of declaring the purchase noncompetitive on the basis that only one reasonable and practicable source exists to supply a particular good or service. Such advantages may be based upon, but not be limited to, uniqueness, vendor qualifications, and timeliness of the purchase.

(b)

Sole source and noncompetitive purchases may be used as a procurement method for purchases of products or services when available from a sole source or when it is determined by the director of purchasing that there is only one practicable and reasonable source wherein competitive bidding is not feasible or not advantageous to the county justifying a noncompetitive purchase. A request for proprietary item does not justify a sole source purchase if there is more than one potential bidder for the item. However, a noncompetitive purchase may be justified if there is more than one potential bidder for an item.

(c)

Award.

(1)

Sole source/noncompetitive procurements of a value greater than $250,000.00 in a fiscal or calendar year shall be authorized by the board of county commissioners or the constitutional officer, as applicable.

(2)

Sole Source/noncompetitive procurements of a value greater than $100,000.00 in a fiscal or calendar year and less than or equal to $250,000.00 in a fiscal or calendar year shall be authorized by the constitutional officer, or by the county administrator or his/her designee, as applicable.

(3)

Sole source/noncompetitive procurements of a value less than or equal to $100,000.00 in a fiscal or calendar year shall be authorized by the constitutional officer or the director of purchasing, as applicable.

(Ord. No. 94-51, § 3(e), 6-7-94; Ord. No. 98-16, § 4, 1-27-98; Ord. No. 02-19, § 1, 3-19-02; Ord. No. 04-64, § 5, 9-21-04; Ord. No. 06-19, § 6, 2-21-06)

Sec. 2-181. - Emergency procurements.

(a)

Generally. Notwithstanding any other provisions of this division, emergency purchases of goods or services may be made in the event of a disruption of essential operations, or when there exists a threat to public health, welfare or safety, or when the protection or preservation or public property would not be possible through normal purchasing procedures; provided that such emergency purchases shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

(b)

Award.

(1)

Emergency purchases in excess of $100,000.00 shall be authorized by the constitutional officer, or the county administrator, as applicable. The county administrator shall place a receipt and file a report as to those emergency purchases in excess of $100,000.00 and which do not exceed $250,000.00 to the board of county commissioners at the end of each fiscal quarter, and a written explanation of the circumstances of an emergency purchase in excess of $250,000.00 shall be filed by the county administrator and entered in the minutes of the board of county commissioners and shall be open to public inspection.

(2)

Emergency purchases of a value less than or equal to $100,000.00 shall be authorized by the constitutional officer or the director of purchasing, as applicable.

(Ord. No. 94-51, § 3(f), 6-7-94; Ord. No. 98-16, § 5, 1-27-98; Ord. No. 02-19, § 1, 3-19-02; Ord. No. 04-64, § 6, 9-21-04; Ord. No. 06-19, § 7, 2-21-06)

Sec. 2-182. - Used equipment/supplies procurement.

(a)

Generally. Notwithstanding any other provisions of this division and any other applicable laws, the purchase of used equipment or supplies shall be made with such competition as is practicable under the circumstances.

(b)

Award.

(1)

The purchase of used equipment or supplies of a value less than or equal to $250,000.00 in a fiscal or calendar year shall be authorized by the constitutional officer or the county administrator, as applicable. The purchase of used equipment or supplies of a value in excess of $250,000.00 shall be approved by the board of county commissioners.

(2)

Purchases of used equipment or supplies of a value less than or equal to $100,000.00 in a fiscal or calendar year shall be authorized by the constitutional officer or the director of purchasing, as applicable.

(Ord. No. 94-51, § 3(g), 6-7-94; Ord. No. 98-16, § 6, 1-27-98; Ord. No. 02-19, § 1, 3-19-02; Ord. No. 04-64, § 7, 9-21-04; Ord. No. 06-19, § 8, 2-21-06)

Sec. 2-183. - Reserved.

Editor's note— Ord. No. 10-09, § 5, adopted Feb. 16, 2010, deleted § 2-183, which pertained to procurement of construction management services and derived from Ord. No. 94-51, § 3(h), adopted June 7, 1994.

Sec. 2-184. - Master purchase orders.

(a)

Annual requirement purchases of goods and/or services. When exclusively used for the procurement of annual requirements of goods and/or services of any kind, and upon award of a contract for the purchase of such goods and/or services by the entity required pursuant to sections 2-176(f), 2-179, or 2-180(b) the director of purchasing may issue a master purchase order for the full amount approved for the contract.

(b)

Increases to the master purchase order. The county administrator (for any previously approved board contract), or the director of purchasing within the limits of his/her delegated financial approval authority, or the appropriate constitutional officer, as applicable, shall be authorized to increase master purchase orders. The increases to master purchase orders beyond the amounts previously approved may be authorized in accordance with the best interests of the county. Before any increase may be made by the county administrator, director of purchasing, or a constitutional officer whose budget is approved by the board of county commissioners, compliance with the provisions of F.S. ch. 129, relating to the county budget shall be verified. The county administrator will place a receipt and file a report as to all increases to master purchase orders in excess of $250,000.00 to the board of county commissioners, at the end of each fiscal quarter.

(Ord. No. 00-92, § 2, 11-7-00; Ord. No. 04-64, § 8, 9-21-04; Ord. No. 06-19, § 9, 2-21-06; Ord. No. 08-49, § 5, 10-7-08)

Sec. 2-185. - State bid or negotiated contracts and required purchases.

(a)

State bid or negotiated agreements. The county administrator is authorized to award contracts for purchases of goods or services in any amount within the budget of the using department under state bid or negotiated agreements and the director of purchasing is authorized to award contracts for purchase of goods or services of $100,000.00 or less under state bid or negotiated agreements.

(b)

Purchases of goods required to be made from qualified nonprofit agencies for the blind or severely disabled. Purchases of goods required to be made from qualified nonprofit agencies for the blind or severely disabled pursuant to state law may be authorized by the county administrator in any amount within the budget of the using department.

(c)

Reports to the board. For purchases in excess of $250,000.00 made pursuant to this section, the county administrator shall place a receipt and file a report to the board of county commissioners at the end of each fiscal quarter.

(Ord. No. 00-92, § 3, 11-7-00; Ord. No. 06-19, § 10, 2-21-06)

Sec. 2-186. - Retail golf merchandise purchases for county-operated retail golf course shops.

The provisions of this division regarding competitive bidding shall not apply to the purchase of retail golf

accessories, apparel, equipment, and/or any other golf-related merchandise (hereinafter referred to as "retail golf merchandise") for resale by any county-operated golf course retail shop(s). All retail golf merchandise, other than merchandise purchased within 30 days of the initial opening of the golf course, shall be purchased from vendors listed on the county's qualified retail golf merchandise vendor list. The qualified retail golf merchandise vendor list shall be comprised of vendors and subcontractors approved by the purchasing director and manager of golf operations or their designees in accordance with established purchasing procedures and criteria. Said list shall be updated by those persons designated under this section as prospective qualified vendors become available. Purchases of retail golf merchandise shall be made pursuant to policies and procedures specifically adopted for such purchases, from the qualified retail golf merchandise vendor list in order to ensure competition among the vendors regarding competitive pricing, quality of merchandise and brand recognition for products sold by each vendor.

(Ord. No. 01-84, § 1, 12-18-01)

Sec. 2-187. - Reserved.

Editor's note— Ord. No. 08-49, § 6, adopted Oct. 7, 2008, deleted § 2-187, which pertained to contract amendments/vendor name changes and derived from Ord. No. 02-19, § 1, adopted Mar. 19, 2002; Ord. No. 04-64, § 9, adopted Sept. 21, 2004; and Ord. No. 06-19, § 11, adopted Feb. 21, 2006.

Sec. 2-188. - Approval authority.

The county administrator or his/her designee and the director of purchasing, or his/her designee, shall have authority to approve procurement related documents and instruments articulated in section 2-62 in accordance with the specified delegated financial authority limits under this division.

(Ord. No. 02-19, § 1, 3-19-02; Ord. No. 02-68, 8-20-02; Ord. No. 04-64, § 11, 9-21-04; Ord. No. 06-19, § 12, 2-21-06; Ord. No. 08-49, § 7, 10-7-08)

Editor's note— Ord. No. 04-64, § 10, adopted Sept. 21, 2004, repealed the former § 2-188, which pertained to vendor name changes and derived from Ord. No. 02-19, § 1, adopted Mar. 19, 2002. See § 2-187 for similar provisions. Additionally, Ord. No. 04-64, § 11, renumbered the former § 2-189 as § 2-188.

Sec. 2-189. - Lobbying.

Lobbying shall be prohibited on all county competitive selection processes and purchasing contract awards pursuant to this division, including, but not limited to, requests for proposals, requests for quotations, requests for qualifications, bids or the award of purchasing contracts of any type. The purpose of this prohibition is to protect the integrity of the procurement process by shielding it from undue influences prior to the contract award, or the competitive selection process is otherwise concluded. However, nothing herein shall prohibit a prospective bidder/proposer/protestor from contacting the purchasing department or the county attorney's office to address situations such as clarification and/or pose questions related to the procurement process.

Lobbying of evaluation committee members, county government employees, elected/appointed officials, or advisory board members regarding requests for proposals, requests for quotations, requests for qualifications, bids, or purchasing contracts, by the bidder/proposer, any member of the bidder's/proposer's staff, any agent or representative of the bidder/proposer, or any person employed by any legal entity affiliated with or representing a bidder/proposer/protestor, is strictly prohibited from the date of the advertisement, or on a date otherwise established by the board of county commissioners, until either an award is final, or the competitive

selection process is otherwise concluded. Any lobbying activities in violation of this section by or on behalf of a bidder/proposer shall result in the disqualification or rejection of the proposal, quotation, statement of qualification, bid or contract.

For purposes of this provision, "lobbying" shall mean influencing or attempting to influence action or non-action, and/or attempting to obtain the goodwill of persons specified herein relating to the selection, ranking, or contract award in connection with any request for proposal, request for quotation, request for qualification, bid or purchasing contract through direct or indirect oral or written communication. The final award of a purchasing contract shall be the effective date of the purchasing contract.

Any evaluation committee member, county government employee, elected/appointed official, or advisory board member who has been lobbied shall immediately report the lobbying activity to the director of purchasing.

(Ord. No. 02-35, 5-7-02; Ord. No. 04-64, § 12, 9-21-04; Ord. No. 04-87, § 1, 12-7-04; Ord. No. 10-09, § 6, 2-16-10; Ord. No. 11-23, § 2, 7-26-11; Ord. No. 14-11, § 5, 2-11-14)

Editor's note— Ord. No. 04-64, § 12, adopted Sept. 21, 2004, renumbered the former § 2-190 as § 2-189.

Sec. 2-190. - Sponsorships.

(a)

As used in this section, the following terms shall have the meaning ascribed to them herein, except where the context clearly indicates a different meaning:

Naming rights means a sponsorship in which a third party purchases the exclusive right to name a whole asset or venue.

Sponsorship means a mutually beneficial business arrangement between the county and a third party, wherein the third party provides cash and/or in-kind services to the county in return for access to the commercial and/or marketing potential associated with the county and includes naming rights. Sponsorships may include sponsorship of one or more of the county's services, projects, events, facilities or activities.

(b)

The provisions of this division regarding competitive bidding shall not apply to sponsorships. The board of county commissioners may establish policies, procedures and criteria for securing and approving sponsorships by resolution. The county administrator, his/her designees and/or department heads shall have the authority to approve and execute agreements relating to sponsorships as provided in any resolution approved by the board of county commissioners relating to sponsorships.

(Ord. No. 05-52, § 1, 7-26-05)

Sec. 2-191. - Marina sales and services.

The provisions of this division regarding competitive bidding shall not apply to the acquisition of any goods or services for resale to the public at public marinas as defined in section 90-2 of this Code.

(Ord. No. 07-32, § 1, 7-24-07)

Sec. 2-192. - Catering services.

(a)

As used in this subsection, the following words, terms, and phrases shall have the meaning ascribed to them therein, except where the context clearly indicates a different meaning:

Caterer shall mean public food service establishments licensed by the State of Florida Department of Business Regulation where food or drink is prepared for service elsewhere.

County facilities shall mean any land, buildings or structures owned or controlled by the county.

Catering services shall mean any food service for which a guarantee in the number of meals or persons to be served has been made by caterer's customer at an established price per person or meal, whereby the caterer agrees to provide these services in such a manner as to serve sufficient quantities of food and beverages, including alcohol or alcohol-related beverages, mixers and setups, and to meet its obligation established by the guarantee as previously described.

(b)

The provisions of this division regarding competitive bidding shall not apply to catering services provided to private parties renting county facilities. The county administrator shall establish procedures and criteria for qualifying caterers to provide catering services to private parties at county facilities.

(Ord. No. 07-32, § 2, 7-24-07)

Secs. 2-193—2-195. - Reserved.

DIVISION 3. - PROCEDURES FOR AWARD OF DESIGN-BUILD CONTRACTS

Sec. 2-196. - Authority.

The county is authorized by F.S. § 287.055(10)(c) to adopt an ordinance governing the award of design-build contracts.

(Ord. No. 90-82, § 1, 10-16-90)

Sec. 2-197. - Reserved.

Editor's note— Ord. No. 10-09, § 7, adopted Feb. 16, 2010, deleted § 2-197, which pertained to definitions and derived from Ord. No. 90-82, § 2, adopted Oct. 16, 1990.

Sec. 2-198. - Selection of design criteria professional.

(a)

Design-build services shall be governed by F.S. § 287.055. The county shall award design-build contracts by the use of a qualifications based selection process pursuant to F.S. §§ 287.055(3) through 287.055(5), or by use of the competitive proposal selection process set out in this section. The procurement of design-build services shall be made in accordance with the following procedures:

(1)

Design criteria package. The design criteria package shall be prepared and sealed by a design criteria professional employed or retained by the county. If the county enters into a professional services contract for the preparation of the design criteria package, the professional shall be selected and contracted with in accordance with the requirements of F.S. §§ 287.055(4) and 287.055(5). The professional preparing the design criteria package shall not be eligible to render services under a design-build contract executed pursuant to the package prepared by such professional.

(2)

Selection/negotiation committee. A selection/negotiation committee, in this division referred to as the "committee," is hereby established which shall be composed of members designated by the director of purchasing.

(b)

[Public advertisement.] The county shall publicly advertise in a uniform and consistent manner on each occasion when design-build services are required except in cases of valid public emergencies. The advertisement shall include a general description of the project and shall indicate how, and the time within which, interested design-build firms may apply for consideration.

(c)

Generally. Any firm or individual desiring to provide design-build services for the county must first be determined legally qualified. Legal qualifications are:

(1)

Firms must be properly certified to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent.

(2)

Firms must be properly certified to practice or to offer to practice engineering, architecture, or landscape architecture.

(3)

The firm shall be duly qualified to perform its proposed services under any other applicable law.

(Ord. No. 90-82, § 3, 10-16-90; Ord. No. 02-35, 5-7-02; Ord. No. 10-09, § 8, 2-16-10)

Sec. 2-199. - Solicitation and negotiation of design build services.

(a)

Solicitation. Requests for proposals shall be sent to all interested firms requesting that their qualifications, proposed design and price be submitted at a time and place certain. The request for proposal shall contain, at a minimum, the design criteria package; evaluation criteria based on price, technical and design aspects of the project; evaluating procedures and any other information pertinent to selection and award of the design-build contract. The committee shall determine the evaluation criteria and the evaluation process of each project.

(b)

Evaluation. The committee shall review all proposals and identify no less than three firms (if at least three firms submitted proposals) deemed qualified to perform the required services based on firm qualifications, availability and past work of the firm. After short-listing, the committee shall open the envelopes containing the proposed design and the prices. The committee shall then rank the short-listed firms based on the evaluation criteria set forth on the request for proposal. The committee may require oral presentations of short-listed firms.

(c)

Negotiation. After ranking, the committee shall attempt to negotiate a contract within the parameters of the design criteria package. Design-build contracts will be awarded under the provisions of Pinellas County Code, subsection 2-176(o) and other applicable provisions of this article.

(Ord. No. 90-82, § 4, 10-16-90; Ord. No. 10-09, § 9, 2-16-10)

Sec. 2-200. - Reserved.

Editor's note— Ord. No. 10-09, § 10, adopted Feb. 16, 2010, repealed § 2-200, which pertained to solicitation of qualified firms and derived from Ord. No. 90-82, § 5, adopted Oct. 16, 1990. See § 2-199 for similar provisions.

Sec. 2-201. - Reserved.

Editor's note— Ord. No. 10-09, § 10, adopted Feb. 16, 2010, repealed § 2-201, which pertained to selection of most suitable proposals and derived from Ord. No. 90-82, § 6, adopted Oct. 16, 1990; and Ord. No. 02-34, adopted May 7, 2002.

Sec. 2-202. - Construction and supervision.

After award of the contract to the selected design build firm, the design criteria professional will provide evaluation of compliance with the design criteria package during the construction of the project. This will be in addition to any inspection procedures deemed necessary by the county administrator. The county administrator shall provide a procedure by which the contract with the retained design criteria professional may be terminated with of without cause prior to the evaluation stage if termination is deemed to be in the best interest of the county.

(Ord. No. 90-82, § 7, 10-16-90; Ord. No. 02-19, § 1, 3-19-02)

Sec. 2-203. - Emergency measures.

In the event of a public emergency, the county administrator may declare an emergency and authorize negotiations with the best available design-build firm available at that time.

(Ord. No. 90-82, § 9, 10-16-90)

Sec. 2-204. - Rule-making authority.

The county administrator shall have authority to establish rules and procedures to implement the provisions of this division.

(Ord. No. 90-82, § 10, 10-16-90)

Secs. 2-205—2-225. - Reserved.

ARTICLE VI. - BOARDS, COMMISSIONS, COUNCILS AND AUTHORITIES[11]
Footnotes:
--- (**11**) ---

Charter reference— Charter review commission, § 6.03.

Cross reference— Building trade boards for examining, adjustments and appeals, § 22-71 et seq.; commercial, business and industrial minimum standards code advisory board, § 22-179; license board for children centers and family day care homes, § 26-31; child care center advisory committee, § 26-33; construction licensing board, § 26-106 et seq.; contractor examination committees, § 26-109; affordable housing advisory committee, § 38-30; charitable solicitations board, § 42-273; emergency medical services authority, § 54-26 et seq.; medical control board, § 54-60; EMS advisory council, § 54-63; fire protection authority, § 62-26 et seq.; county board for health permits, § 66-26; police standards council, § 74-31 et seq.; sheriff's department civil service board, § 74-82; sheriff's department advisory council, § 74-88; personnel board, § 94-32; affirmative action committee, § 94-73; public employee relations commission, § 94-113; solid waste technical management committee, § 106-54; special districts, ch. 114; East Lake Tarpon fire control district advisory board, § 114-3; board of commissioners of Indian Rocks fire district, § 114-39; Palm Harbor special fire control district board of commissioners, § 114-84; Pinellas Park water management district authority, § 114-133; board of commissioners of greater Seminole area special recreation district, § 114-173; governing body of Palm Harbor community services district, § 114-213; governing body of Tierra Verde fire control district, § 114-243; governing body of Feather Sound municipal services taxing unit, § 114-278; tourist development council, § 118-34; planning council, § 134-46 et seq.; concurrency review and variance hearing board, § 134-232; zoning board of adjustment, § 138-111 et seq.; airport zoning board of adjustment, § 142-43; transportation impact fee review committee, § 150-46.

DIVISION 1. - GENERALLY

Secs. 2-226—2-235. - Reserved.

DIVISION 2. - JUVENILE WELFARE BOARD[12]

Footnotes:
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Editor's note—The acts contained in this division retain their status as special acts. See charter § 5.02. The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e.,

severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Cross reference— Child care centers, § 26-26 et seq.; social services, ch. 102.

Sec. 2-236. - Created; terms of members.

There is hereby created for Pinellas County, Florida, a board of juvenile welfare, which shall consist of 11 members. One member shall be the county superintendent of public instruction, and the second member shall be a judge in the juvenile division of the circuit court, who each shall hold office on the board during the term of office in the official capacity stated. The third and fourth members shall be the state attorney and the public defender for the county, and the fifth member shall be an appointed member of the Board of County Commissioners of Pinellas County, Florida, who each shall hold office on the board during the term of office in the official capacity stated. The other six members shall be appointed by the governor of the state and confirmed by the senate. All appointments of members of the said board required to be made by the governor shall be for the term of four years each. If any of the members of the board required to be appointed by the governor under the provisions of this section shall resign, die, or be removed from office, the vacancy thereby created shall, as soon as practicable, be filled by appointment by the governor, and such appointment to fill a vacancy shall be for the unexpired term of the person who resigns, dies, or is removed from office.

(Laws of Fla. ch. 23483(1945), § 1; Laws of Fla. ch. 25500(1949), § 1; Laws of Fla. ch. 26356(1949), § 1; Laws of Fla. ch. 70-894, § 1; Laws of Fla. ch. 95-473, § 1; Laws of Fla. ch. 2000-427, § 1)

Sec. 2-237. - Powers and duties.

The board hereby created shall have the following powers and duties:

(1)

To provide and maintain in the county such child guidance, psychological or psychiatric clinics for juveniles as the board determines are needed for the general welfare of the county.

(2)

To provide for the care of dependent juveniles and to provide such other services for all juveniles as the board determines are needed for the general welfare of the county.

(3)

To allocate and provide funds for other agencies in the county which are operated for the benefit of juveniles provided they are not under the exclusive jurisdiction of the public school system.

(4)

To collect information and statistical data which will be helpful to the board in deciding the needs of juveniles in the county. To consult with other agencies dedicated to the welfare of juveniles to the end that the overlapping of services will be prevented.

(5)

To lease or buy such real estate, equipment and personal property and to construct such buildings as are needed to execute the foregoing powers and duties, provided that no such purchases shall be made or building done except for cash with funds on hand; to employ and pay on a part- or full-time basis personnel needed to execute the foregoing powers and duties.

(6)

Books of account shall be kept by the board or its clerical assistants, and the fiscal affairs of such board shall be exclusively audited by such of the state auditors as are assigned from time to time to audit the affairs of the county officials of Pinellas County.

(7)

The board of juvenile welfare for Pinellas County shall be exempt from the payment of any fees, taxes, or increment revenue to community redevelopment agencies established pursuant to F.S. ch. 163, part III, except to the extent that such fees, taxes, or increment revenues have previously been pledged to bonds, notes, or other forms of indebtedness authorized and issued by the governing body of a municipality or a community redevelopment agency before the effective date of this act. With respect to the fees, taxes, or increment revenues that, before the effective date of this section, have previously been pledged to bonds, notes, or other forms of indebtedness, the board of juvenile welfare for Pinellas County shall be exempt from the payment of any further fees, taxes, or increment revenues to community redevelopment agencies upon the payment or other defeasance of such bonds, notes, or other forms of indebtedness.

(Laws of Fla. ch. 23483(1945), § 2; Laws of Fla. ch. 25500(1949), § 2; Laws of Fla. ch. 26356(1949), § 2; Laws of Fla. ch. 31171(1955), § 1; Laws of Fla. ch. 92-228, § 1; Laws of Fla. ch. 93-311, § 1)

Sec. 2-238. - Fiscal year; annual budget; millage; budget not subject to change.

(a)

After this division becomes a law, a board of juvenile welfare for Pinellas County shall adopt an annual fiscal year which shall be the same as that of the board of county commissioners of Pinellas County.

(b)

On or before July 1st of each year hereafter the board of juvenile welfare shall prepare and adopt an annual written budget of its expected income and expenditures, including a contingency fund. The said written budget shall be certified and delivered to the board of county commissioners of Pinellas County on or before July 1 each year. Included in each certified budget shall be an estimate of the millage rate necessary to be applied to raise the funds budgeted for expenditures, which millage rate shall not exceed a maximum of $1.00 for each $1,000.00 of assessed valuation of all properties within Pinellas County which are subject to county taxes.

(c)

Said budget of the board of juvenile welfare so certified and delivered to the board of county commissioners of Pinellas County shall not be subject to change or modification by said board of county commissioners, or any other authority.

(Laws of Fla. ch. 65-2101, § 1; Laws of Fla. ch. 79-555, § 1)

Sec. 2-239. - Annual tax levy; assessment and collection; withdrawal of funds; bonds; approval of expenditures.

(a)

In order to provide funds for the board, there shall be levied annually on all property in Pinellas County which is subject to county taxes an additional tax of up to $1.00 for each $1,000.00 of assessed valuation of said property for the year 1979 and each subsequent year.

(b)

The board of county commissioners shall direct the levy of said additional tax at the millage rate so certified by the juvenile welfare board, up to a maximum of $1.00 for each $1,000.00 of the assessed valuation of all property in the county which is subject to county tax.

(c)

The additional tax above provided shall be assessed, levied and collected in the same manner and at the same time, and its collection shall be enforced in the same manner and at the same times, as is provided by law for the levy, collection and enforcement of collection of other county taxes. All tax money collected under the terms of this division, as soon after the collection thereof as is reasonably practical, shall be paid directly to the board of juvenile welfare by the tax collector of the county or the clerk of the circuit court if he collects delinquent taxes. The monies so received by the juvenile welfare board shall be deposited in a special bank account and shall be withdrawn only by checks signed by the chairman of said board, and countersigned by one other member of the juvenile welfare board who shall be so authorized by the board.

(d)

The chairman and the other member of the board who sign its checks should each give a surety bond in the sum of $1,000.00, which bond shall be conditioned that each will faithfully discharge the duties of his office. No other member of the board shall be required to give bond or other security.

(e)

No funds of the juvenile welfare board shall be expended except by check as aforesaid, except expenditures from a petty cash account which shall not at any time exceed $100.00. All expenditures from petty cash shall be recorded on the books and records of the juvenile welfare board.

(f)

No funds of the juvenile welfare board excepting expenditures from petty cash shall be expended without prior approval of the board, in addition to the budgeting thereof.

(Laws of Fla. ch. 65-2101, § 2; Laws of Fla. ch. 79-555, § 2; Laws of Fla. ch. 95-473, § 2)

Sec. 2-240. - Annual financial report.

Within ten days after the expiration of each quarter annual period, the juvenile welfare board shall cause to be prepared and filed with the board of county commissioners of Pinellas County a financial report which shall include the following:

(1)

The total expenditures of the board for said quarter annual period.

(2)

The total receipts of the board during said quarter annual period.

(3)

A statement of funds the board has on hand or in banks at the end of said quarter annual period.

(Laws of Fla. ch. 65-2101, § 3)

Sec. 2-241. - Appropriation of additional funds.

If in the judgment of the board of county commissioners of Pinellas County the juvenile welfare board, during the year 1965 or any subsequent year, needs additional funds to further its purposes and its work, then said board of county commissioners is hereby authorized to furnish such additional funds to the juvenile welfare board from its contingency or other reserves.

(Laws of Fla. ch. 65-2101, § 4)

Secs. 2-242—2-250. - Reserved.

DIVISION 3. - FRESH WATER CONSERVATION BOARD[13]

Footnotes:
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Editor's note—The acts contained in this division retain their status as special acts. See charter § 5.02. The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Cross reference— Environment, ch. 58; stormwater pollution, § 58-236 et seq.; aquatic preserves, § 58-366 et seq.; natural resources, ch. 82; waterways, ch. 130; floodplain management, ch. 158; environmental and natural resource protection, ch. 166.

Sec. 2-251. - Created; jurisdiction.

There is hereby created a fresh water conservation board in and for Pinellas County, Florida, which shall have

as its main purpose to conserve the fresh water supply in Pinellas County, Florida. Such board shall be a public corporation and can sue and be sued. Such board shall have jurisdiction over all lakes, rivers, canals, certain wells, and other bodies of water within the boundaries of Pinellas County, Florida, except Lake Maggoire, Crescent Lake, Mirror Lake and Round Lake in the City of St. Petersburg, Florida, and any other body of water located in said city, not otherwise subject to the jurisdiction of the State of Florida or the United States, it being the intention and purpose of this division to confer on said board such jurisdiction within said county as will be consistent with any state or federal jurisdiction which may exist over such wells and waters and not in conflict therewith; provided however, the board may not prohibit the installation or operation of pump point wells not exceeding 1½ inches in diameter and not exceeding 35 feet in depth.

(Laws of Fla. ch. 23487(1945), § 1)

Sec. 2-252. - Powers.

The board of county commissioners of Pinellas County, Florida, shall be the governing body of such fresh water conservation board, and in connection therewith, are hereby authorized and empowered to take such actions, from time to time, not inconsistent with the provisions of this division, which it may deem necessary and advisable to change, alter or control the water level of any body or bodies of water covered by this division, including the right to cap or plug any abandoned water well. Such board is further authorized and empowered to construct locks, dams, dikes, bulkheads and such other constructions as may be necessary to change, dam, alter or control the water level of any body or bodies of water covered by the provisions of this division; such board is further authorized and empowered to dig and construct canals and water wells or fill in and discontinue the use of canals and to do any and all other acts and things which may be necessary to accomplish any of the objects and purposes of this division.

(Laws of Fla. ch. 23487(1945), § 2)

Sec. 2-253. - Separate or joint operation.

That such board may operate, independently, or in conjunction, or jointly, with any federal, state or other political entity in order to carry out the purposes of this division and may give and receive benefits to and from such political entities.

(Laws of Fla. ch. 23487(1945), § 4)

Sec. 2-254. - Exemptions.

All of the municipally owned or operated water systems in Pinellas County together with the property now owned or to be acquired by such systems are exempted from the provisions of this division.

(Laws of Fla. ch. 23487(1945), § 5)

Sec. 2-255. - Wells.

The board shall have the right to plug or cap any abandoned well, and shall have authority to confer with and assist the owner of any private water well for the purpose of solving any problem connected with the main purpose of this division.

(Laws of Fla. ch. 23487(1945), § 6)

Sec. 2-256. - Research; technical services.

The board shall have authority to conduct research work and employ technical experts for the purpose of formulating a plan of fresh water conservation, and making studies in connection therewith.

(Laws of Fla. ch. 23487(1945), § 7)

Sec. 2-257. - Annual tax levy.

That chapter 23487, Laws of Florida, Acts of 1945, as amended by chapter 26161, Laws of Florida, Acts of 1949, applying to Pinellas County, Florida, being an act creating the fresh water conservation board in and for Pinellas County and said amendment giving additional powers to the extent of authorizing a levy of a tax against all taxable property in Pinellas County, Florida, a total tax annually, at a rate not to exceed three-eighths of a mill in order to carry out the purposes of said Act in 1945, said amendment of 1949 as well as the Act of 1945 be and the same are hereby amended to provide said fresh water conservation board with additional powers to the extent that it is hereby authorized and empowered to levy or cause to be levied a tax against all taxable property in Pinellas County, Florida, a total tax annually, at the rate not to exceed five-eighths of a mill in order to carry out the purposes of this division.

(Laws of Fla. ch. 23487(1945), § 1; Laws of Fla. ch. 26161(1949), § 1; Laws of Fla. ch. 29421(1953), § 1)

Secs. 2-258—2-270. - Reserved.

DIVISION 4. - RESERVED[14]

Footnotes:

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Editor's note—Ord. No. 11-12, § 1, adopted April 26, 2011, § 1, repealed §§ 2-271—2-299, which pertained to the water and navigation control authority originally enacted by Laws of Florida ch. 31182(1955), but converted to county ordinance status via Laws of Florida 2006-322. See §§ 166-241—2-391 for provisions pertaining to water and navigation regulations.

Secs. 2-271—310. - Reserved.

DIVISION 5. - RESERVED[15]

Footnotes:

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Editor's note—Laws of Florida, ch. 98-485, repealed §§ 2-311—2-328, which pertained to the creation of the Pinellas County Industry Council and derived from Laws of Florida ch. 69-1490, §§ 1—18.

Secs. 2-311—2-340. - Reserved.

DIVISION 6. - PINELLAS SUNCOAST TRANSIT AUTHORITY[16]

Footnotes:

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Editor's note—The acts contained in this division retain their status as special acts. See charter § 5.02. The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Sec. 2-341. - Short title.

This division shall be known and may be cited as the "Pinellas Suncoast Transit Authority Law."

(Laws of Fla. ch. 70-907, § 1; Laws of Fla. ch. 82-368, § 1)

Sec. 2-342. - Definitions.

As used in this division and unless the content clearly indicates otherwise:

(1)

Authority means the body politic and corporate, an independent special district, created by this division.

(2)

Members mean the governing body of the authority, and "member" means one of the individuals constituting such governing body.

(3)

Pinellas Suncoast Transit Area means initially the municipalities of Clearwater, Dunedin, Largo, Safety Harbor, Belleair, Belleair Bluffs, Indian Rocks Beach and the unincorporated areas of Pinellas County located directly between the aforesaid municipalities as determined by an extension of a municipal boundary directly to the next neighboring municipal boundary and such other areas as provided by this division.

(4)

Municipality means any city, village, borough or town.

(5)

County means County of Pinellas.

(6)

Public transit means transportation of passengers for hire by means, without limitation, of a street railway,

elevated railway, subway, motor vehicles, buses or other means of conveyance operating as a common carrier within the public transit area as provided, and charter service originating therein.

(7)

Public transit system means, without limitation, a combination of property, structures, improvements, equipment, plants, parking or other facilities, and rights, or any thereof, used or useful for the purposes of public transit.

(8)

Mass transit system means a public transit system to provide rapid public transit for large numbers of passengers.

(9)

Operator means any person engaged or seeking to engage in the business of providing public transit, but does not include persons engaged primarily in the transportation of children to or from school, in operating taxicabs, in operating buses, limousines, or other means for the transportation of passengers between a common carrier terminal station and a hotel or motel, in operating a common carrier railroad, or a person furnishing transportation solely for his or its employees or customers.

(10)

Words importing singular number shall include the plural number in each case and vice versa, and the words importing persons shall include firms and corporations.

(Laws of Fla. ch. 70-907, § 2; Laws of Fla. ch. 82-368, § 1; Laws of Fla. ch. 99-400, § 1)

Cross reference— Definitions generally, § 1-2.

Sec. 2-343. - Created; membership, term of office, qualifications, officers; quorum; executive director and employees; compensation of members.

(a)

There is hereby created and established a body politic and corporate, an independent special district, to be known as the Pinellas Suncoast Transit Authority, hereinafter referred to as "authority."

(b) (1) The governing body of the authority shall consist of 11 members, serving and selected as provided in this subsection.

a.

One member shall be appointed by the city commission of the City of Clearwater from its membership, for an initial term of three years.

b.

One member shall be appointed by the city commission of the City of Dunedin from its membership, for an initial term of three years.

c.

One member shall be appointed by the city commission of the City of Largo from its membership, for an initial term of three years.

d.

One member shall be appointed by the city council of the City of Pinellas Park from its membership, for an initial term of one year.

e.

One member shall be appointed by the city council of the City of St. Petersburg from its membership, for an initial term of one year.

f.

One member shall be appointed by the combined municipal governing bodies of the Cities of Oldsmar, Safety Harbor, and Tarpon Springs from their membership, for an initial term of two years.

g.

One member shall be appointed by the combined municipal governing bodies of the Cities of Belleair, Belleair Bluffs, Gulfport, Kenneth City, Seminole, and South Pasadena from their membership, for an initial term of two years.

h.

One member shall be appointed by the combined municipal governing bodies of the Cities of Belleair Beach, Belleair Shores, Indian Rocks Beach, Indian Shores, Madeira Beach, North Redington Beach, Redington Beach, Redington Shores, St. Petersburg Beach, and Treasure Island from their membership, for an initial term of two years.

i.

One member shall be appointed by the Pinellas County commission from its membership, for an initial term of one year.

j.

One member shall be appointed by the Pinellas County commission for an initial term of three yeas, and this member may not be an elected official.

k.

One member shall be appointed by the city council of the City of St. Petersburg for an initial term of three years, and this member may not be an elected official.

After the expiration of the initial term of each member of the governing body of the authority, that member's successor shall be chosen by the same appointing authority as the member and must possess the same qualifications. Each term of office after the expiration of the initial term shall be three years, and a member

may not serve more than three consecutive terms as a member of the governing body of the authority.

(2)

Each appointed member shall hold office until his successor has been appointed and qualified. A vacancy occurring during a term shall be filled only for the balance of the unexpired term. A selection to fill a vacancy or select a successor shall be made within 60 days after the occurrence of the vacancy or before expiration of the term, whichever is applicable. If any selection is not made as provided in this subsection, the board of county commissioners of Pinellas County shall appoint an eligible person to the authority with like effect as if the selection were made by a municipality or group of municipalities. Any member of the authority is eligible for reappointment except that the member may not serve more than three consecutive terms.

(b)

Each appointed member of the authority shall be a person who is a freeholder and qualified elector of the county with an outstanding reputation for civic pride, interest, integrity, responsibility and business ability. No person who is an officer or employee of any city or of the county in any capacity, except elected officials, shall be an appointed member of the authority. Further, no member shall have any private financial interest, directly or indirectly, in any contract, work, or business of the authority or any public transit system subject to regulation by the authority; or be in the employ of or hold any stock, bond, investment, or other financial interest or private business relationship to any operator of a public transit system in the area.

(c)

The authority shall elect one of its members as chairman of the authority and one as a vice-chairman to serve for one year in that capacity or until their successors are elected. At the same time, a secretary and treasurer shall be elected who may or may not be members of the authority, and they shall serve at the will of the authority. The treasurer shall post a good and sufficient surety bond in an amount approved by the board of county commissioners. A majority of the appointed board shall constitute a quorum, and the vote of a quorum shall be necessary for any action taken by the authority. No vacancy in the authority shall impair the right of a quorum of the authority to exercise all of the rights and perform all of the duties of the authority. Upon the effective date of his appointment, or as soon thereafter as practicable, each appointed member of the authority shall enter upon his duties.

(d)

The authority may employ an executive director, who shall be a person of recognized ability and experience, to serve at the pleasure of the authority. The executive director may employ such employees as may be necessary for the proper administration of the duties and functions of the authority, and may determine the qualifications of such persons; however, the board must approve such positions and fix the compensation for employees. Also, the authority may contract for the services of attorneys, engineers, consultants, and agents for any purpose of the authority, including engineering, management, feasibility, and other studies concerning the acquisition, construction, extension, operation, maintenance, regulation, consolidation, and financing of transit systems in the area.

(e)

Members of the authority shall be entitled to receive from the authority their traveling and other necessary expenses incurred in connection with the business of the authority, as provided in F.S. § 112.061, but they shall receive no salaries or other compensation. Members of the authority may be removed from their office

by four-fifths vote of the members of the board of county commissioners for misconduct, malfeasance, misfeasance or nonfeasance in their office.

(f)

The authority shall provide a report to the Pinellas County legislative delegation each July.

(Laws of Fla. ch. 70-907, § 3; Laws of Fla. ch. 82-367, § 1; Laws of Fla. ch. 91-338, § 1; Laws of Fla. ch. 94-438, § 3; Laws of Fla. ch. 99-400, § 2)

Sec. 2-344. - Purposes and powers.

(a)

The authority created and established by the provisions of this division is hereby granted and shall have the right and power to purchase, own and/or operate transit facilities, to contract for transit services, to exercise power of eminent domain, to conduct studies and to contract with other governmental agencies, private companies and individuals.

(b)

The authority is hereby granted and shall have and may exercise all powers necessary, appurtenant, convenient or incidental to the carrying out of the aforesaid purposes, including, but without being limited to, the following rights and powers:

(1)

To sue and be sued, implead and be impleaded, complain and defend in all courts.

(2)

To adopt, use and alter at will a corporate seal.

(3)

To acquire, purchase, hold, lease as a lessee and use any franchise, property, real, personal or mixed, tangible or intangible, or any interest therein, necessary or desirable for carrying out the purposes of the authority, and to sell, lease as lessor, transfer and dispose of any property or interest therein at any time acquired by it. Any sale, lease or transfer of any property or interest shall be upon competitive bid.

(4)

To fix, alter, charge and establish rates, fares and other charges for the services and facilities of the Pinellas Suncoast Transit System, which rates, fees and charges shall be equitable and just and sufficient to meet the operating requirements of the system along with other revenue that may be available.

(5)

To regulate other operators of public transit in the Pinellas Suncoast Transit Area as to franchises, permits, fares and other charges to establish rules and regulations pertaining to these matters for distribution to the operators and public transit facilities in said area.

(6)

To make contracts of every name and nature and to execute all instruments necessary or convenient for the carrying on of its business.

(7)

To enter into management contracts with any person or persons for the management of a transit system owned or controlled by the authority for such period or periods of time, and under such compensation and other terms and conditions, as shall be deemed advisable by the authority.

(8)

Without limitation, to borrow money and accept gifts or grants or loans of money or other property and to enter into contracts, leases or other transactions with any federal agency, the state, any agency of the state, the County of Pinellas, or with any other public body of the state.

(9)

To do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority in order to carry out the powers granted to it by this division or any other law.

(10)

To prescribe and promulgate rules and regulations as it deems necessary for the purposes of this division.

(Laws of Fla. ch. 70-907, § 4; Laws of Fla. ch. 82-368, § 1)

Sec. 2-345. - Pinellas Suncoast Transit Area.

The Pinellas Suncoast Transit Area shall consist of the municipalities of Belleair, Belleair Bluffs, Clearwater, Dunedin, Indian Rocks Beach, Largo and Safety Harbor, along with certain contiguous unincorporated areas, all located within Pinellas County, Florida, and more specifically defined as follows:

Beginning at the NW corner of Section 6, Township 28 S, Range 15 E, as a point of beginning, thence east along the section line to the NE corner of Section 5-28-15, thence south along the section line to the SE corner of Section 5-28-15, thence east along the section line to the NE corner of Section 11-28-15, thence south along the section line to the NW corner of Section 13-28-15, thence east along the section line to the NE corner of Section 18-28-16, thence south along the section line to the NE corner of Section 31-28-16, thence east along the section line to the SE corner of Section 29-28-16, thence north along the section line to the west quarter section point of Section 28-28-16, thence east along the quarter section line to the quarter section point of the east section line of Section 27-28-16, thence south along the section line to the northwest corner of Section 35-28-16, thence east along the section line to the north quarter section point of said Section 35, thence south along the quarter section line to the quarter section point of the south section line of said Section 35, thence west along the section line to the NE corner of Section 3-29-16, thence south along the section line to the SE corner of Section 15-29-16, thence west along the section line to the NE corner of Section 20-29-16, thence south along the section line to the east quarter section point of Section 8-30-16, thence west along the quarter section line to the quarter section point on the west section line of Section 12-30-15, thence south along the section line to the SE corner of Section 26-30-15, thence west along the section line to a point where the north section line of Section 31-30-15 intercepts the centerline of the

Intracoastal Waterway, thence northwest following the centerline of the Intracoastal Waterway to the south city limits of Indian Rocks Beach, thence west to a point where said city limits intercept the mean high water line of the Gulf of Mexico, thence north along the mean high water line to the north city limits of Indian Rocks Beach, thence east to a point where said city limits intercept the centerline of the Intracoastal Waterway, thence northeast following the centerline of the Intracoastal Waterway to the south city limits of the City of Clearwater, thence west to a point where said city limits intercept the west section line of Section 19-29-15, thence north along the range line to the point of beginning.

(Laws of Fla. ch. 70-907, § 5)

Sec. 2-346. - Exemption from regulation.

The public transit systems operating in and under the authority of this division and for the purposes created thereunder, shall be exempt from any of the regulatory provisions of F.S. ch. 350.

(Laws of Fla. ch. 70-907, § 6)

Sec. 2-347. - Exemption from taxation.

Notwithstanding [the provisions] of any other law to the contrary, the property, monies, and other assets of the authority and all revenues or other income of the authority shall be exempt from all taxation, licenses, fees or other charges of any kind imposed by the state or by the county or by any municipality, political subdivision, taxing district or other public agency or body of the state.

(Laws of Fla. ch. 70-907, § 7)

Sec. 2-348. - Special district taxation.

The Pinellas Suncoast Transit Authority shall be deemed a special district and is authorized to levy an ad valorem tax on the taxable real property in the transit area at a rate sufficient to produce an amount that may be necessary for the purposes of this division, but not to exceed three-quarters of a mill; provided such millage limit is approved by a vote of the qualified electors who are residents of the transit area. Property taxes determined and levied under this section shall be certified by the authority to the county auditor, extended, assessed and collected in like manner as provided by law for regular property taxes for the county or municipalities. The proceeds [received] under this section shall be remitted by the tax collector to the treasurer of the authority, who shall credit them to the funds of the authority for use for the purposes of this division. At any time after making a tax levy under this section and certifying the same to the county, the authority may issue tax anticipation notes of indebtedness in anticipation of the collection of such taxes.

(Laws of Fla. ch. 70-907, § 8; Laws of Fla. ch. 82-368, § 1; Laws of Fla. ch. 82-416, § 1; Laws of Fla. ch. 91-338, § 2)

Editor's note— Laws of Fla. ch. 82-368, increased the millage rate from one-quarter to three-quarters mill, subject to approval of the qualified electors of the area. The county has advised that the referendum on the millage increase failed.

Sec. 2-349. - Expansion of area.

Upon a resolution adopted by the governing body of municipalities adjoining the present transit area or by the board of county commissioners for adjoining unincorporated areas, the authority may include such areas in

the Pinellas Suncoast Transit Area subject to approval of freeholders in the added area for tax purposes as provided herein.

(Laws of Fla. ch. 70-907, § 9; Laws of Fla. ch. 82-368, § 1)

Sec. 2-350. - Conflicting provisions.

This division shall supersede any general or local law in conflict with the intent and purposes of this division.

(Laws of Fla. ch. 70-907, § 11)

Secs. 2-351—2-360. - Reserved.

DIVISION 7. - RESERVED[17]

Footnotes:
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Editor's note—Laws of Florida, ch. 2006-326, repealed Laws of Florida, ch. 77-635 (§§ 2-361—2-374), which pertained to the creation of the Pinellas Sports Authority and derived from Laws of Fla. ch. 77-635, §§ 1—14; Laws of Fla. ch. 80-583, § 1; and Laws of Fla. ch. 83-503, §§ 1 and 2; and Laws of Fla. Ch. 88-478, § 1.

Secs. 2-361—2-385. - Reserved.
DIVISION 8. - HOUSING FINANCE AUTHORITY[18]

Footnotes:
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Cross reference— Buildings and building regulations, ch. 22; social services, ch. 102.

State Law reference— Housing finance authorities, F.S. § 159.601 et seq.

Sec. 2-386. - Legislative authority.

This division is enacted by the board of county commissioners pursuant to its powers under F.S. ch. 159, pt. IV (F.S. § 159.601 et seq.).

(Ord. No. 82-32, § 1, 10-12-82)

Sec. 2-387. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Area of operation means the area within the territorial boundaries of Pinellas County and any area outside the territorial boundaries of the county if the governing body of the county within such outside area is located approves. The approval may be a general approval, or an approval only for a specified qualifying housing

development, or only for a specified number of qualifying housing developments.

Bonds means any bonds, notes, debentures, interim certificates, or other evidences of financial indebtedness issued by the housing authority of the county pursuant to this division.

Eligible persons means one or more natural persons or a family, irrespective of race, creed, national origin or sex, determined by the housing finance authority to be of low, moderate or middle income. Such determination does not preclude any person or family earning up to 150 percent of the state or county median family income from participating in programs. Persons 65 years of age or older shall be defined as eligible persons regardless of their incomes. In determining the income standards of eligible persons for its various programs, the housing finance authority may consider the following factors:

(1)

Requirements mandated by federal law.

(2)

Variations in circumstances in different areas of the state.

(3)

Whether the determination is for rental housing or homeownership purposes.

(4)

The need for family-sized adjustments to accomplish the purposes set forth in this division.

Housing development means any residential building, land, equipment, facility, or other real or personal property which may be necessary, convenient or desirable in connection therewith, including streets, sewers, water and utility services, parks, gardening; administrative, community, health, recreational and educational facilities; and other facilities related and subordinate to moderate, middle or lesser income housing, and also includes site preparation, the planning of housing and improvements, the acquisition of property, the removal of demolition of existing structures, the acquisition, construction, reconstruction and rehabilitation of housing and improvements, and all other work in connection therewith, and all costs of financing, including without limitation the cost of consultant and legal services, other expenses necessary or incident to determining the feasibility of the housing development, administrative and other expenses necessary or incident to the housing development and the financing thereof (including reimbursement to any municipality, county or entity for expenditures made with the approval of the housing finance authority for the housing development) and interest accrued during construction and for a reasonable period thereafter.

Housing finance authority or authority means the housing finance authority of the county created pursuant to section 2-389.

Lending institution means any bank or trust company, mortgage bank, savings bank, credit union, national banking association, savings and loan association, building and loan association, insurance company, or other financial institution authorized to transact business in the state and which customarily provides services or otherwise aids in the financing of mortgages located in the state.

Qualifying housing development means any work or improvement located or to be located in the state,

including real property, buildings, and any real and personal property, designed or intended for the primary purpose of providing decent, safe and sanitary residential housing for four or more families, at least 60 percent of whom are eligible persons, whether new construction, the acquisition of existing residential housing, or the remodeling, improvement, rehabilitation or reconstruction of existing housing, together with such related nonhousing facilities as the authority determines to be necessary, convenient or desirable.

(1)

The term "qualifying housing development" includes a housing development that meets the definition of a "qualified low-income housing project" under section 42(g) of the Internal Revenue Code, regardless of whether such development meets the 60 percent eligible persons requirement under this subsection.

(2)

The exception provided under subsection (1) applies to all housing developments meeting the federal definition for "qualified low-income housing project" as well as all developments that previously qualified under the state definition for "qualifying housing development." The authority may enter into regulatory agreement amendments as necessary to accommodate housing developments that qualify under subsection (1).

(Ord. No. 82-32, § 3, 10-12-82; Ord. No. 89-21, § 2(a)—(c), 5-16-89; Ord. No. 15-20, § 1, 5-5-15)

Cross reference— Definitions generally, § 1-2.

State Law reference— Similar provisions, F.S. § 159.603.

Sec. 2-388. - Findings and declaration of necessity.

The board of county commissioners finds and declares that:

(1)

Within this county, there is a shortage of housing available at prices or rentals which many persons and families can afford, and a shortage of capital for investments in such housing. This shortage constitutes a threat to the health, safety, morals and welfare of the residents of the county; deprives the county of an adequate tax base; and causes the county to make excessive expenditures for crime prevention and control, public health, welfare and safety, fire and accident protection, and other public services and facilities.

(2)

Such shortage cannot be relieved except through the encouragement of investment by private enterprises and the stimulation of construction and rehabilitation of housing through the use of public financing.

(3)

The financing, acquisition, construction, reconstruction and rehabilitation of housing and of the real and personal property and other facilities necessary, incidental and appurtenant thereto are exclusively public uses and purposes for which public money may be spent, advanced, loaned or granted and are governmental functions of public concern.

(4)

The Congress of the United States has, by the enactments of amendments to the Internal Revenue Code of 1954, as amended, and the Internal Revenue Code of 1986, as amended, found and determined that housing may be financed by means of obligations issued by any state or local government unit, the interest on which obligations is excludable from gross income for federal income tax purposes, and has thereby provided a method to aid state and local governmental units to provide assistance to meet the needs for housing.

(5)

The state legislature has, by enactment of F.S. ch. 159, pt. IV (F.S. § 159.601 et seq.), found and determined that local housing finance authorities are the proper means by which counties may avail themselves of the above amendments to the Internal Revenue Code and thereby assist in meeting local needs for housing.

(6)

The provisions of this division are found and declared to be necessary and in the public interest.

(Ord. No. 82-32, § 2, 10-12-82; Ord. No. 89-21, § 1, 5-16-89)

State Law reference— Finding of need required, F.S. § 159.604(1).

Sec. 2-389. - Creation; alteration; termination.

(a)

There is hereby created a public body, corporate and politic, to be known as the Housing Finance Authority of Pinellas County, to carry out only the powers granted by this division and by F.S. ch. 159, pt. IV (F.S. § 159.601 et seq.).

(b)

The board of county commissioners may, at its sole discretion, and at any time, alter or change the structure, organization, programs or activities of the housing finance authority and may, at any time, terminate the authority, subject to any limitation on the impairment of contracts entered into by the authority and subject to the limitations or requirements of this division and F.S. ch. 159, pt. IV (F.S. § 159.601 et seq.).

(Ord. No. 82-32, § 4, 10-12-82)

Authority to create housing finance authority and to regulate same, F.S. § 159.604.

Sec. 2-390. - Members, employees; duties and compensation.

(a)

The housing finance authority shall be composed of five members appointed by the board of county commissioners, one of whom shall be designated by the board as chairman. Not less than three of the members shall be knowledgeable in one of the following fields: labor, finance or commerce. The terms of the members shall be four years each, except that the terms of the initial members shall be as follows: Two members shall serve a term of one year; one member shall serve a term of two years; one member shall serve a term of three years; and one member shall serve a term of four years. A member of the housing finance authority shall hold office until his successor has been appointed and has qualified. Each vacancy shall be filled by the board of county commissioners for the remainder of the unexpired term. A certificate of the

appointment or reappointment of any member of the housing finance authority shall be filed with the clerk of the circuit court of the county, and the certificate shall be conclusive evidence of the due and proper appointment of the member. A member shall receive no compensation for his services but shall be entitled to necessary expenses, including travel expenses, incurred in the discharge of his duties.

(b)

The powers of the authority shall be vested in the members of the authority in office from time to time. A majority of the members constitutes a quorum, and action may be taken by the authority upon a vote of a majority of the members present. The authority may:

(1)

Employ such agents and employees, permanent or temporary, as it requires, and shall determine the qualifications, duties, and compensation of those agents and employees.

(2)

Delegate to an agent or employee such powers or duties as it considers proper.

(3)

Employ its own legal counsel.

(4)

Create or assist in creating corporations that qualify as not-for-profit under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and under the laws of the state, and that are engaged in acquiring, constructing, reconstructing, or rehabilitating qualifying housing developments.

(c)

Until the members of the housing finance authority are appointed, the board of county commissioners and the chairman of the housing finance authority shall have full authority to carry out the powers of the housing finance authority under this division; provided, however, that the board shall not delegate its authority to the chairman under this provision. Except as provided in this section, no member of the housing finance authority may be an officer or employee of the county.

(d)

The housing finance authority shall make periodic reports and appearances before the board of county commissioners, in substantially the following manner:

(1)

At least quarterly, submit a written report containing at least the following information:

a.

Single-family and multifamily bond issues, including but not limited to dates of TEFRA hearings, all bond parties, amounts, covenants and terms;

b.

Federal grant program activity, including but not limited to grant administration activity, expenditures, program income, and project updates;

c.

Contractual arrangements, or modifications to contracts, with other entities, including but not limited to local governmental jurisdictions; 501(c)3 nonprofit organizations; other housing finance authorities; or other funding entities;

d.

Updated financial records and instruments relating to all activities, including but not limited to expenditures; income and disbursements; creation, modification or assignments of instruments or mortgages; creation, elimination or modification of land trusts, including but not limited to the transfer of property to or from a trust, or changes to trustees or beneficiaries.

(2)

Not less than annually, appear through its chair or executive director before the board of county commissioners to present and answer questions relating to the annual report (which may be combined with one of the written quarterly reports required above) which shall include in addition to the matters covered in each quarterly report the following:

a.

Certified financial audits of the housing finance authority, which shall include appropriate footnotes or other disclosures of any and all trusts established by the housing finance authority;

b.

Housing trust fund monitoring reports of local jurisdictions, including Pinellas County, City of St. Petersburg, City of Clearwater, and City of Largo;

c.

Certified financial audits of all trustees of all land trusts created by the housing finance authority;

d.

Certified financial audits of all direct named beneficiaries of all land trusts created by the housing finance authority.

(Ord. No. 82-32, § 5, 10-12-82; Ord. No. 93-98, § 1, 10-26-93; Ord. No. 15-20, § 2, 5-5-15)

State Law reference— Housing authority membership, F.S. § 159.604.

Sec. 2-391. - Conflicts of interest; disclosure.

No member or employee of the housing finance authority shall acquire any interest, direct or indirect, in any

qualifying housing development or in any property included or planned to be included in such a development, nor shall he have an interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or issued in connection with any qualifying housing development. If any member or employee of the housing finance authority owns or controls an interest, direct or indirect, in any property included or planned to be included in any qualifying housing development, he shall immediately disclose such interest in writing to the housing finance authority. Such disclosure shall be entered upon the minutes of the housing finance authority. Failure to disclose such interest shall constitute misconduct in office.

(Ord. No. 82-32, § 6, 10-12-82)

State Law reference— Similar provisions, F.S. § 159.606.

Sec. 2-392. - Removal of members.

A member of the housing finance authority may be removed without cause by a three-fifths vote of the board of county commissioners, or for neglect of duty or misconduct in office by a majority vote of the board of county commissioners. A member may be removed only after that member has been given a copy of the charges at least ten days prior to the hearing thereon and has had an opportunity to be heard in person or by counsel. If a member is removed, a record of the proceedings, together with the charges and findings thereon, shall be filed with the clerk of the circuit court of Pinellas County.

(Ord. No. 82-32, § 7, 10-12-82)

State Law reference— Similar provisions, F.S. § 159.607.

Sec. 2-393. - Powers.

The housing finance authority shall constitute a public body, corporate and politic, exercising the public and essential governmental functions set forth in this division, and shall exercise its power to borrow only for the purposes as provided in this division:

(1)

To sue and be sued, to have a seal and to alter such seal at pleasure, to have perpetual succession, to make and execute contracts and other instruments necessary or convenient to the exercise of its powers, and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with this division, to carry into effect the powers and purposes of the housing finance authority.

(2)

To own real and personal property acquired through the use of surplus funds or through public and private partnership, provided that the obligations of the authority are limited to project revenues and that no less than 50 percent of the units owned by the authority shall benefit very low income families or low income families. For the purposes of this subsection, a "very low income family" means a family whose income does not exceed 50 percent of the median family income for the area, and the term "low-income family" means a family whose income does not exceed 80 percent of the median family income for the area. Family income levels shall be adjusted for family size. Notwithstanding the other provisions of this section, the authority may acquire real and personal property to house and equip its facilities and staff.

(3)

To purchase or make commitments to purchase or to make loans for such purpose, and to take assignments of, from lending institutions acting as a principal or as an agent of the housing finance authority, mortgage loans and promissory notes accompanying such mortgage loans, including federally insured mortgage loans or participations with lending institutions in such promissory notes and mortgage loans for the construction, purchase, reconstruction, or rehabilitation of the qualifying housing development or portion thereof; provided, however, that the proceeds of sale or equivalent monies shall be reinvested in mortgage loans.

(4)

To borrow money through the issuance of bonds to single-family housing and qualified housing developments, to provide for and secure the payment thereof, and to provide for the rights of the holders thereof.

(5)

To make loans to lending institutions under terms and conditions requiring the proceeds thereof to be used by such lending institutions for the making of new mortgages for any qualifying housing development, or portion thereof, located wholly or partially within the area of operation of such housing finance authority. Prior to making a loan to a lending institution which makes such loans or provides such financing, the lending institution must agree to use the proceeds of such loan within a reasonable period of time to make loans or to otherwise provide financing for the acquisition, construction, reconstruction or rehabilitation of a housing development or portion thereof; and the housing finance authority must find that such loan will assist in alleviating the shortage of housing and of capital for investment in housing within its area of operation.

(6)

To deposit funds into an account with a lending institution to provide security for the lending institution to make loans to eligible persons for the purchase, construction, reconstruction or rehabilitation of single-family homes or to developers for the construction, reconstruction or rehabilitation of qualifying housing developments or portions thereof. No funds may be deposited with a lending institution in which any depositing housing finance authority member, officer or employee has an ownership interest. The sale price on new or existing single-family homes shall not exceed 90 percent of the median area purchase price in the area wherein the single-family home is located, as established by the United States Department of Treasury in accordance with section 3(b)(2) of the United States Housing Act of 1937.

(7)

To invest, at the direction of the lending institution, any fund held in reserves or sinking funds or any funds not required for immediate disbursement in property or securities in which lending institutions may legally invest funds subject to their control.

(8)

To make loans directly to eligible persons or families who otherwise cannot borrow from conventional lending sources. Such loans must be secured by either first mortgages or subordinated mortgages and must be used to purchase, construct, rehabilitate or refinance single-family residences that have purchase prices that do not exceed the purchase price limits of the county where the borrower's residence is to be located, as mandated by federal law for tax-exempt single-family bond programs.

(9)

To adopt, promulgate, amend or rescind such administrative rules and regulations of policy and procedure as it deems necessary and administratively feasible to implement the provisions of this division. The board of county commissioners shall retain the authority to review, approve, modify or rescind such rules and procedures.

(10)

To own, maintain, operate, control and capitalize a limited purpose savings and loan association to provide low cost loans and related services to eligible persons to obtain affordable housing pursuant to this division. The bank may acquire deposits, which must be federally insured, sell mortgages in the secondary market, and issue mortgage-backed securities. The proceeds from loans and the sale of mortgages or mortgage-backed securities must be reinvested in mortgage loans. However, this subsection does not prohibit the temporary reinvestment of such proceeds in other securities and investments. The bank must have a minimum of $10,000,000.00 in capital and must comply with all applicable state and federal banking and regulatory requirements and any other requirements imposed by the county.

(11)

To make loans or grant surplus funds to corporations that qualify as not-for-profit corporations under section 501(c)(3) of the Internal Revenue Code of 1986, as amended and under the laws of the state, for the development of affordable housing.

(12)

To do anything necessary or appropriate to further the purpose for which a housing finance authority is established, pursuant to F.S. § 159.602, including, as further described in F.S. § 159.8075, the power to issue mortgage credit certificates to the extent allocation is available for that purpose to qualifying individuals in lieu of issuing qualified mortgage bonds pursuant to sections 25, 143, and 146 of the Internal Revenue Code of 1986, as amended, or a combination of the two. Mortgage credit certificates may not be issued on December 30 or December 31 of any year.

(Ord. No. 82-32, § 8, 10-12-82; Ord. No. 89-21, § 3, 5-16-89; Ord. No. 93-98, § 2, 10-26-93; Ord. No. 15-20, §§ 3, 4, 5-5-15)

State Law reference— General powers of housing finance authority, F.S. § 159.608.

Sec. 2-394. - Limitation.

The housing finance authority shall not finance the acquisition, construction, reconstruction or rehabilitation of any qualifying housing development for its own profit or as a source of revenue to the state or any local government unit, except when it is for the authority's offices and affordable housing.

(Ord. No. 82-32, § 9, 10-12-82; Ord. No. 93-98, § 3, 10-26-93)

State Law reference— Similar provisions, F.S. § 159.609.

Sec. 2-395. - Eminent domain.

The housing finance authority shall not have the power to acquire any real property by the exercise of the power of eminent domain to accomplish any of the purposes specified in this division.

(Ord. No. 82-32, § 10, 10-12-82)

State Law reference— Similar provisions, F.S. § 159.61.

Sec. 2-396. - Planning, zoning and building laws.

Each qualifying housing development shall be subject to the planning, zoning, health and building laws, ordinances and regulations applicable to the place in which such qualifying housing development in situated.

(Ord. No. 82-32, § 11, 10-12-82)

State Law reference— Similar provisions, F.S. § 159.611.

Sec. 2-397. - Issuance of bonds.

Subject to the limitations set forth in section 2-399:

(1)

The housing finance authority may issue revenue bonds from time to time in the discretion of the housing finance authority for the purposes of this division. The housing finance authority may also issue refunding bonds for the purpose of paying, retiring or refunding bonds previously issued by it. The housing finance authority may issue such types of bonds as it may determine; provided, that the principal and interest on such bonds are payable solely and only from:

a.

The repayment of any loans made by the housing finance authority pursuant to the provisions of section 2-393 or purchased by the housing finance authority pursuant to section 2-393; or

b.

The sale of any housing loans or commitments to purchase housing loans which are purchased pursuant to section 2-393.

(2)

Any bonds issued pursuant to the provisions of this division shall be secured by a mortgage or other security device.

(3)

In no event shall any bonds issued pursuant to the provisions of this division be payable from the general revenues of the housing finance authority.

(4)

Neither the members of a housing finance authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds issued pursuant to the provisions of this division, and the bonds shall so state on their face, shall not be a debt of the county or the state, or any political subdivision thereof; and neither the county, nor any state or political subdivision thereof, shall be

liable thereon; nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of the housing finance authority.

(Ord. No. 82-32, § 12, 10-12-82; Ord. No. 89-21, § 4, 5-16-89)

State Law reference— Similar provisions, F.S. § 159.612.

Sec. 2-398. - Form and sale of bonds.

(a)

Bonds of the housing finance authority issued pursuant to this division shall be authorized by a resolution of the housing finance authority and may be issued in one or more series and shall bear such dates, mature at such times, bear interest at such rates, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed by such members of the housing finance authority and in such manner, be payable in such means of payment at such places, and be subject to such terms of redemption, with or without premiums, as such resolution or trust indenture entered into pursuant to such resolution may provide.

(b)

The bonds issued by the housing finance authority shall be sold by the authority at public sale substantially in the manner provided by F.S. § 215.68(5)(b) and (c), unless otherwise approved by the state board of administration; provided that such requirement shall be deemed waived if:

(1)

The state board of administration has not responded in writing within 30 days from the date of application;

(2)

The bonds are rated by at least one nationally recognized rating service in any one of the three highest classifications approved by the comptroller of the currency for the investment of funds of national banks; an appropriate certification and opinion of counsel pursuant to the applicable arbitrage regulations under section 103(c) of the Internal Revenue Code or delivered simultaneously with the delivery of the bonds; and the official statement issued in connection with the sale of the bonds has been filed with the state board of administration prior to the closing; or

(3)

The financial advisor to the authority determines and recommends that the bonds should be issued pursuant to a negotiated sale, the resolution authorizing the negotiated sale provides specific findings as to the reasons requiring the negotiated sale, which may be the same resolution authorizing the sale of the bonds and the issuance of the bonds is approved pursuant to section 2-399.

(c)

If an offer of an issue of bonds at public sale produces no bid, or if all bids received are rejected, the authority is authorized to negotiate for the sale of such bonds under such rates and terms as are acceptable; provided, however, that no such bonds shall be sold or delivered on terms less favorable than the terms contained in any bids rejected at the public sale thereof, or the terms contained in the notice of public sale if no bids were

received at such public sale.

(d)

If any member of the housing finance authority whose signature appears on the bonds or coupons shall cease to be a member before the delivery of the bonds or coupons, such bonds shall, nevertheless, be valid and sufficient for all purposes, the same as if such member had remained in office until such delivery. Any provision of law to the contract notwithstanding, any bonds issued pursuant to this division shall be fully negotiable.

(e)

Pursuant to F.S. ch. 159, pt. IV (F.S. § 159.601 et seq.), in any suit, action or proceeding involving the validity or enforceability of any bond of the housing finance authority or the security therefore issued pursuant thereto, any such bond reciting in substance that it has been issued by the housing finance authority to assist in providing financing of a qualifying housing development to alleviate the shortage of housing in its area of operation shall be conclusively deemed to have been issued for a qualifying housing development of such character.

(Ord. No. 82-32, § 13, 10-12-82; Ord. No. 15-20, § 5, 5-5-15)

State Law reference— Similar provisions, F.S. § 159.614.

Sec. 2-399. - Approval by county commission of the sale of bonds and notes.

The sale of the bonds and notes authorized to be issued by the housing finance authority pursuant to this division shall be subject to the approval of the board of county commissioners prior to the validation requirements of section 2-401.

(Ord. No. 82-32, § 14, 10-12-82)

Sec. 2-400. - Provisions of bonds and trust indentures.

In connection with the issuance of bonds and in order to secure the payment of such bonds, the housing finance authority, in addition to the other powers granted pursuant to this division, shall have the power to:

(1)

Pledge all or any part of any payment made to the housing finance authority pursuant to a sale of any loan or loan commitment.

(2)

Covenant against pledging or assigning all or any part of any payments made pursuant to any loan agreement or pursuant to the sale of any loan or loan commitment or against permitting or suffering any lien on such payments; and to covenant as to what other or additional debts or obligations may be incurred by the housing finance authority with respect to any qualifying housing development.

(3)

Covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise and as to

the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest thereon; and to redeem the other bonds covenant for their redemption, and provide the terms and conditions thereof.

(4)

Create or authorize the creation of special funds of monies held for construction costs, debt service, reserves or other purposes; and to covenant as to the construction and disposition of the monies held in such special funds.

(5)

Prescribe the procedure, if any, by which the terms of any contract with the holder of any bonds may be amended or abrogated, the amount of the bonds the holders of which must consent thereto, and the manner in which such consent may be given.

(6)

Covenant as to the rights, liabilities, powers and duties arising upon the breach by the housing finance authority of any covenant, condition or obligation; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.

(7)

Vest in a trustee or trustees or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default by the housing finance authority, to collect the payments made pursuant to any loan agreement or pursuant to the sale of any loan or loan commitment and to dispose of such rights in accordance with the agreement of the housing finance authority with such trustee; to provide for the powers and duties of a trustee or trustees and to limit the liabilities thereof; and to provide the terms and conditions upon which the trustee or trustees of the holders of bonds or any proportion of them may enforce any covenant or rights securing or relating to the bonds.

(Ord. No. 82-32, § 15, 10-12-82)

State Law reference— Similar provisions, F.S. § 159.614.

Sec. 2-401. - Validation of bonds and proceedings.

The housing finance authority shall determine its authority to issue any of its bonds, and the legality of all proceedings had or taken in connection therewith, in the same manner and to the same extent as provided in F.S. ch. 75, for the determination by a county, municipality, taxing district, or other political subdivision of its authority to incur bonded debt or to issue certificates of indebtedness and of the legality of all proceedings had or taken in connection therewith.

(Ord. No. 82-32, § 16, 10-12-82)

State Law reference— Similar provisions, F.S. § 159.615.

Sec. 2-402. - Actions to contest validity of bonds.

An action or proceeding to contest the validity of any bond issued under this division, other than a proceeding pursuant to section 2-401, must be commenced within 30 days after notification in a newspaper of general circulation within the area of the passage by the housing finance authority of the resolution authorizing the issuance of such bond.

(Ord. No. 82-32, § 17, 10-12-82)

State Law reference— Similar provisions, F.S. § 159.616.

Sec. 2-403. - Remedies of an obligee.

An obligee of the housing finance authority shall have the right, in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

(1)

By mandamus, suit, action or proceeding at law or in equity to compel the housing finance authority and the members, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any contract of the housing finance authority with or for the benefit of such obligee, and to require the carrying out of any or all of the covenants and agreements of the housing finance authority and the fulfillment of all duties imposed upon the housing finance authority by this division.

(2)

By suit, action or proceeding in equity to enjoin any acts or things which may be unlawful or the violation of any of the rights of the obligee by the housing finance authority.

(Ord. No. 82-32, § 18, 10-12-82)

State Law reference— Similar provisions, F.S. § 159.617.

Sec. 2-404. - Additional remedies conferable by the authority.

The housing finance authority shall have the power by resolution, trust indenture or other contract to confer upon any obligee holding or representing a specified amount in bonds the right, in addition to all rights that may otherwise be conferred, upon the happening of an event of default as defined in such resolution or instrument, by suit, action or proceeding in any court of competent jurisdiction:

(1)

To obtain the appointment of a receiver of any payments made pursuant to any loan agreement or sale of any loan. If such receiver is appointed, he may collect and receive all payments made pursuant to any such loan agreement or sale of any loan or loan commitment and shall keep such monies in a separate account or accounts and apply the same in accordance with the obligations of the housing finance authority as the court shall direct.

(2)

To require the housing finance authority and the members thereof to account as if it and they were the

trustees of an express trust.

(Ord. No. 82-32, § 19, 10-12-82)

State Law reference— Similar provisions, F.S. § 159.618.

Sec. 2-405. - Availability of financing.

Whenever and as long as a shortage of housing exists in the county, the housing finance authority shall not unreasonably refuse to participate in the financing of any qualifying housing development upon request.

(Ord. No. 82-32, § 20, 10-12-82)

State Law reference— Similar provisions, F.S. § 159.619.

Sec. 2-406. - Liabilities of the authority.

In no event shall the liabilities, whether ex contractu or ex delicto, of the housing finance authority arising from the financing of any qualifying housing development be payable from any funds other than the revenues or receipts of such qualifying housing development.

(Ord. No. 82-32, § 21, 10-12-82)

State Law reference— Similar provisions, F.S. § 159.62.

Sec. 2-407. - Housing bonds exempted from taxation.

The bonds of a housing finance authority issued under this division, together with all notes, mortgages, security agreements, letters of credit, or other instruments which arise out of or are given to secure the repayment of bonds issued in connection with the financing of any housing development under this division, as well as the interest thereon and income therefrom, shall be exempt from all taxes. The exemption granted by this section shall not be applicable to any tax imposed by F.S. ch. 220 on interest, income, or profits on debt obligations owned by corporations.

(Ord. No. 82-32, § 22, 10-12-82)

State Law reference— Similar provisions, F.S. § 159.621.

Sec. 2-408. - Limitations on rates.

The intent of this division is that consumers receive maximum possible benefit; therefore, no lending institution receiving proceeds of bond issues pursuant to this division may loan any of the proceeds of such bond issue at the rate violative of federal arbitrage regulations.

(Ord. No. 82-32, § 25, 10-12-82)

State Law reference— Similar provisions, F.S. § 159.622.

Sec. 2-409. - Liberal construction.

The provisions of this division shall be liberally construed in order to effectively carry out the purposes of this division.

(Ord. No. 82-32, § 23, 10-12-82)

State Law reference— Similar provisions, F.S. § 159.623.

Sec. 2-410. - Area embraced.

The provisions of this division shall apply to all territory within the legal boundaries of the county, including all incorporated and unincorporated areas.

(Ord. No. 82-32, § 26, 10-12-82)

Secs. 2-411—2-420. - Reserved.

DIVISION 9. - HEALTH FACILITIES AUTHORITY[19]

Footnotes:
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Cross reference— Health and sanitation, ch. 66.

State Law reference— Health facilities authorities, F.S. § 154.201 et seq.

Sec. 2-421. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Areawide council means an advisory comprehensive health planning council as described and approved under all pertinent federal and state laws and rules and regulations.

Authority means the Pinellas County Health Facilities Authority.

Bonds or revenue bonds means revenue bonds of the authority issued under the provisions of this division, including revenue refunding bonds, notwithstanding that such bonds may be secured by mortgage or the full faith and credit of a health facility.

Certificate of need means a written advisory statement issued by the department of health and rehabilitative services, having as its basis a written advisory statement issued by an areawide council and, where there is no council, by the department of health and rehabilitative services, evidencing community need for a new, converted, expanded or otherwise significantly modified health facility.

Enabling act means F.S. ch. 154, pt. III (F.S. § 154.201 et seq.), as may be amended from time to time.

Health facility shall have the same meaning as "health facilities" as set forth in F.S. § 154.205(8) or "health care facilities" as set forth in F.S. § 159.27(16).

Project means any structure, facility, machinery, equipment or other property suitable for use by a health facility in connection with its operations or proposed operations, including without limitation, real property therefor; a clinic, computer facility, dining hall, firefighting facility, fire prevention facility, food service and preparation facility, health care facility, long-term care facility, hospital, interns' residence, laboratory,

laundry, maintenance facility, nurses' residence, nursing home, nursing school, office, parking area, pharmacy, recreational facility, research facility, storage facility, utility, or X-ray facility, or any combination of the foregoing; and other structures or facilities related thereto or required or useful for health care purposes, the conducting of research, or the operation of a health facility, including facilities or structures essential or convenient for the orderly conduct of such health facility and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended. "Project" shall not include such items as fuel, supplies or other items which are customarily deemed to result in a current operating charge.

Real property means and includes all lands, including buildings, structures, improvements and fixtures thereon; any property of any nature appurtenant thereto or used in connection therewith; and every estate, interest and right, legal or equitable, therein, including any such interest for a term of years.

(Ord. No. 82-33, § 2, 10-12-82; Ord. No. 89-68, § 1, 12-19-89)

Cross reference— Definitions generally, § 1-2.

State Law reference— Similar provisions, F.S. § 154.203.

Sec. 2-422. - Declaration of need.

The board of county commissioners hereby finds and declares that there is a need for a health facilities authority to function in the county so as to assist in the development and maintenance of the health facilities of the county.

(Ord. No. 82-33, § 1, 10-12-82)

State Law reference— Determination of need required, F.S. § 154.207(1).

Sec. 2-423. - Area embraced.

The provisions of this division shall apply to all territory within the legal boundaries of Pinellas County, Florida, including all incorporated and unincorporated areas.

(Ord. No. 82-33, § 11, 10-12-82)

Sec. 2-424. - Created; membership; records; organization.

(a)

Created; membership. The Pinellas County Health Facilities Authority is hereby created and established and, in accordance with F.S. § 154.207, is constituted a public instrumentality. The exercise by such authority of the powers conferred by F.S. ch. 154, pt. III (F.S. § 154.201 et seq.) shall be deemed and held to be the performance of an essential public function. The authority shall consist of five persons who are residents of the county, appointed by the board of county commissioners.

(1)

Terms of office. Of the members first appointed, one shall serve for one year, one for two years, one for three years, and two for four years, in each case until his successor is appointed and has qualified. Each of the prescribed terms shall commence upon the initial meeting of the authority after the administration of the oath

of office. Thereafter, the board of county commissioners shall appoint, for terms of four years each, a member or members to succeed those whose terms expire. The board shall fill any vacancy for an unexpired term. A member of the authority shall be eligible for reappointment. Any member of the authority may be removed by the board of county commissioners for misfeasance, malfeasance or willful neglect of duty.

(2)

Responsibilities of members. Each member of the authority, before entering upon his duties, shall take and subscribe the oath or affirmation required by the state constitution. A record of each oath shall be filed in the department of state and with the clerk of the board of county commissioners. The member of the authority shall receive no compensation for the performance of their duties under this division, but each member shall be paid necessary expenses incurred while engaged in the performance of such duties pursuant to F.S. § 112.061, as amended. Service as a member of the authority by a trustee, director, officer or employee of a health facility shall not, in and of itself, constitute a conflict of interest. However, any member of the authority who is employed by, or receives income from, a health facility under consideration by the authority shall not vote on any matter related to such facility.

(b)

Records. The authority shall keep a record of its proceedings and shall be custodian of all books, documents, and papers filed with it and of its minute book or journal and official seal. The authority shall cause copies to be made of all its minutes and other records and documents and shall give certificates under its official seal to the effect that such copies are true copies, and all persons dealing with it may rely upon such certificates.

(c)

Organization. The authority, at its initial meeting and annually thereafter, shall elect one of its members as chair and one as vice-chair. Three members of the authority shall constitute a quorum, and the affirmative vote of a majority of the members present at a meeting of the authority shall be necessary for any action taken by the authority. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights to perform all the duties of the authority. Any action taken by the authority under the provisions of this division may be authorized by resolution at any regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted. All meetings of the authority, as well as all records, books, documents, and papers, shall be open and available to the public in accordance with F.S. § 286.011.

(Ord. No. 82-33, § 3, 10-12-82)

State Law reference— Similar provisions, F.S. § 154.207.

Sec. 2-425. - Powers and duties.

(a)

The health facilities authority shall have all the powers conferred by the enabling act, F.S. ch. 154, pt. III (F.S. § 154.201 et seq.), and the powers of local agency pursuant to F.S. ch. 159, pt. II (F.S. § 159.25 et seq.), as amended, but only in regard to development, financing and maintaining of health facilities, including but not limited to the following:

(1)

To adopt an official seal and alter such seal at its pleasure.

(2)

To maintain an office at such place or places in the county as it may designate.

(3)

To sue and be sued in its own name and to plead and be impleaded.

(4)

To acquire by purchase, lease, gift or otherwise, or to obtain options for the acquisition of any property, real or personal, improved or unimproved, for the acquisition, construction, operation or maintenance of any project.

(5)

To construct, acquire, own, lease, repair, maintain, extend, expand, improve, rehabilitate, renovate, furnish and equip projects and to pay all or any part of the costs thereof from the proceeds of bonds of the authority or from any contribution, gift, donation, or other funds made available to the authority for such purpose.

(6)

To make and execute agreements of lease, contracts, deeds, mortgages, notes and other instruments necessary or convenient in the exercise of the powers and functions conferred upon the authority by this division.

(7)

To sell, lease, exchange, mortgage, transfer or otherwise dispose of, or to grant options for any such purposes with respect to any project, or any real or personal property or interest therein.

(8)

To pledge or assign any money, rents, charges, fees or other revenues and any proceeds derived from sales of property, insurance or condemnation awards.

(9)

To fix, charge and collect rents, fees and charges for the use of any project.

(10)

To issue bonds for the purpose of providing funds to pay all or any part of the cost of any project and to issue refunding bonds.

(11)

To employ consulting engineers, architects, surveyors, attorneys, accountants, financial experts, an executive director and such other employees and agents as may be necessary in its judgment and to fix their compensation.

(12)

To acquire existing projects and to reimburse any health facility for the cost of such project in accordance with an agreement between the authority and the health facility; however, no such reimbursement shall exceed the total cost of the project as determined by the health facility and approved by the authority.

(13)

To acquire existing projects and to refund outstanding obligations, mortgages or advances issued, made or given by a health facility for the cost of such projects.

(14)

To charge to, and equitably apportion among, health facilities approved for loans, its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this division.

(15)

To mortgage any project and the site thereof for the benefit of the holders of the bonds issued to finance such project.

(16)

To issue negotiable revenue bonds of the authority for the purpose of paying all or any part of the cost of any project or projects for which a certificate of need has been obtained, or for the purpose of paying all or any part of the cost of acquiring existing or completed health facility projects. To issue negotiable bond anticipation notes and to renew such notes from time to time. The maximum maturity of any anticipation note, including renewals thereof, shall not exceed five years from the date of issue of the original note. The revenue bonds and notes of every issue authorized and any anticipation notes issued pursuant to this subsection shall be in accordance with the terms and provisions outlined in F.S. § 154.219.

(17)

To keep a record of all its proceedings and be custodian of all books, documents, and papers filed with it and of its minute book or journal and official seal. The authority shall cause copies to be made of all its minutes and other records and documents and shall give certificates under its official seal to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates.

(18)

To make a report to the board of county commissioners, within the first 90 days of each calendar year, of the authority's activities for the preceding calendar year. Each such report shall set forth a complete operating and financial statement covering its operations during the year.

(19)

To do all things necessary to carry out the above powers and purposes of the health facilities authority.

(b)

The board of county commissioners may at its discretion amend the foregoing powers and duties of the

authority as long as the amended powers and duties do not impair the contractual obligations to the holders of any bonds theretofore issued by the authority and then outstanding.

(Ord. No. 82-33, § 4, 10-12-82; Ord. No. 89-68, § 2, 12-19-89)

Sec. 2-426. - Revenue bonds.

(a)

All bonds issued under the provisions of this division shall have and are hereby declared to have all the qualities and incidents, including negotiability, or investment securities under the Uniform Commercial Code; but no provision of such code respecting the filing of a financing statement to perfect a security interest shall be deemed necessary for, or applicable to, any security interest created in connection with the issuance of any such bonds.

(b)

All revenue bonds issued under the provisions of this division shall not be deemed to constitute a debt, liability or obligation of the county or the state or any political subdivision thereof, or a pledge of the faith and credit of the county or the state or any political subdivision thereof, but shall be payable solely from the revenues provided therefor. All such revenue bonds shall contain on the face thereof a statement to the effect that the authority shall not be obligated to pay such bonds or the interest thereon except from the revenues of the project or the portion thereof for which they are issued and that neither the faith and credit nor the taxing power of the county or of the state or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue bonds under the provision of this division shall not, directly, indirectly or contingently, obligate the county or the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.

(c)

The authority is hereby authorized to provide for the issuance of revenue bonds for the purpose of refunding any of its revenue bonds then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase or maturity of such revenue bonds. The proceeds of any such revenue bonds issued for the purpose of refunding outstanding revenue bonds may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of such outstanding revenue bonds either on their earliest or any subsequent redemption date, or upon the purchase or at the maturity thereof, and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the authority. Any such escrowed proceeds, pending such use, may be invested and reinvested in direct obligations of the United States, in any obligations of which the principal and interest are unconditionally guaranteed by the United States, in certificates of deposit or time deposits secured by direct obligations of the United States, or in any obligations of which the principal and interest are unconditionally guaranteed by the United States, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest and redemption premium, if any, of the outstanding revenue bonds to be so refunded. The interest, income and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding revenue bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner. All

such revenue bonds issued for the purposes of refunding shall be subject to the provisions of this division in the same manner and to the same extent as other revenue bonds issued pursuant to this division.

(d)

Bonds issued by the authority under the provisions of this division are hereby made securities in which all public officers and public bodies of the state and its political subdivisions and all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now or may hereinafter be authorized by law.

(e)

Validation of bonds issued under the provisions of this division is not mandatory, but is at the option of the county.

(Ord. No. 82-33, § 5, 10-12-82; Ord. No. 93-58, § 1, 5-25-93)

State Law reference— General powers of health facilities authorities, F.S. § 154.209.

Sec. 2-427. - Administrative procedures.

The authority shall promulgate written administrative procedures, subject to final approval by the board of county commissioners, that will be uniformly used to evaluate proposed projects. These administrative procedures shall include, but not be limited to, the following:

(1)

The authority shall require a certificate of need for all new project applications as prescribed by F.S. § 154.245, as amended.

(2)

The guidelines shall include a priority for those health facilities who currently provide or present a plan to provide services to patients who are or may become indigent.

(3)

The applicant shall bear all costs and expenses incurred incident to the preparation of its application. The authority shall provide for the timely review of each project by the county administrator, or his designee, in such a way as to minimize the expenditure of funds by the applicant should the review prove to be unfavorable. If the initial review is favorable, the applicant shall proceed with finalizing the bond issue for final approval by the board of county commissioners.

(4)

The application fee shall include one-quarter of one percent of the bond issue for use by the county to assure that the medically indigent are served under the provisions of this division. Certain hospitals may be excluded from the provisions of this subsection at the discretion of the board of county commissioners.

(Ord. No. 82-33, § 6, 10-12-82; Ord. No. 89-68, § 3, 12-19-89)

Sec. 2-428. - Annual report.

The authority shall make a report to the board of county commissioners, within the first 90 days of the board's fiscal year, of the authority's activities for the preceding fiscal year. Each such report shall set forth a complete operating and financial statement covering its operations during the year.

(Ord. No. 82-33, § 7, 10-12-82; Ord. No. 89-68, § 4, 12-19-89)

Sec. 2-429. - Tax exemption.

(a)

The exercise of the powers granted by this division will be in all respects for the benefit of the people of this state, for the increase of their commerce, welfare and prosperity, and for the improvement of their health and living conditions. Because the operation and maintenance of a project by a health facility will constitute the performance of an essential public function, neither the authority nor a hospital institution shall be required to pay any taxes or assessments upon or in respect of a project or any property acquired by the authority under the provisions of this division or upon the income therefrom, and any bonds issued under the provisions of this division, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the state, the county, and municipalities and other political subdivisions in the state, except that such income shall be subject to the tax imposed pursuant to the provisions of F.S. ch. 220. Nothing in this section shall be construed as exempting from taxation or assessment the leasehold interest of any health facility organized for profit. If any project or any part thereof is occupied or operated by any health facility organized for profit pursuant to any contract or lease with the authority, the property interest created by such contract or lease shall be subject to taxation to the same extent as other privately owned property.

(b)

Homes for the aged, or life care communities, however designated, which are financed through the sale of health facilities authority bonds, whether on a sale-leaseback arrangement, a sale-repurchase arrangement, or other financing arrangement, are exempt from ad valorem taxation only in accordance with the provisions of F.S. § 196.1975.

(Ord. No. 82-33, § 8, 10-12-82)

State Law reference— Similar provisions, F.S. § 154.2331.

Sec. 2-430. - Approval by board of county commissioners.

The sale of the bonds and notes authorized to be issued by the authority pursuant to this division shall be subject to the approval of the board of county commissioners prior to the issuance of the bonds or notes.

(Ord. No. 82-33, § 9, 10-12-82; Ord. No. 89-68, § 5, 12-19-89)

Sec. 2-431. - Expenses.

The authority shall charge each project for all the authority's administrative costs and expenses incurred in the exercise of the powers and duties conferred by this division. No county funds from any source shall be

utilized by the authority without prior approval of the board of county commissioners.

(Ord. No. 82-33, § 10, 10-12-82)

State Law reference— Payment of expenses, F.S. § 154.211.

Secs. 2-432—2-440. - Reserved.

DIVISION 10. - ECONOMIC DEVELOPMENT

Sec. 2-441. - Creation, powers and responsibilities of economic development council.

(a)

There is hereby created an economic advisory council to be known as the Pinellas County Economic Development Council (the "council"). The council shall be comprised of not more than 100 members. The board of county commissioners shall appoint the members from among individuals who are nominated by businesses, business organizations, business trade associations, and the board of county commissioners. Members of the council shall be owners of businesses, company CEOS, presidents, and other executives who have optimal management or policy responsibility, are involved in private business and industry in the county and have demonstrated dynamic and ongoing leadership in building the economy of the county. Members shall be appointed from primary industry clusters in the county representing both major and small businesses from all geographical areas of the county. The importance of minority and gender representation shall be considered when making appointments to the council. Except for the chairman, the members of the council shall serve for terms of two years and may be appointed for successive terms to the council. The chairman of the board of county commissioners shall serve on the council as chairman of the council. The chairman shall appoint a vice-chairman who shall be a member from private business and industry in the county. The council shall have such other officers as determined by the council.

(b)

The council shall serve as a resource to advise, develop and implement strategies and programs to stimulate economic expansion, trade and investment for the benefit of the citizens of the county. The council shall meet with such frequency as determined by the chairman, and will address and monitor such areas as business recruitment, business assistance, workforce development, infrastructure requirements, marketing, communication and research, and education and training.

(Ord. No. 97-101, § 3, 12-9-97; Ord. No. 99-78, § 1, 8-31-99; Ord. No. 00-82, § 1, 10-10-00; Ord. No. 02-68, 8-20-02; Ord. No. 03-41, §§ 1, 2, 6-10-03)

Sec. 2-442. - Contracting authority of economic development authority.

The economic development authority shall grant the county administrator or his/her designee the authority to approve and execute the following documents on its behalf:

(1)

All lease agreements and contract documents specified in article III, division 2, relating to the county administrator's approval authority.

(2)

All procurement related contracts in the amount of $100,000.00 or less, which shall include the values associated with any potential options of renewal. Contracts in the amount of $25,000.00 or less shall be approved and executed in accordance with the provisions set forth in article V, division 2, relating to county purchasing.

(3)

Contract amendments, provided that such amendments involve time only extensions. Amendments relating to changes in price, terms and/or conditions shall be subject to approval in accordance with the provisions of the county's procurement ordinance and this division.

(4)

Options of renewal if, after review of past performance under the contract, the county administrator or his/her designee determines in his/her sole discretion that exercise of the option of renewal is in the best interests of the county.

(5)

Corporate/vendor name changes. For purposes of this section assignments, corporate acquisitions and/or mergers shall not constitute a name change and shall require approval by the board of county commissioners.

(Ord. No. 02-68, 8-20-02)

Secs. 2-443—2-455. - Reserved.

DIVISION 11. - ARCHITECTURAL REVIEW COMMITTEE

Sec. 2-456. - Creation and purpose of the architectural review committee for the old courthouse.

The board of county commissioners hereby creates an architectural review committee, to be known as the Pinellas County Old Courthouse Architectural Review Committee (hereinafter referred to as the "committee") to review any major improvements and renovations made to the old courthouse, located in Clearwater, Pinellas County Florida. The primary purpose of the committee is the preservation of the historical nature and architectural features of the courthouse, consistent with the needs of a living county courthouse.

(Ord. No. 99-59, § 1, 7-13-99)

Sec. 2-457. - Standards for major improvements to the structure.

The committee's goals will be to review any improvements or renovations proposed by the county and the appropriate departments under the board of county commissioners and to assure that such improvements or renovations are consistent with the original spaces constructed and materials used in the courthouse and the recent historical renovations. The reviews will also extend to any furniture, furnishings, and decorative features acquired by the county to be used on the premises of the courthouse.

(Ord. No. 99-59, § 2, 7-13-99)

Sec. 2-458. - Composition and method of appointment for membership and term on the committee.

The committee shall be composed of five members, consisting of the following described positions or

representing the following described organizations, appointed as described:

(1)

One active or retired Pinellas County Circuit Court or county court judge, to be appointed by the Chief Judge of the Sixth Judicial Circuit, who shall serve as chairman of the committee.

(2)

One member of the board of county commissioners, or at the pleasure of the board a representative of the board selected from the office of the county administrator, to be appointed by the chairman of the board of county commissioners.

(3)

The director of the county's general services department or his or her delegate selected from the design and construction administration division under general services, to be appointed by the director of general services.

(4)

The director of Heritage Village or his or her delegate selected from his or her staff to be appointed by the director of Heritage Village.

(5)

The chairman of the county historical commission or a representative from the commission to be appointed by the chairman of the county historical commission.

All appointments to the committee shall be made within 60 days of the effective date of this division, and within 60 days of the creation of any vacancy on the committee by the respective appointing authority. If any appointing authority fails to initially appoint to or later fill a vacancy within the state time, the board of county commissioners shall appoint a citizen to temporarily fill such seat until the appropriate appointing authority makes the appointment.

(Ord. No. 99-59, § 3, 7-13-99)

Sec. 2-459. - Procedures for convening committee.

The committee shall initially convene at a date, time, and place established at a date, time, and place established by the chairman of the committee. The meeting shall be set for no sooner than 60 days and no later than 180 days from the effective date of this division. Subsequent meetings shall be calendared by the committee or by the chairman as needed from time to time. The committee shall comply with all requirements of F.S. chs. 119 and 286. The first order of business shall be to establish written procedures and guidelines for the preservation of the historical and architectural features of the courthouse, and for the size and nature of improvements and renovations to the courthouse, as well as additions to furniture, furnishings, and decorative features which shall fall within the review jurisdiction of the committee.

(Ord. No. 99-59, § 4, 7-13-99)

Sec. 2-460. - Committee's advisory role.

The committee shall advise the board of county commissioners if any change proposed improvements and renovations, as well as acquisitions of furniture, furnishings, and decorative features, is inconsistent with the county's goal or preserving the historical nature and architectural features of the courthouse. Each review shall be mindful of the county's ongoing need to meet the requirements of federal or state laws of any nature, or any local laws, rules, or ordinances established under life safety codes or other matters established under local authorities' police powers. The committee may, and should from time to time, seek the voluntary input from recognized construction, historical, architectural, and engineering experts in reviewing proposed plans for improvements to renovations of and tangible acquisitions for the courthouse.

(Ord. No. 99-59, § 5, 7-13-99)

Secs. 2-461—2-475. - Reserved.

DIVISION 12. - PUBLIC ACCESS ADVISORY COUNCIL[20]

Footnotes:
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Cross reference— Cable communications, ch. 30.

Sec. 2-476. - Purpose and intent.

(a)

It is the intent of the board of county commissioners to create the county public access advisory council for the purpose of providing policy advice to the board of county commissioners and county communications department regarding the county public access channel.

(b)

The public access advisory council, with the assistance of the county communications department, shall, in accordance with the terms of the cable television franchise agreement, encourage the development of a forum for diverse community organizations and individuals to present programming and information that would not otherwise be shown on the cable system, and promote community dialogue and communications diversity.

(c)

Final decisions of the public access advisory council are not endorsed or controlled by the board of county commissioners.

(Ord. No. 01-47, § 1, 7-17-01; Ord. No. 04-46, § 1, 7-13-04)

Sec. 2-477. - Creation.

There is hereby created the public access advisory council, which shall provide policy advice for the county cable access station, Access Pinellas.

(Ord. No. 01-47, § 2, 7-17-01; Ord. No. 04-46, § 2, 7-13-04)

Sec. 2-478. - Membership of council.

(a)

The membership of the public access advisory council shall consist of 14 members total, to be appointed as follows: seven shall be individually appointed by each member of the board of county commissioners, and one shall be appointed by each of the following:

(1)

Time Warner Communications (now Bright House Networks);

(2)

County school board;

(3)

County arts council;

(4)

2-1-1 Tampa Bay Cares, Inc.;

(5)

Local media outlets, as chosen by the chairman of the board of county commissioners;

(6)

Access Pinellas producers; and

(7)

Knology, Inc.

(b)

Members of the public access advisory council shall serve at the pleasure of their appointing authority for a term of two years from the date of appointment and shall elect a chairman and such other officers deemed necessary to conduct meetings. Members may hold successive terms upon reappointment.

(c)

The director of the county communications department, the Access Pinellas manager, and county attorney shall serve as ex-officio members of the council.

(d)

Each member's background, education and experience shall be such as to qualify said member to carry out the duties and responsibilities vested in this council by this division.

(Ord. No. 01-47, § 3, 7-17-01; Ord. No. 04-46, § 3, 7-13-04)

Sec. 2-479. - Powers and responsibilities.

(a)

The public access advisory council shall have general authority, powers, and jurisdiction to enforce the provisions of this article and those of the Access Pinellas Policy Handbook.

(b)

The county communications department, in consultation with the public access advisory council, shall make or amend rules as it deems necessary for the implementation of Access Pinellas policy.

(c)

The public access advisory council shall make recommendations to the director of the county communications department concerning:

(1)

Public access television policy issues;

(2)

Public access television infrastructure needs;

(3)

Effective marketing and communication contracts;

(4)

Necessary research projects for the enhancement of Access Pinellas;

(5)

Training requirements and standards for producers of public access programming;

(6)

Scheduling public access programming;

(7)

Obtaining grant funding for public access television; and

(8)

Any other function that will benefit or enhance programming and production issues for Access Pinellas.

(Ord. No. 01-47, § 4, 7-17-01; Ord. No. 04-46, § 4, 7-13-04)

Sec. 2-480. - Administrative responsibility.

(a)

The county communications department shall provide administrative support to the public access advisory council.

(b)

The county communications department shall be responsible for:

(1)

Maintaining and updating the Access Pinellas Policy Handbook; and

(2)

Ensuring compliance with the Florida Sunshine Laws, Section 286, et seq. (2000), and Public Records Law, Section 119, et seq. (2000).

(Ord. No. 01-47, § 5, 7-17-01; Ord. No. 04-46, § 5, 7-13-04)

Sec. 2-481. - Meetings.

(a)

The public access advisory council shall meet on a bi-monthly basis or as otherwise directed by the chairman.

(b)

Seven members of the county advisory council shall form a quorum.

(c)

Special or emergency meetings of the county advisory council may be called by:

(1)

The chairman of the public access advisory council;

(2)

The director of the county communications department; or

(3)

Any seven members of the public access advisory council.

(Ord. No. 01-47, § 6, 7-17-01; Ord. No. 04-46, § 6, 7-13-04)

Sec. 2-482. - Area embraced.

The provisions of this division shall apply within the incorporated and unincorporated areas of the county.

(Ord. No. 01-47, § 9, 7-17-01)

Secs. 2-483—2-600. - Reserved.

ARTICLE VII. - VOLUNTARY MUNICIPAL ANNEXATION PROCEDURE[21]

Footnotes:
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Editor's note—With the concurrence of the county, Ord. No. 00-63, §§ 1—12, adopted Aug. 25, 2000, has been included in the Code. Such ordinance did not specify manner of codification; but, has been designated by the editor as Art. VII, §§ 2-601—2-612.

Charter reference— Annexation, § 2.07.

Sec. 2-601. - Purpose.

It is the purpose of this article to establish a uniform, equitable, and integrated procedure with clearly defined criteria to provide the exclusive method for voluntary annexation of property by an incorporated municipality within the county.

(Ord. No. 00-63, § 1, 8-25-00)

Sec. 2-602. - Authority.

This article is promulgated pursuant to the home rule powers of the county and F.S. § 171.044(4), as a county ordinance, pursuant to the provisions of the County Charter that would provide for exclusive method and criteria for voluntary municipal annexation and planning areas that delineate the geographic area eligible for annexation by a municipality.

(Ord. No. 00-63, § 2, 8-25-00)

Sec. 2-603. - Territory embraced.

This article shall be effective in the incorporated as well as unincorporated areas of the county. To the extent that this article conflicts with a municipal ordinance, this article shall prevail.

(Ord. No. 00-63, § 3, 8-25-00)

Sec. 2-604. - Definitions.

The following terms and phrases shall have the following meanings, unless some other meaning is plainly indicated:

Ability to serve means the municipality that proposes to annex property has the authority, responsibility, and capacity to provide police, fire, sewer, water, solid waste, and local road and drainage facility services. If the annexing municipality does not have the authority, responsibility, and capacity to provide any one or more of these seven requisite urban services to the property proposed to be annexed, then it shall, by either interlocal agreement or written authorization, obtain agreement of the service provider that is charged with providing such service(s), attesting to that provider's ability and willingness to provide said service(s).

Annexation means the voluntary addition of real property to the boundaries of an incorporated municipality

pursuant to the Pinellas County Charter, such addition making such real property in every way a part of the municipality.

Board means the Board of County Commissioners of Pinellas County, Florida.

CPA means the board of county commissioners sitting in its capacity as the countywide planning authority.

Compact means concentration of a piece of property in a single area and precludes any action which would create pockets, finger areas, or serpentine patterns. Any annexation proceeding in the county shall be designed in such a manner as to ensure that the area will be reasonably compact.

Contiguous means that a substantial part of a boundary of the territory sought to be annexed by a municipality is coterminous with a part of the boundary of the municipality. The separation of the territory sought to be annexed from the annexing municipality by a publicly owned county park: a right-of-way for a highway, road, railroad, canal, or utility; or a body of water or watercourse; or other minor geographical division of a similar nature, running parallel with and between the territory sought to be annexed and the annexing municipality, shall not prevent annexation under this article, provided the presence of such a division does not, as a practical matter, prevent the territory sought to be annexed and the annexing municipality from becoming a unified whole with respect to municipal services or prevent their inhabitants from fully associating and trading with each other, socially and economically. However, nothing herein shall be construed to allow local rights-of-way, utility easements, railroad rights-of-way, or like entities to be annexed in a corridor fashion to gain contiguity; and when any provision or provisions of special law or laws prohibit the annexation of territory that is separated from the annexing municipality by a body of water or watercourse, then that law shall prevent annexation under this article.

Council means the Pinellas Planning Council, as created by Chapter 88-464, Laws of Florida (1988), or its designee.

County means Pinellas County, Florida.

Enclave means any unincorporated area that is enclosed within and bounded on all sides by a single municipality.

Municipality means a municipality created pursuant to general or special law authorized or recognized pursuant to section 2 or section 6, Article VIII, of the State of Florida Constitution.

Party affected means any persons or firms owning property that is proposed for annexation to a municipality, or any governmental unit having jurisdiction over such area.

Urban services means those services required to be available and provided by a local government, either directly or by contract, to properties located within its present boundaries and areas proposed for annexation, including but not limited to police, fire, sewer, water, solid waste, and local road and drainage facility services.

(Ord. No. 00-63, § 4, 8-25-00)

Sec. 2-605. - Planning areas; delineating eligibility for annexation.

(a)

Planning areas have been determined and depicted in map form as set forth in Exhibit 1, attached hereto and incorporated by reference. The purpose of each planning area is to allow the respective municipalities to consider the area in their comprehensive plan and delineate the geographic area eligible for annexation to each such municipality. Each planning area was determined and delineated consistent with the purpose and provision for establishment of planning areas, as provided for under F.S. § 163.3171 and is specifically intended to replace the review for ability to serve for annexations of ten acres or more now conducted independently by the council under Chapter 88-464, Laws of Florida.

(b)

A municipality may annex only that property within its respective planning area as delineated on Exhibit 1, as such exhibit may be amended from time to time. Unincorporated area that is not located within a defined municipal planning area, as delineated in Exhibit 1, shall not be voluntarily annexed by any municipality unless and until Exhibit 1 is amended to include such unincorporated area in the annexing municipality's planning area.

(c)

The planning areas as delineated herein on Exhibit 1 may be amended by county ordinance upon recommendation of the council and approval by the CPA. Any deviation by the CPA from the council's recommendation shall be by at least four votes. Consideration of an amendment to any planning area by the council and CPA shall be based upon the following criteria:

(1)

The nature of the request and interest of the affected property owner(s);

(2)

The ability (willingness) of affected municipality to provide urban services;

(3)

The uniform and consistent relationship of the proposed area to existing municipal boundaries, existing unincorporated neighborhoods, and related areas eligible for annexation; and

(4)

The interest and relationship of adjoining unincorporated areas and service providers.

(d)

In the event that a municipality receives a petition to voluntarily annex property that lies outside that municipality's planning area, said petition shall be reviewed as an amendment to that planning area in accordance with this section. So long as a proposed amendment of Exhibit 1 is consistent with the criteria in subsection (c), no such amendment which results from a petition for voluntary annexation shall be unreasonably denied without just cause.

(e)

The council shall periodically review the planning areas set forth in Exhibit 1, as it may be amended from

time to time. Any amendment to Exhibit 1 resulting from this periodic review shall be as provided for under this section. The first review shall take place no longer than five years after final adoption of this article. Each subsequent review shall take place no longer than five years after the previous review.

(f)

Any annexation that may occur in the county pursuant to the referendum process provided for in F.S. Chapter 171 shall not automatically amend the planning areas provided for under this section, but may be considered, in addition to the criteria listed in this section, for purposes of amending a planning area. Failure to amend the planning area to reflect the referendum, in whole or in part, shall not affect the validity of the annexation.

(g)

Any area duly incorporated and within the boundaries of a municipality on the effective date of this article, but not included within its designated planning area, shall continue to be a valid part of said municipality with all of the rights and responsibilities attendant thereto; and the location of such incorporated area outside the planning area shall in no way alter or compromise its corporate status.

(Ord. No. 00-63, § 5, 8-25-00)

Sec. 2-606. - Petition for voluntary annexation.

(a)

The owner or owners of real property, or his or her agent, in an unincorporated area of the county, may petition the governing body of a municipality that said property be annexed to the municipality if the subject property meets the requirements set forth in either subsection (1) or (2) below:

(1)

The property is located within the annexing municipality's planning area as set forth in Exhibit 1, is contiguous to the annexing municipality, is reasonably compact, and does not create an enclave; or

(2)

The property is located within the annexing municipality's planning area as set forth in Exhibit 1, is located within and reduces an enclave existing on the effective date of this article, and neither involves a property that is subject to an existing annexation agreement nor provides the basis for annexing an adjoining property that is subject to an annexation agreement.

(b)

Within five calendar days of receipt of a petition for voluntary annexation or the initiation of a voluntary annexation pursuant to a previously executed and valid agreement, the annexing municipality shall notify the county, council, and all parties affected, of said proposed annexation with a copy of the petition for annexation and a legal description of the subject property. Notwithstanding the five-day notice period provided above, the annexing municipality shall provide said notice prior to the first reading of the annexation ordinance.

(Ord. No. 00-63, § 6, 8-25-00)

Sec. 2-607. - Limited review of proposed annexation.

(a)

Upon receipt of a petition for a proposed annexation to a municipality and a legal description of the subject property, the council shall review said proposed annexation for compliance with the following criteria:

(1)

Whether the subject property complies with the criteria and procedures set forth in section 2-606; and

(2)

Whether the legal description provided conflicts with previously established municipal boundaries or creates an inadvertent gap between governmental jurisdictions.

(b)

Within 15 calendar days of receipt, the council shall notify the annexing municipality if the proposed annexation is deemed inconsistent with the criteria and procedures set forth herein, or if a valid request for a full review has been received from an affected party. Absent any such notification, the annexing municipality may proceed with the proposed annexation.

(c)

If the proposed annexation is deemed inconsistent with the requirements of this article by the council, or a valid request for a full review has been received by an affected party as set forth in section 2-608, a full review shall be conducted.

(Ord. No. 00-63, § 7, 8-25-00)

Sec. 2-608. - Request for full review by affected party.

(a)

Any party affected by the proposed municipal annexation may petition the council and CPA to review the proposed annexation for consistency with the criteria and procedures set forth herein. Said review shall be conducted pursuant to the following criteria and procedure:

(1)

A petition requesting review shall be filed with the council within ten calendar days of receipt of the notice provided by the annexing municipality under section 2-606(b). Upon receipt of said petition, the council shall notify the annexing municipality and forward a copy of the petition to said municipality.

(2)

The petition shall set forth the specific objections and manner in which the proposed annexation is inconsistent with the criteria and procedure set forth herein.

(3)

Within five days of receipt of a petition requesting review, the executive director of the council shall determine the validity of said petition, specifically whether the petition alleges legitimate grounds upon which the annexation does not comport with the procedure and criteria set forth herein. If an applicant requesting full review disagrees with the determination of the executive director, the validity of the request shall be considered and determined by the planning council at its next scheduled meeting.

(4)

Upon receipt of a valid petition for review, as determined pursuant to subsection (3) above, the council shall consider the petition at its next regularly scheduled meeting and forward a recommendation to the CPA. The CPA shall, within 30 days of receipt of the council's recommendation, render a decision as to whether the application is consistent with the required criteria and shall notify the annexing municipality of said determination.

(b)

The filing of a valid petition for review under this section, or the initiation of a full review by the council under section 2-607, shall prohibit the annexing municipality from proceeding with the second reading and adoption of the annexation ordinance until after a decision has been rendered by the CPA.

(Ord. No. 00-63, § 8, 8-25-00)

Sec. 2-609. - Municipal annexation procedure; appeals.

(a)

Upon receipt of a petition for voluntary annexation that comports with the criteria set forth in section 2-606(a)(1) or (2), a municipality may, at any regular meeting, adopt a nonemergency ordinance to annex the property that is proposed for annexation and redefine the boundary lines of the municipality to include said property. Said ordinance shall be passed consistent with the procedures for adoption of ordinances provided in F.S. § 166.041. The notice required by F.S. § 166.041 shall give the ordinance number, if available, and a brief general description of the area proposed to be annexed. The description shall include a map clearly showing the area and a statement that the complete legal description and the ordinance can be obtained from the office of the municipal clerk.

(b)

An ordinance adopted under this section shall be filed with the Pinellas County Clerk of the Circuit Court and Pinellas County Administrator and with the department of state within seven days after the adoption of such ordinance. The ordinance must include a map which clearly shows the annexed area and a complete legal description of that area.

(c)

Any party affected by the annexation or the CPA, upon recommendation of the council, shall have the right to file a petition in the Circuit Court in and for Pinellas County seeking review by certiorari. Said petition must be filed within 30 days of adoption of the annexation ordinance by the annexing municipality. An appeal filed by the CPA shall be subject to the Florida Governmental Conflict Resolution Act. In any action instituted pursuant to this section, the prevailing party shall be entitled to reasonable costs and attorney's fees.

(Ord. No. 00-63, § 9, 8-25-00)

Sec. 2-610. - Effect of annexation.

An area voluntarily annexed to a municipality, pursuant to the criteria and procedure set forth in this article, shall be subject to all laws, ordinances, and regulations in force in that municipality, and shall be entitled to the same privileges and benefits as other parts of that municipality upon the effective date of the annexation. Any voluntary annexation that does not comply with the criteria and procedures set forth in this article shall be null and void, and the property shall continue to be considered unincorporated for both tax and regulatory purposes.

(Ord. No. 00-63, § 10, 8-25-00)

Sec. 2-611. - Interlocal agreements for urban services and annexation.

(a)

The county and each municipality shall have the authority to enter into interlocal agreements to provide services as an alternative to annexation. Such agreements are encouraged where they would provide a cost-effective, mutually advantageous alternative to annexation, where annexation is not achievable under the criteria and procedures set forth herein, or where annexation is not desirable on the part of the property owner or municipality.

(b)

Consistent with the intent and provisions of F.S. § 171.046(2), existing enclaves of ten acres or less may be annexed into the appropriate municipal jurisdiction by interlocal agreement between the county and the appropriate municipality.

(Ord. No. 00-63, § 11, 8-25-00)

Sec. 2-612. - State plan amendment review process.

Any area voluntarily annexed into a municipality pursuant to the criteria and procedures set forth in this article that is located within a municipality's designated planning area shall be deemed to comply with and satisfy the requirements of F.S. § 163.3171 with respect to the exemption from state review of comprehensive plan amendments as a function of said annexation. Specifically, upon adoption of an annexation ordinance, the annexing municipality may immediately apply the municipality's comprehensive plan and land use standards to any such area if said comprehensive plan provides for use characteristics and intensity or density standards which are consistent with the countywide future land use plan for said area, as determined by the council, without first submitting a land use plan amendment to the state department of community affairs. It is specifically intended that the provisions of this section shall supersede those existing interlocal agreements entered into between the county and certain municipalities, pursuant to the authority of F.S. § 163.3171(3), which provide for joint planning areas. However, nothing contained in this article shall affect the right of the county or its municipalities to utilize the otherwise applicable provisions of F.S. § 163.3171.

(Ord. No. 00-63, § 12, 8-25-00)

Secs. 2-613—2-617. - Reserved.

ARTICLE VIII. - CODE ENFORCEMENT BY SPECIAL MAGISTRATES

Sec. 2-618. - Intent of article.

It is the intent of this article to promote, protect and improve the health, safety and welfare of the citizens of the county by authorizing the appointment of one or more special magistrates with authority to impose administrative fines and other noncriminal penalties to provide an equitable, expeditious, effective and inexpensive method of enforcing any codes and ordinances in force in Pinellas County, where a pending or repeated violation continues to exist.

(Ord. No. 07-05, § 3, 1-9-07)

Sec. 2-619. - Definitions.

As used in this article the following terms shall be defined as follows. Where necessary or reasonably implied the singular shall include the plural.

Board shall mean the Board of County Commissioners of Pinellas County.

Enforcing department shall mean any administrative department or division of Pinellas County charged by Pinellas County ordinance or administrative assignment to enforce any particular code or ordinance in force in Pinellas County.

Person shall mean any real person, trust, corporation, estate, or other legal entity recognized by the laws of the State of Florida.

Repeat violation shall mean a violation of a provision of a code or ordinance by a person who has been previously found, through a code enforcement special magistrate or any other 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 the purposes of this definition, a plea of "No Contest" or "Nolo Contendere" shall be deemed an admission of a violation.

Special magistrate administrative division shall mean the department or division designated by the county administrator to handle the secretarial, filing, record retention, scheduling, noticing and other coordinating and support functions related to this article.

(Ord. No. 07-05, § 3, 1-9-07)

Sec. 2-620. - Code enforcement special magistrates.

(a)

Creation and appointment. Code enforcement hearings pursuant to this article shall be conducted by designated special magistrates. Application for special magistrate positions shall be directed to the county administrator pursuant to a notice published in a newspaper of general circulation. The board shall select a pool of candidates from the applications filed with the county administrator on the basis of experience and qualifications. The county administrator shall appoint special magistrates to conduct hearings from the pool of candidates selected by the board on a rotating basis.

(b)

Qualifications. Special magistrates shall have the following minimum qualifications:

(1)

Graduation from a law school accredited by the America Bar Association;

(2)

Demonstrated knowledge of administrative laws, land use law, and local government regulation and procedures;

(3)

Current membership, in good standing, of the Florida Bar Association; and

(4)

Any other such qualification that may be established by resolution of the board;

In the event the county administrator does not receive a sufficient number of applications from qualified members of the Florida Bar, the board may select attorneys who are not members of the Florida Bar as candidates for special magistrate. Among those applicants, the board of county commissioners and county administrator shall give preference to those attorneys who have prior experience in a judiciary capacity or as a hearing officer, mediator, or special magistrate. No attorney who has been disciplined by the Florida Bar Association or a bar association of any other jurisdiction shall be appointed as a special magistrate.

(c)

Term. Special magistrates shall serve a term of one year from the date of appointment by the county administrator. Special magistrates may be reappointed at the discretion of the county administrator. There shall be no limit on the number of terms a person may serve as a special magistrate.

(d)

Removal. At any time during a term, the county administrator shall have the authority to remove a special magistrate, with or without cause, upon ten days' written notice.

(e)

Vacancy. If any special magistrate resigns or is removed prior to expiration of his or her term or the county administrator determines that the special magistrate should not be reappointed, the county administrator shall appoint a special magistrate from the pool of candidates previously selected by the board to fill the vacancy within 30 days.

(f)

Meetings and hearings.

(1)

Scheduling. The special magistrate administrative division shall be responsible for scheduling meetings of special magistrates. In the case of an alleged violation as set forth in subsection 2-622(3) of this Code, a hearing may be called as soon as possible.

(2)

Location. The location of the meetings shall be in Pinellas County, Florida.

(3)

Operating procedures. All cases brought before special magistrates shall be presented by either a designated code enforcement officer or an attorney representing the department responsible for enforcing the particular code for which the violation is alleged.

(4)

Meetings open to the public. All meetings and public hearings shall be open to the public.

(g)

Compensation. The compensation for special magistrate services may be authorized as specified in the appointing board resolution. Travel reimbursement is limited to expenses incurred only for travel outside Pinellas County necessary to fulfill the responsibilities as a special magistrate. Travel reimbursement shall be made only when sufficient funds have been budgeted and are available, and upon prior approval by the board. No other expenses shall be reimbursable except documented long distance telephone calls to county staff to fulfill the responsibilities as a special magistrate.

(h)

Conflict of interest provisions. The following conflict of interest provisions shall apply to the special magistrates; failure on the part of a special magistrate to comply with the provisions of this section shall constitute grounds for removal by the board or the county administrator:

(1)

Upon appointment, each special magistrate shall comply with the disclosure requirements imposed by Florida law, including F.S. §§ 112.313 and 112.3145.

(2)

Additionally, each special magistrate shall comply with the voting requirements imposed by Florida law, including F.S. §§ 286.012 and 112.3143.

(3)

For a period of one year from the date of termination of office as a special magistrate, such person is hereby expressly prohibited from acting as agent or attorney in any proceedings, petition or other matter before a special magistrate.

(4)

No person who is or may become a party to a hearing before a special magistrate shall communicate ex parte with any special magistrate concerning that violation. This restriction shall extend to any person appearing or interceding on behalf of a party, whether or not such person may have a direct personal or financial interest in the property subject of the alleged violation.

(5)

A special magistrate shall not communicate ex parte on his own volition with any party, representative of a party, or interceding person concerning an alleged violation; however, the special magistrate may consider a request regarding the scheduling or continuance of hearings when such request is made in writing.

(Ord. No. 07-05, § 3, 1-9-07)

Sec. 2-621. - Jurisdiction of special magistrates.

Special magistrates shall have the jurisdiction and authority to hear and decide alleged violations of the codes and ordinances enacted or adopted by Pinellas County which may be prosecuted pursuant to the standards and procedures set forth in this article.

(Ord. No. 07-05, § 3, 1-9-07)

Sec. 2-622. - Special magistrate administrative division procedures.

Alleged violations of any of those codes or ordinances of Pinellas County as described herein may be filed with the special magistrate administrative division by those administrative officials, having the responsibility of enforcing the various codes or ordinances in force in Pinellas County.

(1)

Except as set forth in subsections (3) and (4) below, if a violation of a code or ordinance is believed to exist, the enforcing department shall specify a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the special magistrate administrative division shall give notice to the alleged violator that a code enforcement hearing will be conducted concerning the alleged violation as noticed. The notice shall state the time and place of the hearing, as well as the violation alleged to exist. If the violation is corrected and then repeated, or if the violation is not corrected by the time specified for correction by the code inspector, the case may be brought for hearing even if the violation has been corrected prior to hearing, and the notice of violation shall so state.

(2)

Persons or entities who may be held responsible under this article for violation(s) of County Code(s) include:

a.

The owner, agent, lessee, tenant, contractor, or any other person or legal entity using the land, building, or premises where such violation has been committed or shall exist.

b.

Any person or legal entity who knowingly commits, takes part or assists in such violation.

c.

Any person or legal entity who maintains any land, building, or premises in which such violation shall exist.

3.

If a repeat violation is found, the code inspector shall notify the violator but is not required to give the violator reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation, may request a hearing. The special magistrate administrative division shall give notice to the alleged violator as set forth in subsection (1) above. The case may be brought for hearing, and a fine may be imposed by the special magistrate, even if the repeat violation has been corrected prior to hearing, and the notice shall so state.

(4)

If the code inspector has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature, the code inspector shall make reasonable effort to notify the violator and may immediately request a code enforcement hearing.

(5)

If the owner of property which is subject to a code enforcement proceeding transfers ownership of such property between the time the notice of violation was served and the time of the hearing, such owner shall:

a.

Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.

b.

Deliver to the prospective transferee a copy of the notices and other materials relating to the code enforcement proceeding received by the transferor.

c.

Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding.

d.

File a notice with the special magistrate administrative division of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within five days after the date of the transfer.

A failure to make the disclosures described in subsections a., b. and c. before the transfer creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the hearing 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.

(Ord. No. 07-05, § 3, 1-9-07)

Sec. 2-623. - Conduct of hearing by special magistrate.

(a)

Upon request of the code inspector or at such other times as may be necessary, a hearing before the special

magistrate may be convened. Minutes shall be kept of all code enforcement hearings, and all hearings shall be open to the public. The special magistrate administrative division shall provide all clerical and administrative support reasonably necessary to conduct these hearings.

(b)

Where proper notice of the hearing has been provided to the alleged violator pursuant to section 2-628, a hearing may proceed even in the absence of the alleged violator.

(c)

At such hearing, the burden of proof shall be upon the code enforcement division to show by a preponderance of the evidence that a violation exists, or in the case of a repeat violation, existed on the date that the code inspector gave notice to the violator of a repeat violation pursuant to subsection 2-622(3).

(d)

All testimony shall be under oath and shall be recorded. The formal rules of evidence shall not apply but fundamental due process shall be observed and shall govern the proceedings. Upon determination of the special magistrate, irrelevant, immaterial or unduly repetitious evidence may be excluded, but all other evidence of a type commonly relied upon by reasonably 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.

(e)

The special magistrate may inquire of or question any witness present at the hearing. The alleged violator (hereinafter also referred to as respondent), respondent's attorney, code enforcement officers, or an attorney representing the division shall be permitted to inquire of or question any witness present at the hearing. The special magistrate may consider testimony presented by code enforcement officers, the respondent or any other witnesses.

(f)

At the conclusion of the hearing, the special magistrate shall render his or her decision (order) based on evidence entered into the record. The decision shall then be transmitted to the respondent in the form of a written order including findings of fact, and conclusions of law consistent with the record. The order shall be transmitted by mail to the respondent within ten days after the hearing. The order may include a notice that it must be complied with by a specified date and that a fine and costs may be imposed and, under the circumstances set forth in subsection 2-622(3), the cost of repairs or other corrective action may be included along with the fine if the order is not complied with by said date. A certified copy of such order may be recorded in the public records of Pinellas County and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If an order is recorded in the public records pursuant to this paragraph and the order is complied with by the date specified in the order, the special magistrate shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

(g)

If Pinellas County prevails in prosecuting a case before the special magistrate, it shall be entitled to recover all costs incurred. Whether and to what extent such costs are imposed shall be within the discretion of the special magistrate but shall not exceed the actual costs incurred.

(Ord. No. 07-05, § 3, 1-9-07)

Sec. 2-624. - Special magistrate powers and duties.

Special magistrates shall have the following powers and duties to:

(1)

Hold hearings pursuant to section 2-623.

(2)

Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by a sheriff or other authorized persons consistent with Rule 1.410(d) Florida Rules of Civil Procedure, upon request, by the special magistrate.

(3)

Subpoena records, surveys, plats and other documentary materials.

(4)

Take testimony under oath.

(5)

Make findings of fact and conclusions of law as are necessary to enforce the provisions of the Pinellas County Code and Land Development Code and issue orders having the full force and effect of law to command whatever steps are necessary to bring a violation into compliance.

(6)

Assess fines pursuant to section 2-625 of this article, including costs relating to the prosecution of cases before the special magistrate in those cases where the governing body prevails.

(7)

Lien property pursuant to section 2-625 of this article.

(8)

Assess costs pursuant to section 2-623 of this article.

(9)

Assess costs pursuant to subsection 2-625(1) of this article.

(Ord. No. 07-05, § 3, 1-9-07)

Sec. 2-625. - Administrative fines; costs; liens.

(a)

The special magistrate, upon notification by a code inspector that a code enforcement order has not been complied with within the set time, may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date for compliance set forth in the order or upon notification by a code inspector that a repeat violation has occurred 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 inspector. In addition, if the violation is a violation described in subsection 2-622(4), the special magistrate shall notify the board, which may make all reasonable repairs or other corrective actions which are required to bring the property into compliance, or otherwise secure the property, and charge the violator with the reasonable costs of the repairs or other corrective actions along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the local governing body to make further repairs or to maintain the property and does not create any liability against the local governing body for 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 part, a hearing shall not be necessary for issuance of the order imposing the fine. An order imposing a fine shall be sent to the property owner with a notice that the owner may request a hearing to challenge the fine amount within 20 days of the order. Orders imposing fines shall not be filed as liens until the latter of the expiration of such 20-day notice period, or the completion of such timely requested challenge. A challenge to an order imposing a fine shall be limited to a consideration of only such new findings necessary to impose an appropriate fine and create a lien.

(b)

A fine imposed pursuant to this section shall not exceed $1,000.00 per day for a first violation and shall not exceed $5,000.00 per day for a repeat violation and, in addition, may include all costs of repairs or other corrective action pursuant to subsection (a) of this section. If, after due notice and hearing, the special magistrate finds a violation to be irreparable or irreversible in nature, the special magistrate may impose a fine not to exceed $15,000.00 per violation or as otherwise authorized by Florida State Statute. In determining the amount of fine, if any, the special magistrate shall consider the following factors:

(1)

The gravity of the violation;

(2)

Any actions taken by the violator to correct the violation; and

(3)

Any previous violations committed by the violator.

(c)

The special magistrate may, in its discretion, adopt a consent order proposed by the enforcing department setting forth agreed terms for payment of any fine in lieu of execution or foreclosure as set forth in subsection (d), below.

(d)

A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records in the Office of the Clerk of the Circuit Court in and for Pinellas County, Florida. Once recorded the certified copy of an order shall constitute a lien against the land on which the violation(s) exists and upon any other real or personal property owned by the violator; and it 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. 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 comes first. Once recorded the lien shall be superior to any mortgages, liens, or other instruments recorded subsequent to the filing of the code enforcement lien.

(e)

After three months from the filing of any such lien which remains unpaid, the county may foreclose the lien in the same manner as mortgage liens are foreclosed. Such lien shall bear interest at the rate allowable by law from the date of compliance set forth in the recorded order acknowledging compliance. The local governing body shall be entitled to collect all costs incurred in recording and satisfying a valid lien. No lien created pursuant to the provisions of this ordinance may be foreclosed on real property that is a homestead under Article X, Section 4, of the Florida Constitution.

(Ord. No. 07-05, § 3, 1-9-07)

Sec. 2-626. - Other legal remedies.

In addition to the administrative penalties and enforcement procedures provided in this article, the board may institute any lawful civil action or proceeding to prevent, restrain, or abate violations of codes or ordinances or through its agents issue cease and desist orders. An enforcing department shall have the authority to issue cease and desist orders in the form of written official notices given to the owner of the subject building, property, or premises, or to his agent, lessee, tenant, contractor, or to any person using the land, building or premises where such violation has been committed or shall exist. Any failure to comply with a cease and desist order issued by an enforcing department shall be regarded, during any penalty setting phase, as an exaggerating circumstance by the special magistrate should any process relative to section 2-625 result from the violation that is the subject of the cease and desist order.

(Ord. No. 07-05, § 3, 1-9-07)

Sec. 2-627. - Appeal.

Any aggrieved party, including Pinellas County, may appeal an order of the special magistrate to a court of competent jurisdiction within 30 days of the execution of the order to be appealed. The county may assess a reasonable charge for the preparation of the record to be paid by the petitioner in accordance with F.S. § 119.07.

(Ord. No. 07-05, § 3, 1-9-07)

Sec. 2-628. - Notices.

(a)

All notices required by this article shall be provided to the alleged violator by:

(1)

Certified mail, return receipt requested, provided if such notice is sent under this paragraph to the owner of the property in question at the address listed in the tax collector's office for tax notices, and at any other address provided to Pinellas County government by such owner and is returned as unclaimed or refused, notice may be provided by posting as described in subsections (b)a.1. and (b)a.2. and by first class mail directed to the addresses furnished to the local government with a properly executed proof of mailing or affidavit confirming the first class mailing;

(2)

Hand delivery by the sheriff or other law enforcement officer, code inspector, or other person designated by the board;

(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 special magistrate administrative division, notice may also be served by publication or posting, as follows:

a.

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 Pinellas County. The newspaper shall meet such requirements as are prescribed under F.S. ch. 50, for legal and official advertisements.

2.

Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.

b.

1.

In lieu of publication as described in subsection a., 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 of which shall be at the front door of the Pinellas County Courthouse.

2.

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.

(c)

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).

Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (a), together with 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 to whether or not the alleged violator actually received such notice.

(Ord. No. 07-05, § 3, 1-9-07)

Sec. 2-629. - Procedure to request that a fine or lien imposed pursuant to section 2-625 be reduced; conditions and criteria therefor.

(a)

The owner of real property against which a fine or lien has been imposed pursuant to section 2-625 may apply to the special magistrate, through the county attorney or his designee, for a satisfaction of such fine or lien with less than full payment thereof. No such application shall be considered by the special magistrate until the applicant has first shown that:

(1)

All ad valorem property taxes, special assessments, county utility charges and other government-imposed liens against the subject real property have been paid;

(2)

The applicant is not personally indebted to the county for any reason; and

(3)

All county code violations have been corrected under necessary permits issued therefor.

(b)

In considering an application to reduce a fine or lien imposed pursuant to section 2-625, no satisfaction thereof shall be approved by the special magistrate with less than full payment thereof, unless the special magistrate shall make a specific finding that no violation of any county ordinance exists on the subject real property.

(c)

The balance of any fine or lien imposed pursuant to section 2-625 that is reduced by the special magistrate shall be paid on terms as approved by the special magistrate.

(d)

If the property for which the application for a fine reduction is being considered is owned by a government or quasi-government entity, the special magistrate may reduce such fine even if the violation has not been corrected.

(Ord. No. 07-05, § 3, 1-9-07)

Sec. 2-630. - Other procedures or implementing provisions.

The board may adopt any additional necessary, desirable, or advisable procedures or implementing provisions for this article by resolution.

(Ord. No. 07-05, § 3, 1-9-07)

Chapter 6 - ALCOHOLIC BEVERAGES[1]
Footnotes:
--- (**1**) ---

Charter reference— General powers of county, § 2.01.

Cross reference— Amusements and entertainments, ch. 10; businesses, ch. 26; additional court costs imposed upon personnel found guilty of misdemeanor involving illegal use of alcohol, § 46-26; offenses involving public morals, § 86-101 et seq.; zoning ordinance restrictions on alcoholic beverages, § 138-1332.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g); alcoholic beverages, F.S. chs. 561—567.

ARTICLE I. - IN GENERAL

Sec. 6-1. - Health warning required.

(a)

Definitions. As used in this section:

Alcoholic beverage means and includes alcohol, spirits, liquor, wine or beer, regardless of amount, containing more than one percent of alcohol by weight.

Business establishment means and includes, but is not limited to, any place of business of any club, organization or person, such as a golf club, country club, veteran's fraternal or benevolent organization, grocery store, drug store, nightclub, bottle club, bar, tavern, restaurant, grill, filling station, convenience store, or other building, structure or location or portion thereof wherein one person directly or indirectly pays another for the purchase or dispensing of an alcoholic beverage.

Dispense means and includes the storing, handling, apportionment, preparation, gift, distribution, or serving, directly or indirectly, of any amount of an alcoholic beverage to or for any person by an officer, owner, operator, lessee or employee of a business establishment. For purposes of this definition, permitting or allowing any person to carry alcoholic beverages on the premises of any business establishment to be

consumed thereon shall constitute the dispensing of such beverages.

Sale means and includes any transfer of an alcoholic beverage for a consideration; or any gift of an alcoholic beverage in connection with or as a part of a transfer of any property or product not an alcoholic beverage for a consideration.

Vendor of alcoholic beverages means any person who owns or operates a business establishment which sells or dispenses any alcoholic beverages for consumption on or off the premises.

(b)

Posting of public health message. All persons who own or operate a business establishment which sells or dispenses alcoholic beverages for consumption on or off the premises shall post, in a conspicuous place within such business establishment, one or more signs or notices which contain the following statement, clearly discernible by persons to whom alcoholic beverages may be sold or dispensed: "Warning: Drinking Alcoholic Beverages During Pregnancy Can Cause Birth Defects."

(c)

Prohibition. No person shall sell or dispense alcoholic beverages at a business establishment unless and until the sign or notice required by subsection (b) of this section has been posted in accordance with this section.

(d)

Penalties. Any person who shall violate the provisions of this section shall be punished as provided in section 1-8.

(Ord. No. 85-41, §§ 1—4, 12-10-85)

Sec. 6-2. - Exposure of genitalia or female breasts in alcoholic beverage establishments prohibited.

(a)

Legislative authorization. This section is adopted pursuant to the 21st Amendment of the Constitution of the United States, article VIII, section 1, of the state constitution, and F.S. § 125.01.

(b)

Definitions. As used in this section:

Alcoholic beverages means distilled spirits and all beverages containing one-half of one percent or more of alcohol by volume. The percentage of alcohol by volume shall be determined by measuring the volume of the standard ethyl alcohol in the beverage and comparing it with the volume of the remainder of the ingredients as though such remaining ingredients were distilled water.

(1)

It shall be prima facie evidence that a beverage is an alcoholic beverage if there is proof that the beverage in question was or is known as whiskey, moonshine whiskey, wine, rum, gin, tequila, vodka, scotch, scotch whiskey, brandy, beer, malt liquor, or by any other similar name or names, or was contained in a bottle or can labeled as any of the above names, or a name similar thereto, and the bottle or can bears the manufacturer's

insignia, name or trademark.

(2)

Any person who, by experience in the handling of alcoholic beverages, or who by taste, smell, or drinking of such alcoholic beverages, has knowledge of the alcoholic nature thereof, may testify as to his opinion about whether such beverage is an alcoholic beverage.

Establishment dealing in alcoholic beverages means any business or commercial establishment, whether open to the public at large or where entrance is limited by cover charge or membership requirement, including those licensed by the state for sale and/or service of alcoholic beverages, and any bottle club, hotel, motel, restaurant, nightclub, country club, cabaret, meeting facility utilized by any religious, social, fraternal or similar organization, or business or commercial establishment where a product or article is sold, dispensed, served or provided with the knowledge, actual or implied, that such product or article will be, or is intended to be, mixed, combined with or drunk in connection or combination with an alcoholic beverage on the premises of such business or commercial establishment where the consumption of alcoholic beverages is permitted. A private residence, whether permanent or temporary in nature, is not an establishment dealing in alcoholic beverages.

Nates means the prominence formed by the muscles running from the back of the hip to the back of the leg.

(c)

Prohibitions.

(1)

Business establishments. It shall be a violation of this section for any person maintaining, owning or operating an establishment dealing in alcoholic beverages located within the county to:

a.

Suffer or permit any female person, while within the premises of such establishment dealing in alcoholic beverages, to expose to the public view that area of the female breast directly or laterally below the top of the areola but not that portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided that areola is not so exposed.

b.

Suffer or permit any female person, while within the premises of such establishment dealing in alcoholic beverages, to employ any device or covering which is intended to give the appearance of or simulate such portions of the human female breast as described in subsection (c)(1)a, above.

c.

Suffer or permit any person, while within the premises of such establishment dealing in alcoholic beverages, to expose to public view such person's genitals, pubic area, anus, or cleavage of the nates of the human buttocks.

d.

Suffer or permit any person, while within the premises of such establishment dealing in alcoholic beverages, to employ any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, anus, or cleavage of the nates of the human buttocks.

(2)

Prohibited acts by females. It shall be a violation of this section for any female person, while within the premises of an establishment dealing in alcoholic beverages, to expose to public view that area of the human female breast directly or laterally below the top of the areola but not that portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not so exposed, or to employ any device or covering which is intended to give the appearance or simulate such areas of the female breast as described herein.

(3)

Prohibited acts by all persons. It shall be a violation of this section for any person, while within the premises of an establishment dealing in alcoholic beverages, to expose to public view such person's genitals, pubic area, anus, or cleavage of the nates of the human buttocks, or to employ any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, anus, or cleavage of the nates of the human buttocks.

(d)

Exception. Subject to section 26-181 et seq. and section 42-108 of the Pinellas County Code a licensed adult use establishment may serve alcoholic beverages and allow exposure of that area of the human female breast laterally below the point immediately above the top of the areola so long as the areola and nipple are completely and opaquely covered by any covering tape or pasty.

(e)

Penalties. Any person who shall violate any provision of this section shall be punished as provided in section 1-8, except that a penalty of imprisonment shall not be imposed for violation of section 6-2(c)(1). Nothing in this provision shall be interpreted to bind sheriff's officers to the requirements of code enforcement officers consistent with F.S. § 125.69.

(Ord. No. 79-11, §§ 1—3, 4-3-79; Ord. No. 91-55, arts. 1—6, 10-29-91; Ord. No. 98-40, § 1, 3-10-98; Ord. No. 99-55, §§ 1—3, 6-29-99; Ord. No. 03-87, § 1, 11-4-03)

Cross reference— Commercial exploitation of nudity, § 26-176 et seq.; adult uses, § 42-51 et seq.; offenses involving public morals, § 86-101 et seq.

Secs. 6-3—6-25. - Reserved.

ARTICLE II. - HOURS OF SALE[2]

Footnotes:

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Editor's note—The acts contained in this article retain their status as special acts. See charter § 5.02. The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended

by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Sec. 6-26. - Definitions.

For the purposes of this article, the following definitions of terms shall prevail:

(1)

The term "business establishment" shall include any place of business, such as a golf club, grocery store, drugstore, nightclub, hotel, cafe, bottle club, bar, restaurant, grill, filling station or location where:

a.

One person pays another for an article or product that is mixed with an alcoholic beverage, or an alcoholic beverage; or

b.

A drinking container, drink, water, beverage, or other product or article, for a consideration of any kind is sold, dispensed, served or provided, for the purpose of drinking an alcoholic beverage or with the knowledge, actual or implied, that the same will be, or is intended to be, mixed, combined with, or drunk in connection or combination with an alcoholic beverage. Any place of business wherein an alcoholic beverage is carried, stored, dispensed, or consumed by the owner of the beverage or his guest, or stored or dispensed by the owner, operator or employee of such place, shall be deemed a business establishment defined in this paragraph, even if no consideration is paid directly for the dispensing, serving, or otherwise providing of such product or article, so long as the establishment charges any door fee, cover charge, entertainment fee, music fee, exhibition fee, membership fee, storage fee, or any other indirect payment device for admission to the premises.

(2)

The term "alcoholic beverage" shall include all beverages containing more than one percent of alcohol by weight.

(3)

The term "weekday" shall mean each day of the week except Sunday.

(Laws of Fla. ch. 63-1790, § 2; Laws of Fla. ch. 71-868, § 1; Laws of Fla. ch. 80-586, § 2; Ord. No. 03-79, § 1, 10-7-03)

Cross reference— Definitions generally, § 1-2.

Sec. 6-27. - Penalty for violation of article.

Any person, firm or corporation, or owner, lessor, partner, operator, manager, or employee of any business establishment as defined in this article violating any of the provisions of this article shall be deemed, upon conviction thereof, guilty of a misdemeanor and shall be punished therefor as provided by law.

(Laws of Fla. ch. 63-1790, § 7; Laws of Fla. ch. 80-586, § 4)

State Law reference— Classification of misdemeanors, F.S. § 775.082(4).

Sec. 6-28. - Purpose and intent.

The purpose of this article is to provide uniform regulation of all establishments and persons in Pinellas County dealing directly or indirectly with the sale, dispensing or consumption of alcoholic beverages. Uncertainty and confusion in the applicable laws now exist which have resulted in evasions of the law and rendered enforcement thereof impossible. It is the legislative intent that this article apply to all establishments and persons in any manner dealing with the sale, dispensing or consumption of alcoholic beverages, that the owners or operators of such establishments shall be notified hereby that they are not exempted from any zoning and land use prohibitions and regulations in force in the county unincorporated area or in the incorporated town or city where such establishments are located, that owners, operators, employees, patrons and others controlling, working in, or consuming alcohol on the premises of such establishments shall be notified hereby of the conduct and activities prohibited by this article, and the penalties for any violation thereof, and that this article be liberally construed as to effectuate this purpose.

(Laws of Fla. ch. 63-1790, § 1; Laws of Fla. ch. 80-586, § 1)

Sec. 6-29. - Closing hours.

(a)

All business establishments in Pinellas County, licensed or unlicensed, dealing in alcoholic beverages, public or private, either directly or indirectly, shall remain closed from the hours of 3:00 a.m. to 8:00 a.m. on each day of the week except Sunday, unless any municipality in Pinellas County establishes shorter opening hours as provided in section 6-31 of this article.

(b)

All such business establishments shall remain closed on each Sunday from the hours of 3:00 a.m. to 11:00 a.m., unless any municipality in Pinellas County establishes shorter opening hours as provided in section 6-31 of this article.

(Laws of Fla. ch. 63-1790, § 3; Laws of Fla. ch. 71-868, § 1; Ord. No. 03-79, § 2, 10-7-03; Ord. No. 10-39, § 1, 7-27-10)

Sec. 6-30. - Exceptions to article.

(a)

Drugstores or prescription shops dealing only in medicines and drugs dispensed for medical purposes shall

not be within the prohibitions of this article.

(b)

Vendors licensed under F.S. §§ 563.02(1)(a), 564.02(1)(a) and 565.02(1)(a) are specifically included in the provisions of this article with the exception that said vendors shall not dispense beer, wine, or liquor between the hours of 12:01 a.m. and 8:00 a.m. each weekday, and between the hours of 12:01 a.m. Sunday and 11:00 a.m. Sunday.

(c)

All business establishments coming under this article which are engaged in a business primarily outside the purview of this article but which maintain a separate department or section within such establishment for the sale of alcoholic beverages shall close only that department or section in conformance with this article.

(d)

Local governments are authorized to allow the sale or dispensing of alcoholic beverages as early as 8:00 a.m. on Sundays for special events provided they comply with the following requirements:

(1)

The local government shall adopt an ordinance establishing a procedure for granting such special event permits.

(2)

Such ordinance shall provide for an application and approval process.

(3)

Such ordinance shall provide that such special event permits may only be granted for certain events. Such special events shall be events of community interest or importance as determined by the local government. Each special event may not be conducted more than once in any six-month period. Each special event permit shall specifically describe the boundaries of the special event area within which the special event permit shall be effective.

(4)

Each special event permit shall set forth the time (after 8:00 a.m.) after which alcoholic beverages may be sold and dispensed.

(5)

Upon issuance of a special event permit, the applicant shall immediately file a copy of the special event permit with the county sheriff and, where applicable, the municipal police chief. The applicant shall maintain a copy of the permit on the site of the special event at all times during the special event.

(Laws of Fla. ch. 63-1790, § 4; Laws of Fla. ch. 76-474, § 1; Ord. No. 03-79, § 3, 10-7-03; Ord. No. 03-68, § 1, 9-9-03)

Editor's note— Section 6-30 has been revised to correct a scrivener's error of the codifier.

Sec. 6-31. - Local government option; business establishments not exempted from zoning and land use regulations.

The establishment of uniform closing hours provided in this article shall be applicable to all business establishments in Pinellas County, including those located in any cities, towns or other municipalities therein; provided, however, nothing contained in this article shall be construed to prevent any local government in Pinellas County from establishing shorter opening hours than are herein provided, by valid local government law, ordinance or regulation, nor shall this article be construed to exempt any owner of a building containing a business establishment, or any owner or operator thereof, from any zoning or land use prohibition or requirement validly adopted by the county, city or town in which the building and establishment are located. All hours so established shall prevail within the local government limits of such local government.

(Laws of Fla. ch. 63-1790, § 5; Laws of Fla. ch. 80-586, § 3; Ord. No. 03-79, § 4, 10-7-03)

State Law reference— Municipalities may regulate hours of sale of alcoholic beverages, F.S. § 562.14.

Sec. 6-32. - Conduct prohibited; persons subject to article; presumptions, evidence and proof of violations.

(a)

No patron or other person shall purchase, store on, or carry onto the premises of any business establishment, or consume therein, any alcoholic beverage at any time when such establishment is required to be closed under the terms of this article or any municipal law, ordinance or regulation adopted pursuant to this article. For purposes of this subsection, the payment of a charge of any kind for admission to the premises or for other services or entertainment provided therein and the subsequent receipt of any alcoholic beverage, whether mixed or unmixed with any other substance, shall be deemed a purchase of an alcoholic beverage; and the presence of any alcoholic beverage container designated by symbol, device, label, or name as belonging to a particular person and the presence on the premises of such particular person shall be prima facie evidence that such person has consumed an alcoholic beverage, and it shall be the burden of any person charged under this subsection with consumption of alcoholic beverages to prove that he or she did not consume any alcoholic beverage.

(b)

No employee or other person shall assist, permit, or allow any other person to store on or carry onto the premises of any business establishment, or consume therein, any alcoholic beverage at any time when such establishment is required to be closed under the terms of this article or any municipal law, ordinance or regulation adopted pursuant to this article. For the purposes of this subsection, the building owner, business establishment owner, operator, lessee, manager or other person who is licensed by the state or county to operate a business establishment on the premises shall be deemed to have permitted any violation of this subsection for which an employee is charged; and it shall be the burden of any person thus deemed to have permitted such violation to prove that the violation was committed by an employee beyond the scope of his instruction and employment.

(c)

No employee or other person shall sell, serve, dispense, or provide in any manner or guise any alcoholic beverage to any person on the premises of any business establishment at any time when such establishment is

required to be closed under the terms of this article or any municipal law, ordinance or regulation adopted pursuant to this article. For purposes of this subsection, competent eyewitness testimony that any person was allowed to serve himself alcoholic beverages from any container stored on the premises or from any container carried onto the premises shall be conclusive proof that this prohibition has been violated by the person in the control of the premises at that time.

(d)

No building owner or business establishment owner, operator, lessee, licensee, partner, or officer of any firm or corporation who is licensed by the state or county to operate a business establishment on the premises shall assist, permit, direct, instruct or otherwise provide or allow any employee or other person to engage in any conduct prohibited by subsection (b) or (c) or any patron or other person to engage in any conduct prohibited by subsection (a). Competent testimony or documentary evidence that any employee was hired or paid for hours of work within the time such business establishment is required to be closed under the terms of this article or any municipal law, ordinance, or regulation adopted pursuant to this article and that the employee was present therein and working at such time, shall be conclusive proof that this subsection has been violated.

(e)

In any prosecution for violation of any prohibition in this section, it shall not have to be proven that the alcoholic beverage, or mixture of alcoholic beverage and any other substance, that was alleged to have been purchased, sold, carried onto, stored, served, dispensed, or consumed in a business establishment, contained more than one percent of alcohol by weight, nor must it be proven that such beverage or mixture was dispensed from any particular container of an alcoholic beverage, in order to obtain a conviction therefor; and the court and jury shall be bound by the legislative intent expressed in this article and the provisions of this section in the consideration of testimony, evidence, and burdens and other matters of proof in any case where such provisions are not in conflict with any court rule or decision or any statute.

(Laws of Fla. ch. 63-1790, § 6; Laws of Fla. ch. 80-586, § 4)

Secs. 6-33—6-45. - Reserved.

ARTICLE III. - CONSUMPTION OR POSSESSION IN PUBLIC PLACES

Sec. 6-46. - Definitions.

As used in this article, the following words, terms and phrases shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverage shall mean all beverages containing more than one percent of alcohol by weight, measured in the manner described in F.S. § 561.01(4)(b).

Open container means any vessel or container containing an alcoholic beverage, as defined herein, which is immediately capable of consumption or the seal of which has been broken notwithstanding the fact that the vessel or container has been recapped or covered.

Package store means a licensed place of business where alcoholic beverages are sold in the original sealed containers as received from the distributor for consumption off the premises only.

(Ord. No. 00-42, § 1, 6-6-00)

Sec. 6-47. - Consumption of alcoholic beverage or possession of open container in public places prohibited.

(a)

It shall be a violation of this article for any person to consume any alcoholic beverage and for any person other than a licensed beverage salesperson or agent to carry or possess any open container at or upon any public right-of-way, including streets, sidewalks and alleyways, whether paved or unpaved, public parking lot, or other lands or facilities owned or controlled by the county except as otherwise hereinafter provided.

(b)

The prohibitions contained in subsection (a) above shall not apply as follows:

(1)

The county has entered into a contract or issued a permit which by its terms allows the carrying or consumption of alcoholic beverages in a specified area or place; or

(2)

The county administrator has temporarily waived the prohibition of subsection (a) above for a special event or activity in a specified area or place; or

(3)

The person in possession of an open container is engaged in picking up empty alcoholic beverage containers for the purpose of controlling litter, collecting deposits or other trash collection purposes.

(4)

To public marinas as defined in section 90-2 of this Code.

(Ord. No. 00-42, § 1, 6-6-00; Ord. No. 07-32, § 3, 7-24-07)

Sec. 6-48. - Consumption of alcoholic beverage or possession of open container near store selling alcoholic beverages, religious institutions and schools prohibited.

(a)

It shall be a violation of this article for any person to consume alcoholic beverages or possess an open container within 500 feet of the outside of any package store or food store selling alcoholic beverages for consumption off premises provided however, that this prohibition shall not apply if the property within 500 feet of said establishment or property is within an enclosed building, is occupied by residential structures, or is occupied by an establishment authorized to sell alcoholic beverages for consumption on premises.

(b)

It shall be a violation of this article for any person to consume alcoholic beverages or possess an open container within 500 feet of the boundary of any tract of land on which a religious institution or school is located, provided however that this prohibition shall not apply if the property within 500 feet of said establishment or property is within an enclosed building, is occupied by residential structures, or is occupied

by an establishment authorized to sell alcoholic beverages for consumption on premises.

(Ord. No. 00-42, § 1, 6-6-00)

Sec. 6-49. - Presumption of alcoholic beverage; testimony by person presumed qualified.

(a)

In all prosecution for violations of this article, the manufacturer's label on the beverage container shall be prima facie evidence that the substance in such container was an alcoholic beverage as defined herein, without the need for professional expert testimony or chemical analysis of the contents of the container.

(b)

Any person who by past experience in the handling or use of alcoholic beverages, or who by taste, smell or the drinking of such alcoholic beverage has knowledge as to the alcoholic nature thereof, may testify as to his opinion of whether such a beverage is or is not alcoholic.

(Ord. No. 00-42, § 1, 6-6-00)

Sec. 6-50. - Territory embraced.

This article shall apply to the unincorporated areas of Pinellas County.

(Ord. No. 00-42, § 1, 6-6-00)

Sec. 6-51. - Penalties.

Except as otherwise provided by law or ordinance, a person convicted of a violation of this chapter shall be punished by a fine not to exceed $500.00 or by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment. With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense.

(Ord. No. 00-42, § 1, 6-6-00; Ord. No. 06-62, § 1, 8-1-06)

Chapter 10 - AMUSEMENTS AND ENTERTAINMENTS[1]
Footnotes:
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Charter reference— General powers of county, § 2.01.

Cross reference— Alcoholic beverages, ch. 6; businesses, ch. 26; adult uses, § 42-51 et seq.; health and dance studios, § 42-171 et seq.; fireworks, § 62-81 et seq.; parks and recreation, ch. 90.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g).

ARTICLE I. - IN GENERAL

Sec. 10-1. - Authorization of pari-mutuel wagering facilities to conduct cardrooms.

This board approves and authorizes that pari-mutuel wagering facilities within the county holding valid permits and licenses issued by the division of pari-mutuel wagering pursuant to F.S. ch. 550, may apply for and receive licenses and may conduct cardroom activities authorized by Florida law and in particular F.S. § 849.086 as enacted by Chapter 96-364, Laws of Florida, 1996, as may be amended from time to time.

(Ord. No. 96-85, § 1, 11-5-96)

Editor's note— Ord. No. 96-85, adopted Nov. 5, 1996, did not expressly amend this Code; hence, its inclusion as § 10-1 was at the discretion of the editor.

Secs. 10-2—10-25. - Reserved.

ARTICLE II. - FESTIVALS

Sec. 10-26. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Musical or entertainment festival means any gathering of groups or individuals for the purpose of listening to or participating in entertainment which consists primarily of musical renditions conducted outdoors or in other areas not within a permanent enclosed building and which lasts an overall period of more than four hours.

(Ord. No. 70-3, § 2, 6-30-70)

Cross reference— Definitions generally, § 1-2.

Sec. 10-27. - Penalty for violation of article.

Violations of this article are punishable as provided in section 1-8.

Sec. 10-28. - Findings and intent.

In view of the extremely large number of persons who have been attending outdoor musical or entertainment festivals and in view of the apparent failure of the promoters and operators of such festivals to provide adequate regulation and control of the persons attending such festivals, and in view of the failure of the promoters and operators of such festivals to provide sanitary facilities, there has been created a situation which affects the public health, morals and welfare, and it is therefore the findings and intent of the board of county commissioners that it is necessary to impose reasonable regulations as provided in this article to protect the public health, morals and welfare of the citizens of the county if and when such festivals should be conducted within the county.

(Ord. No. 70-3, § 1, 6-30-70)

Sec. 10-29. - Board of county commissioners authorized to make reasonable regulations.

The board of county commissioners is authorized and empowered to make reasonable regulations in furtherance of the provisions and intent of this article, which regulations shall be binding upon the promoters or the operators of a musical or entertainment festival, and their agent, or agents, or employees.

(Ord. No. 70-3, § 13, 6-30-70)

Sec. 10-30. - Permit and penal bond requirements.

Any person who operates or maintains upon lands owned, leased or rented by such person any musical or entertainment festival as defined in this article in any part of the incorporated or unincorporated areas of Pinellas County shall make application for and obtain a permit from the board of county commissioners at least 90 days prior to the scheduled commencement of the festival. Such application shall include a detailed diagram of the area where the festival is planned, which diagram shall clearly indicate the location of parking areas, toilet facilities, sink facilities, and potable drinking water, as well as the exact location of the entertainment area. Upon receipt of such application by the board, the county sheriff shall make an investigation of the applicant to determine his financial responsibility and his moral character and shall make a report of his investigation to the board of county commissioners, which shall thereupon approve or reject such application.

(Ord. No. 70-3, § 3, 6-30-70)

Sec. 10-31. - Advertising or sale of tickets prohibited until permit issued; surety bond.

There shall be no advertising of the festival or the sale of any attendance tickets or the receipt of any moneys by the promoter or operator from persons desiring to attend such festival until the permit required in this article is approved and issued by the board of county commissioners. If the board of county commissioners approves the application, it shall issue a permit to the applicant upon the payment of the fee therefor, which shall be in the sum of $100.00, and in addition thereto the promoter or operator of such a festival, as a condition precedent to obtaining such permit, shall post with the board of county commissioners a surety bond in the sum of not less than $1,000.00, or more in the discretion of the board based upon the recommendation of the sheriff in order to protect against damage to any private or public property, whether such property be personal or real property located in the county and which damage is caused by any person by reason of the failure or refusal of the promoter or operator of the festival to observe and comply with any of the provisions of this article.

(Ord. No. 70-3, § 4, 6-30-70)

Sec. 10-32. - Permit requirements cumulative.

The permit required by this article shall be in addition to any other permits or licenses required by law.

(Ord. No. 70-3, § 14, 6-30-70)

Sec. 10-33. - Revocation of permit for violations.

Any promoter or operator who violates any of the provisions of this article or any conditions or regulations adopted pursuant to this article by the board of county commissioners, or any regulations of the county health department or the county building department, shall be subject to a revocation of the permit issued under this article by the board of county commissioners.

(Ord. No. 70-3, § 15, 6-30-70)

Sec. 10-34. - Disorderly conduct, illegal activities, public nuisances.

(a)

No promoter or operator shall engage in, or permit other persons to engage in, disorderly conduct or illegal activities prohibited by the laws of this state on the property used in connection with the festival, nor operate or permit the operation of the festival in such a manner as to constitute a public nuisance.

(b)

For the purposes of this article, a "public nuisance" shall include, but is not limited to, making or causing to be made any unusual or excessive noises which disturb, or may reasonably be expected to disturb, the peace and quiet of any inhabitant of the area.

(Ord. No. 70-3, § 5, 6-30-70)

Sec. 10-35. - Provision of adequate sanitary facilities and compliance with other health regulations.

The promoters or operators of the festival as described in this article shall provide and keep in proper working order during the entire term of the festival adequate toilet facilities, sink facilities with running water, and potable drinking water as may be required by the county health department regulations, and shall comply with all other existing regulations of the health department and all existing regulations of the county building department which may be applicable.

(Ord. No. 70-3, § 8, 6-30-70)

Sec. 10-36. - Times during which activities prohibited.

All festival activities must cease at or before 11:00 p.m. and may not resume prior to 10:00 a.m. on the following day.

(Ord. No. 70-3, § 9, 6-30-70)

Sec. 10-37. - Parking facilities.

The promoters or operators of the festival shall provide adequate parking areas for motor vehicles of persons attending the festival, which areas shall be separate and apart from the place where the festival itself is being conducted so as to ensure the safety of persons in attendance.

(Ord. No. 70-3, § 10, 6-30-70)

Sec. 10-38. - Camping out or sleeping on premises prohibited.

The promoters or operators of the festival shall not permit or allow any persons to camp out or sleep on the festival premises or otherwise to remain on such premises between the hours of 11:00 p.m. and 10:00 a.m. the following morning.

(Ord. No. 70-3, § 11, 6-30-70)

Sec. 10-39. - Private licensed security guards required.

The promoters or operators of the festival shall provide, at their own expense and cost, private licensed security guards sufficient to keep law and order at such festival, and in no event shall there be less than one such licensed security guard for each 200 persons in attendance at all times.

(Ord. No. 70-3, § 12, 6-30-70)

Secs. 10-40—10-60. - Reserved.

ARTICLE III. - BINGO[2]

Footnotes:

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Cross reference— Offenses involving public morals, § 86-101 et seq.

State Law reference— Bingo, F.S. § 849.0931.

Sec. 10-61. - Definitions.

In this article the following terms, phrases, words and their derivations shall have the meaning given herein, unless the context otherwise requires:

Actual business expenses are those authorized expenses that have a direct bearing on and are necessary to the conduct of a bingo game and related activities, the allocation of which shall be in accordance with generally acceptable accounting practices. Actual business expenses include prizes.

Associational group or organization shall mean a condominium association, a mobile home owners association or a group of residents of a mobile home park as defined in F.S. ch. 723.

Authorized organization means an organization as described in F.S. § 849.0931(2)(a) other than a charitable organization that is entitled under the provisions of F.S. § 849.0931(3) to conduct bingo.

Bingo or bingo game means a game in which:

(1)

Each participant must pay a charge and receives one or more bingo cards;

(2)

The players cover squares as the representative announces a number, letter or a combination of numbers and letters selected by chance from a receptacle containing objects bearing numbers, letters or combinations of numbers and letters corresponding to the system used for designating the squares on the bingo cards; and

(3)

A predetermined prize is awarded to the winner, who is the player or players first properly covering a predetermined and announced pattern of squares on the bingo card.

Bingo card means a flat, usually rectangular, piece of paper or thin pasteboard marked off into a set of 25 squares arranged in five vertical rows of five squares each, each square being designated by a number, a letter or a combination of numbers and letters, and shall include a piece of paper or cardboard marked in braille. More than one set of numbers may be printed on a single sheet of paper.

Bingo equipment includes bingo cards, chips or markers for use in covering the spaces on a bingo card, the

balls, cubes or tiles having the letters, numbers or combinations thereof by which the squares on bingo cards are denominated and used by the charitable organization, authorized organization or associational group or organization in conducting a bingo game, a birdcage or similar device, whether hand-operated or mechanically powered, for randomizing and ejecting the balls, cubes or tiles first described, a master bingo layout for the display of balls, cubes or tiles ejected and called by charitable organization's, authorized organization's or associational group or organization's representative or any other device, implement, apparatus or paraphernalia ordinarily or commonly used or designed to be used in the conduct of bingo, but does not include tables, chairs and similar items not specifically designed for use in the conduct of bingo.

Charitable organizations means any person which has qualified for exemption from federal income tax as an exempt organization under the provisions of Section 501(c) of the Internal Revenue Code of 1954 or Section 528 of the Internal Revenue Code of 1986, as amended, and who is or holds himself out to be established for any benevolent, educational, philanthropic, humane, scientific, artistic, patriotic, social welfare or advocacy, public health, environmental conservation, civic or other charitable purpose and which has been in existence and active for a period of three years or more. It includes a chapter, branch, area, office or similar officiate performing functions of the organization within the state for a charitable organization which has its principal place of business outside the state.

Chairperson means the person designated by a licensed organization to be responsible for the conduct of bingo games.

Conviction or convicted includes a conviction after trial, a plea of guilty or nolo contendere, or the forfeiture of a bond, whether the person is adjudicated guilty or not, when a person has been charged with a misdemeanor or felony involving theft or illegal gambling, under any local, state or federal law, or its equivalent under any foreign law.

County shall include the board, department or division of the Pinellas County government designated by resolution of the board of county commissioners to administer or enforce this article, which may include the Pinellas County Sheriff.

Department means the Pinellas County Department of Justice and Consumer Services.

Lease includes a lease, sublease, assignment, rental or agreement to use any premises for the conduct of bingo, other than premises owned by the licensed organization and used by it to conduct bingo for its own benefit.

Lessor means a person who or organization which leases, subleases, assigns or rents any premises to be used for the conduct of bingo, or agrees to the use of the premises for the conduct of bingo.

Licensed organization means a charitable or authorized organization that has been issued a license under this article.

Net proceeds means all moneys collected for bingo cards, admissions and related sales, less only actual business expenses.

Notice means a written notification by certified mail to the mailing address set forth on the application for the license or permit. This mailing address shall be considered the correct mailing address unless the department of justice and consumer services has been notified otherwise in writing.

Owner means the charitable organization or authorized organization which holds legal title to the premises on

which a bingo game or a series of bingo games is played.

Person means an individual, partnership, corporation, subchapter S corporation, limited partnership, organization, trusts, foundation, group, association, society or any combination of them. The term "person" shall also include charitable organizations, associational group or organization, and authorized organization as defined in this article.

Player means a person who has paid some amount of money to the representative of one or more bingo cards and who has some expectation of receiving a prize if one or more of his bingo cards contains a sufficient number of numbers, letters or combinations of letters and numbers which are the same as those announced by the representative during a bingo game.

Premises means an indoor or outdoor area used for the conduct of bingo.

Principal officers means the president, vice president, or treasurer, or partner, or limited partner or organization officers performing similar duties.

Prize means cash or anything of value awarded to a player of a bingo game or players in a series of bingo games.

(Ord. No. 97-60, § 4, 7-22-97; Ord. No. 03-88, § 1, 11-4-03)

Sec. 10-62. - Legislative intent.

(a)

It is the intent of the board of county commissioners that all phases of the regulation, licensing and supervision of bingo be closely controlled and the law pertaining hereto be strictly construed and rigidly enforced.

(b)

It is the further intent of the board of county commissioners that the provisions of this article shall not be applicable to those associated organizations and groups authorized to play bingo by F.S. § 849.0931(4).

(Ord. No. 97-60, § 4, 7-22-97)

Sec. 10-63. - Administration and enforcement.

Responsibility for administration and enforcement of this article is vested in the county.

(Ord. No. 97-60, § 4, 7-22-97)

Sec. 10-64. - Exemptions.

The provisions of this article shall not apply to:

(1)

Associated organizations and groups authorized to play bingo by F.S. § 849.0931(4).

(2)

Municipal corporations that allow the use of municipal property without charge for the conduct of bingo by organizations or groups holding a valid class A license.

(Ord. No. 97-60, § 4, 7-22-97; Ord. No. 97-92, § 1, 11-4-97)

Sec. 10-65. - License required.

No person may, without a license issued in accordance with section 10-65 of this article:

(1)

Conduct a bingo game or a series of bingo games.

(2)

Lease any premises of any type for the conduct of bingo, unless less than ten (10) percent of total rental income collected by lessor in the prior fiscal year is derived from the conduct of bingo.

(3)

Sublease any premises to another person for the purpose of playing or conducting bingo.

(Ord. No. 97-60, § 4, 7-22-97; Ord. No. 98-62, § 1, 6-23-98)

Sec. 10-66. - License classifications.

(a)

In addition to the other requirements set forth in this section an authorized organization, associational group or organization, charitable organization or lessor may only obtain a license when such entity or person can demonstrate that:

(1)

Such person or organization has complied with the locational provisions of F.S. § 849.0931(9), for the last three years; and

(2)

Such person or organization agrees to conform to all provisions of this chapter.

(b)

Licenses shall be issued under the following classifications:

(1)

Class A license. A Class A license must be obtained by such an organization or group prior to conducting bingo pursuant to the provisions of this article, F.S. § 849.0931(2), or any applicable successor statute. Where a charitable organization or authorized organization which intends to conduct bingo, and has more than one branch, chapter, lodge, agency or other local unit which intends to conduct bingo within the county, it shall make separate applications for a Class A license for each branch, chapter, lodge, agency or local unit within

the county. Each licensed entity and/or location shall be subject to the applicable limitations contained in F.S. § 849.0931, as well as any additional requirements and/or limitations set forth in this article. A Class A license only authorizes the licensed charitable organization to conduct bingo pursuant to this article. Such license does not authorize the licensed organization to lease or sublease any premises owned or leased by it to any other person or organization for the purpose of conducting bingo, whether licensed under this article or not.

(2)

Class B license. A Class B license must be obtained by any person acting as a lessor to another person for the purpose of conducting bingo, unless less than ten (10) percent of total rental income collected by lessor in the prior fiscal year is derived from the conduct of bingo. Separate applications for a Class B permit must be made for each premises at which bingo is proposed to be conducted. A Class B license only authorizes the licensed person to lease each licensed premises to an organization or group holding a Class A license. A Class B license does not authorize the licensed person to conduct bingo. An organization or group holding a Class A license may also hold a Class B license.

(Ord. No. 97-60, § 4, 7-22-97; Ord. No. 98-62, § 2, 6-23-98)

Sec. 10-67. - Disqualification.

No license shall be issued to:

(1)

A person if the designated representative or any of the principal officers or directors thereof has within five years of the date of the application, been convicted of any misdemeanor or felony involving a theft, dishonesty, or illegal gambling under the laws of this state, any other state, or under federal law, or equivalent law of any foreign country.

(2)

A person having any officer, director or designated representative under 18 years of age.

(Ord. No. 97-60, § 4, 7-22-97)

Sec. 10-68. - License application; fee.

A person desiring to obtain a license under this article shall file with the department a sworn application on forms supplied by the department. The designated representative or officer of the applying person shall file the application and execute the oath. The application shall contain at least the following information:

(1)

If the applicant is:

a.

An individual, his name, residence street address and date of birth.

b.

An unincorporated organization, its full name and the names, dates of birth, and residence street addresses of its principal officers.

c.

A corporation, the exact corporate name and state of incorporation and the names, dates of birth, residence street addresses of its principal officers and board of directors.

(2)

Whether any of the individuals listed pursuant to subsections (1) and (2) has, within the five-year period immediately preceding, been convicted of any misdemeanor or felony involving a theft, dishonesty, or illegal gambling under the laws of the state, the United States or any other state or nation and, if so, the particular criminal act involved and the place of conviction.

(3)

Whether the applicant has had any license under this article or a bingo license issued by any other jurisdiction revoked, suspended or denied, and, if so, the date of each revocation, suspension, or denial.

(4)

The names of all municipalities or counties where an application has been made for a license to conduct bingo or to lease premises for the conduct of bingo.

(5)

The name and street address of each bank in which the net proceeds from the conduct of bingo or fees from the lease of any premises for the conduct of bingo are to be deposited, and the account number of the account in which funds will be deposited.

(6)

The classification of the licenses for which the application is being filed.

(7)

If the license classification being applied for is a Class A license, the applicant must:

a.

State the street address and ownership of the premises where the bingo games are to be conducted, if known at the time the application is filed.

b.

Provide the applicant's current 501 © of the Internal Revenue Code of 1954 or current exemption certificate issued under Section 528 of the Internal Revenue Code of 1986, as amended.

c.

If the applicant conducts bingo on premises not owned by the applicant, the applicant must provide a copy of

the lease between the applicant and the lessor.

d.

If the applicant is a corporation, provide the applicant's nonprofit charter or if not a corporation such other documentation as will demonstrate the nonprofit charitable purpose of the applicant. If such information is not satisfactory to the department, then it may request the applicant to produce other evidence such as will confirm the nonprofit charitable status of applicant to the department.

e.

State the days of the week and times of the day on which bingo games are to be conducted.

f.

If the applicant is a branch, chapter, lodge, agency or other local unit of a nonprofit charitable or authorized organization, provide the name of the primary organization and the street address of its principal office.

g.

At the time of application, renewal and every renewal thereafter, file a financial statement in the form prescribed by the department, containing the sources and amount of the gross revenue derived by the applicant from the conduct of bingo during the 12-month period immediately prior to the date of the application and stating the names of the distributees of the net revenues and the amounts received by each, together with executed receipts signed by each distributee acknowledging receipt of the funds, which statement must be certified as correct by a principal officer, one of the partners or any similar principal, but need not be audited.

h.

Authorize the department or its designee to inspect all books or other records of applicant during reasonable notice.

i.

Provide a list of volunteers, including residence street address, date of birth, and Florida driver's license number, to be used by the charitable organization and agree to update such list within 15 days of any changes. Such list shall at all times only contain the names of volunteers meeting the membership requirements set forth in this article.

(8)

If the license being applied for is a Class B license, the applicant shall:

a.

State the street address and ownership of the premises for which the license is being sought.

b.

If the applicant is not the owner of the premises, provide evidence of the owner of the premises which may be

a deed to the premises or a title opinion from a Florida attorney.

c.

If the applicant is leasing premises from another nonprofit organization qualified under this article, provide the class and date of issuance of the license held by the other organization.

d.

Attach fully executed copies of any rental agreements, leases or subleases presently existing or proposed involving the premises sought to be used by applicant. The applicant shall submit a copy of any lease, sublease, rental agreement or lease amendment that the applicant enters into during the time the license is in effect.

e.

At the time of application, renewal and every renewal thereafter, file a financial statement, in the form prescribed by the department for the 12-month period ending immediately prior to the date of the application, which statement must be certified as correct by a principal officer, one of the partners or any similar principal, but need not be audited.

(9)

If the applicant is a partnership, corporation or unincorporated organization, the application, in addition to other documentation required herein will be accompanied by the following applicable additional documents:

a.

An executed copy of the partnership instrument.

b.

The bylaws and articles of incorporation with all amendments thereto and the charter issued by the secretary of state.

c.

The charter and bylaws of the organization.

(10)

Such other documentation related to the application as the department may require for the purpose of completing a full disclosure of all ownership, leasing status, membership and other licensing criteria mentioned herein.

(11)

A notarized statement certifying that all information on the application and any submittals or attachments thereto is true and that the applicant understands that any misstatement of material fact in the application will result in the denial of the license or, if it has been issued, in the suspension or revocation of the license, pursuant to section 10-77 of this article.

(12)

A nonrefundable fee as may be adopted by resolution of the county commission to cover costs of review, investigation and administration.

(Ord. No. 97-60, § 4, 7-22-97)

Sec. 10-69. - Investigation.

Upon receipt of an application properly completed and filed and upon payment of the application fee, the department shall investigate the qualifications of the applicant to determine the applicant's eligibility for a license in accordance with the provisions of this article. The department may request the assistance of other county agencies and they shall provide such information and assistance relevant to the investigation as the department deems necessary.

(Ord. No. 97-60, § 4, 7-22-97)

Sec. 10-70. - Issuance denied.

(a)

The department shall, within seven days following the completion of its investigation, or within 60 days of the receipt of the application, either approve or disapprove the application. If approved, the license fee provided in section 10-76 shall be paid to the department, which shall issue a receipt showing payment of the fee.

(b)

If the application is disapproved, the department shall provide the applicant through its designated representative, notice of the disapproval and the reasons therefor. If the results of the investigation indicate that the applicant may be eligible if corrective or remedial action is taken by it, the department shall afford the applicant 15 days to take such remedial action and become eligible. Upon satisfactory completion of the remedial action, the application as amended shall be approved and the license shall be issued upon payment of the license fee. If the applicant fails or refuses to take such remedial action within the time allowed by the department, or if the results of the investigation indicate that no corrective or remedial action by the applicant is possible, the disapproval by the department shall be final.

(Ord. No. 97-60, § 4, 7-22-97)

Sec. 10-71. - Amendment of application.

(a)

An amended application providing updated information shall be filed within 30 days after the occurrence of any of the following changes:

(1)

A change in any of the principal officers.

(2)

A change of designated representative.

(3)

A change in the location, structure or purpose of the organization.

(b)

In each instance of the filing of an amendment under this section, the department shall conduct such investigation of the new or additional matters as it deems necessary to determine the eligibility or continued eligibility of the applicant or licensed organization, as the case may be, to hold a license pursuant to this article. The provisions of section 10-70 shall apply to the amended application. Where the amendment is of an application on which a license has already been issued, disapproval of the amendment shall be grounds for suspension or revocation of the license as provided in section 10-75. No amendment shall be permitted if it would cause an organization not to qualify for the original license.

(Ord. No. 97-60, § 4, 7-22-97)

Sec. 10-72. - License nontransferable.

A license issued under this article shall be nontransferable from one charitable organization, authorized organization, or lessor to another. This prohibition shall not be construed to prevent an organization or lessor from changing the name set forth in the original application; however, an amendment to the original application for the license shall be filed with the department, as provided in section 10-71.

(Ord. No. 97-60, § 4, 7-22-97)

Sec. 10-73. - Display of license; mutilation prohibited.

Each charitable organization, authorized organization, associational group or organization and lessor licensed under this article shall display the license in a transparent cover or frame in a conspicuous place on the premises where bingo games are conducted, or on the premises leased for the conduct of bingo. The license shall be available for inspection at all times by persons using the premises when bingo games are in progress. No person shall mutilate, cover, obstruct or remove a license so displayed.

(Ord. No. 97-60, § 4, 7-22-97)

Sec. 10-74. - Terms of license; renewals.

(a)

All licenses issued under this chapter are valid for one year from the date of issue.

(b)

A charitable organization or authorized organization or lessor shall complete a renewal application on a form prescribed by the department. Renewal of a license shall not be as a matter of course nor of right. The department may conduct such investigation of the charitable organization's, authorized organization's, or lessor's continued eligibility as the department deems necessary. If the department is satisfied as to the charitable organization's, authorized organization's, or lessor's continued eligibility under this article, the department shall issue a new license to the applicant. If the department is not satisfied as to the charitable

organization's, authorized organization's, or lessor's continued eligibility, it shall proceed as provided in subsection 10-70(b) in the case of denial of a license.

(Ord. No. 97-60, § 4, 7-22-97)

Sec. 10-75. - Suspension and revocation of license.

The department is authorized to suspend or revoke a license when it determines, upon sufficient cause that:

(1)

In the case of a charitable organization or authorized organization such charitable organization or group or its representative or its principal officers, servants, employees, members or volunteers:

a.

Permitted its name to be used in connection with a bingo game that is conducted by any other person or acquiesced in such use.

b.

Permitted its representative to conduct a bingo game on its behalf contrary to any of the conditions of play set forth in section 10-80, or acquiesced in such conduct.

c.

Conducted bingo at any leased facility that does not have a current Class B license.

d.

Permitted the consumption of any alcoholic beverage in that part of any premises where a bingo game was being conducted.

e.

Required or permitted any person or volunteer who is not a current bona fide member of the charitable organization or authorized organization to act or serve as its representative or to conduct bingo.

f.

Permitted any volunteer to play bingo during any session in which they conducted and assisted in the play of bingo.

g.

Offered, paid or gave any salary, compensation, or reward in any form whatsoever, directly or, indirectly, to any person or volunteer for conducting or assisting in the conduct of bingo.

h.

Failed or refused to maintain the records or make the reports required by this article or by the department pursuant to this article.

i.

Failed or refused to make records available after request by the department or its authorized representative.

j.

Failed or refused to deposit the proceeds derived from the conduct of bingo into a separate bank account as required by section 10-81(b).

k.

Violated any other provision of this article, or F.S. § 849.0931.

l.

Materially falsified an application for a license.

(2)

In the case of a lessor, its officers, directors, agents, employees or representatives of the lessor:

a.

Conducted, assisted or participated in the conduct of bingo, offered, distributed or gave anything of value to anyone for conducting, assisting or participating in the conduct of bingo or to any member or volunteer of a licensed charitable organization or authorized organization.

b.

Permitted the consumption of any alcoholic beverage in that part of any premises where a bingo game was being conducted, or acquiesced in such consumption.

c.

Permitted any premises owned or controlled by the lessor to be used for the conduct of bingo contrary to any of the restrictions set forth in other provisions of this article, including, but not limited to, the conduct of bingo by any charitable organization or authorized organization which does not possess a current Class A license.

d.

Failed or refused to maintain the reports required by this article.

e.

Failed or refused to make records available after request by the department or its authorized representative.

f.

Materially falsified an application for a license.

g.

Knowingly permitted the name of a charity to be used in connection with a bingo game that is conducted by any other person or acquiesced in such use.

(3)

Before the department suspends or revokes a license, it shall notify the charitable organization, authorized organization, or lessor, in writing, by certified or registered mail or by personal service, of the cause for the suspension or revocation. The charitable organization, authorized organization, or lessor shall have 15 days from the date of the notification in which to request in writing a hearing on the matter. If no request is made within this time, the department shall proceed to suspend or revoke the license without further proceedings. If a hearing is requested, the charitable organization, authorized organization, or lessor shall be entitled to produce witnesses, cross-examine witnesses and be represented by counsel. After the hearing, the department shall make the decision and notify the charitable organization, authorized organization, or lessor hereof by certified or registered mail or by personal delivery.

(Ord. No. 97-60, § 4, 7-22-97)

Sec. 10-76. - Appeals.

(a)

An aggrieved party may appeal any adverse decision of the department official involving the denial, revocation or suspension of a license to the circuit court within 30 days of the date of the decision.

(b)

Any administrative penalty shall be stayed during the pendency of the appeal.

(Ord. No. 97-60, § 4, 7-22-97; Ord. No. 03-88, § 2, 11-4-03)

Sec. 10-77. - Minimum periods of revocation and suspension.

(a)

Whenever the department suspends the license of a charitable organization, authorized organization, or lessor:

(1)

The first suspension shall be effective for a minimum period of 60 days from the date of the suspension.

(2)

The second suspension shall be effective for a minimum period of one year from the date of suspension.

(b)

All revocations shall be permanent. Revocations shall be limited to those licensees whose licenses have been suspended twice under either (a)(1) or (2) above.

(Ord. No. 97-60, § 4, 7-22-97)

Sec. 10-78. - License fee.

(a)

The board of county commissioners shall set by resolution the annual license fee for licenses issued under this chapter.

(b)

The fees collected under this article are for the purpose of examination and inspection of licensed charitable organizations or authorized organizations, lessors and premises under this article and are declared to be regulatory fees.

(Ord. No. 97-60, § 4, 7-22-97)

Sec. 10-79. - Records and reports; consent by licensee.

Each licensed charitable organization, authorized organization, and lessor shall keep such records and make such reports as may be required by the department to implement this article and carry out its purpose. Such records shall be kept at the premises where bingo is conducted. By applying for a license under this article a person shall be deemed to have consented to the provisions of this article and to the exercise by the department of the authority granted by this article.

(Ord. No. 97-60, § 4, 7-22-97)

Sec. 10-80. - Conduct of bingo.

Each bingo game shall be conducted under the following conditions of play:

(1)

Each individual charitable organization or authorized organization may not conduct bingo any more than two sessions during any calendar week.

(2)

Prizes, including jackpots and all other awards, shall not exceed the limits established by F.S. § 849.0931(5) and (7). There shall be no more than two sessions and three jackpots in any 24-hour period at any single premises.

(3)

No person under the age of 18 years shall:

a.

Participate or be permitted to participate in any bingo game.

b.

Be present or permitted to be present in that part of the premises where a bingo game is being conducted.

(4)

No bingo card shall be removed from the premises where the bingo game is being conducted for any reason whatsoever while a bingo game is in progress.

(5)

No alcoholic beverages shall be permitted or consumed in that part of any premises where a bingo game is being conducted, except as permitted by F.S. § 565.02(4).

(6)

Each person conducting or assisting in the conduct of a bingo game shall wear a legible tag bearing his name and the name of the charitable organization or authorized organization.

(7)

During the course of a bingo game, the charitable organization or authorized organization shall post, as directed below, in a conspicuous place in the premises where bingo is conducted in letters and numbers no smaller than one inch in height the following information:

a.

The names of all members or volunteers conducting or assisting in the conduct of the bingo game.

b.

Within 24 hours, the total gross receipts collected at each bingo game or series of bingo games.

c.

The total value of all prizes, whether in money or other thing of value, awarded at each bingo game or series of bingo games.

d.

The net proceeds collected, but not awarded as prizes.

e.

All expenses incurred in conducting the session.

f.

The name of the charity conducting the bingo games.

(8)

Every person directly involved in the conduct of a bingo game must be a bona fide member of the organization conducting the session.

(9)

No salary, compensation, or reward in any form whatsoever (excluding tips by patrons) shall be offered, paid or given, before, during or after, directly or indirectly, to any person for conducting or assisting in the conduct of bingo. No charitable organization or lessor shall add money to the tip pool.

(10)

No person shall conduct or engage in bingo in any manner which violates F.S. § 849.0931.

(11)

No incentives, free drawings, lotteries or raffles shall be conducted on any premises where a bingo game is being conducted.

(12)

No video games, slot machines, or other gambling machines or games shall be allowed on any premises where a bingo game is being conducted.

(13)

The Pinellas County Sheriff shall be responsible for enforcing the provisions of this section.

(Ord. No. 97-60, § 4, 7-22-97; Ord. No. 98-33, § 1, 2-24-98; Ord. No. 03-88, § 3, 11-4-03)

Sec. 10-81. - Charitable organizations; authorized organizations.

(a)

Licensure required. It shall be unlawful for a person to conduct a bingo game, unless the person is a licensed charitable organization or authorized organization holding a current and effective Class A license, which license shall not be under suspension or permanently or conditionally revoked. No licensed charitable organization or authorized organization shall allow the use of its name in any manner or for any reason whatsoever for the conduct of bingo by any other person.

(b)

Separate bank account. The entire proceeds derived from the conduct of bingo by a charitable organization or authorized organization shall be deposited the next business day in a checking account in a bank located within the county which shall be maintained separate and apart from all other accounts of the charitable organization or authorized organization. This separate account shall not be used for the deposit of funds received from any activity other than the conduct of bingo. The provisions of this subsection shall not preclude:

(1)

In the case of a charitable organization, the periodic transfer of the entire net proceeds derived from the conduct of bingo into a savings or other account established for the charitable, religious, educational, fraternal, patriotic, civic, community or benevolent endeavor for which the bingo games were played.

(2)

In the case of an authorized organization, the withdrawal of the entire net proceeds, or the necessary portion thereof, to be used on the next scheduled day of play as prizes.

(c)

Maintenance of records. A charitable organization or authorized organization shall maintain adequate records according to generally accepted accounting practices and in a form prescribed by the department which records shall show:

(1)

Gross proceeds from any source related to the conduct of bingo, including a method of cash control with respect to admissions and other related activities.

(2)

Receipts records as required by section 10-78 of this article.

(3)

Actual expenses.

(4)

Entire or net proceeds.

(5)

The distribution or disposition of the entire or net proceeds. Financial records generated within the last 24-hour period shall be made available upon request for immediate inspection by the department or its authorized representative at reasonable times during normal business hours and whenever a bingo game is in progress, but the department or its authorized representative shall not stop the conduct of an actual bingo game, unless access to the requested records is denied. All other records shall be made available upon request for immediate inspection by the department. All records shall be retained by the charitable organization or authorized organization for a minimum of three years or for such longer period as may be required by the department.

(d)

Financial statement; other reports. Annually, or more frequently if the department requires each charitable organization or authorized organization shall file with the department a financial statement, in the form prescribed by the department, containing the sources and the amount of the gross revenue derived by the charitable organization or authorized organization from the conduct of bingo during the 12-month or other period for which the statement is being filed and stating the names of the distributees of the net revenues and the amounts received by each. This financial statement shall be certified as correct by a principal officer, one of the partners or one who controls the charitable organization or authorized organization, but need not be audited; provided, that the foregoing language shall not prohibit an operation from filing an audited financial statement nor the department from requiring the filing of an audited financial statement whenever the department determines that an audited financial statement is necessary to enable him to ascertain whether the charitable organization or authorized organization is obeying this article and F.S. § 849.0931. The department

may also require a charitable organization or authorized organization to submit other reports, on a periodic basis or upon demand by the department, covering the activities connected with or related to the conduct of bingo, which reports shall be certified as prescribed for financial statements, but need not be audited; however, the department may require audited reports as in the case of financial statements. The department may require this financial statement as part of the renewal application.

(Ord. No. 97-60, § 4, 7-22-97)

Sec. 10-82. - Lessors.

(a)

Licensure required. It shall be unlawful for a person to lease, sublease, assign or rent any premises for the conduct of bingo, or agree to the use of any premises for the conduct of bingo, unless the person shall have a current and valid Class B license issued under this article, which license shall not be under suspension or permanently or conditionally revoked. This requirement for a Class B license shall not apply when a licensed organization holding a Class A license is the owner of the premises upon which it conducts bingo games only and solely for its own benefit or where less than ten (10) percent of total rental income collected by lessor in the prior fiscal year is derived from the conduct of bingo.

(b)

Interest in bingo prohibited. No lessor and no officer, director, stockholder, employee of a partnership, corporation, subchapter S corporation, limited partnership, organization, trust, foundation, group, association, society or any combination of them shall conduct, assist or participate in the conduct of bingo, offer, distribute or give anything of value to anyone for conducting, assisting or participating in the conduct of bingo or to any member of a licensed charitable organization or authorized organization.

(c)

Separate bank account. The entire proceeds derived by a lessor from the leasing of premises upon which bingo is conducted shall be deposited in a checking account in a bank located within the county, which shall be maintained separate and apart from all other amounts of the lessor and shall not be used for the deposit of funds received from any activity other than the leasing of premises for the conduct of bingo. The provisions of this subsection shall not preclude the periodic withdrawal or transfer of the net proceeds, after payment of the actual business expenses related to the premises from which the funds were derived, for the use of the lessor.

(d)

Maintenance of records. A lessor shall maintain adequate records according to generally accepted accounting practices and in a form prescribed by the department, which records shall show all gross proceeds, actual business expenses and the entire or net proceeds from leases or rentals of premises for the conduct of bingo, and which shall also include copies of the executed leases or agreements, if any, for such premises. A lessor shall maintain a list of employees, managers, officers, and directors, including residence street address, date of birth, and Florida driver's license number. All records, except those required by section 10-82(3), shall be made available upon request for immediate inspection by the department or its authorized representative at reasonable times during normal business hours. All records shall be maintained by the lessor for a minimum time of three years or for such longer period as may be required by the department.

(e)

Financial statement; other reports. Annually, or more frequently if the department requires, each lessor shall file with the department a financial statement, in the form prescribed by the department, containing the sources and the amount of the gross revenue derived by the lessor from the leasing of premises for the conduct of bingo during the 12-month or other period for which the statement is being filed and stating the actual business expenses related to the premises. The financial statement shall be certified as correct by a principal officer, one of the partners or one who controls the lessor, but need not be audited, provided that the foregoing language shall not prohibit a lessor from filing an audited financial statement nor the department from requiring the filing of an audited financial statement whenever it determines that an audited financial statement is necessary to enable it to ascertain whether the lessor is obeying F.S. § 849.0931, and this article. The department may also require a lessor to submit other reports, on a periodic basis or upon demand by the department, concerning the activities connected with or related to the leasing of premises for the conduct of bingo, which reports shall be certified as prescribed for financial statements, but need not be audited. However, as in the case of financial statements the department shall have the right to require such reports to be audited. The department may require a financial statement as a part of a renewal application.

(Ord. No. 97-60, § 4, 7-22-97; Ord. No. 98-62, § 3, 6-23-98)

Sec. 10-83. - Use of premises.

A premises may be used to conduct bingo only under the following conditions:

(1)

Bingo shall not be conducted between the hours of 3:00 a.m. and 12:00 noon.

(2)

Not more than two licensed charitable organizations or authorized organizations shall use any premises for the conduct of bingo in any 24-hour period, and no other licensed charitable organizations or authorized organizations shall conduct bingo upon the same premises in that time period. This prohibition shall not extend to or affect the leasing, rental or use of premises for any purpose other than the conduct of bingo.

(3)

A premises shall be leased, rented or used for the conduct of bingo only if the lessor has indicated the premises on the application for the Class B license.

(Ord. No. 97-60, § 4, 7-22-97; Ord. No. 10-43, § 1, 8-24-10)

Sec. 10-84. - Conduct of bingo or lease of premises for bingo without license unlawful.

It shall be unlawful for a person or charitable organization or authorized organization to conduct bingo or to lease or rent premises for the conduct of bingo, unless the person or organization shall have a currently valid license of the proper classification under this article, which license shall not be under suspension or permanently or conditionally revoked.

(Ord. No. 97-60, § 4, 7-22-97)

Sec. 10-85. - Admission of or participation by minors unlawful.

It shall be unlawful for a charitable organization or authorized organization to admit a minor to that part of any premises where a bingo game is being conducted, or to permit a minor to participate in a bingo game.

(Ord. No. 97-60, § 4, 7-22-97)

Sec. 10-86. - Tampering with notices, etc.

No person shall mutilate, destruct, tear down, remove or otherwise tamper with an official notice, placard, poster or other sign required by this article or by the department to be posted, unless authorized to do so by the department or by this article.

(Ord. No. 97-60, § 4, 7-22-97)

Sec. 10-87. - False statements prohibited.

No persons shall knowingly make, or induce or cause to be made by another, a false, untrue or misleading statement on a signature of another on a certificate, application, registration, report or other document required to be prepared pursuant to this article. No person shall knowingly make a false, untrue or misleading statement to the department as to any matter investigated by the department.

(Ord. No. 97-60, § 4, 7-22-97)

Sec. 10-88. - Unlawful reproduction or alteration of documents.

No person shall reproduce or alter, or cause to be reproduced or altered, a license, report, certificate or other document issued by the county if the purpose of the reproduction or alteration is the evasion or violation of a provision of this article or any other law.

(Ord. No. 97-60, § 4, 7-22-97)

Sec. 10-89. - Violations.

(a)

It shall be unlawful for any person to violate any provision of this article.

(b)

A violation of F.S. § 849.0931, shall constitute a violation of this article.

(Ord. No. 97-60, § 4, 7-22-97)

Sec. 10-90. - Penalties.

Any violation of this article shall be punishable as provided in section 1-8 of the Pinellas County Code.

(Ord. No. 97-60, § 4, 7-22-97)

Sec. 10-91. - Injunctive relief.

(a)

It is hereby found and declared that a violation of the provisions of this article constitutes an irreparable injury to the citizens of the county and the county may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with this article, a license, or order; to enjoin any violation of this article, and to seek injunctive relief to prevent injury to the health, safety and general welfare caused or threatened by any violation.

(b)

The remedy provided herein is an alternative and mutually exclusive remedy to those provided in section 10-90 of this article.

(Ord. No. 97-60, § 4, 7-22-97)

Chapter 14 - ANIMALS[1]
Footnotes:
--- (**1**) ---

Charter reference— General powers of county, § 2.01.

Cross reference— Health and sanitation, ch. 66.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g); livestock at large, F.S. ch. 588; cruelty to animals, F.S. ch. 828.

ARTICLE I. - IN GENERAL

Secs. 14-1—14-25. - Reserved.
ARTICLE II. - ANIMAL SERVICES[2]
Footnotes:
--- (**2**) ---

Charter reference— Animal services, § 2.04(j).

State Law reference— Local animal services ordinances, F.S. § 828.27.

DIVISION 1. - GENERALLY

Sec. 14-26. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandon means to forsake entirely or neglect or refuse to provide or perform the legal obligations for care and support of an animal.

Animal means any living dumb creature.

Animal control code enforcement officer means all employees of the county department of animal services.

Animal hoarding means the activity of a person characterized by the following:

(1)

Failure to provide minimal standards of sanitation, space, nutrition and veterinary care for animals; and

(2)

Attempts to accumulate or maintain a collection of animals in the face of progressively deteriorating conditions.

Animal shelter means any facility maintained by the county and any facility maintained by a nonprofit humane organization or municipal agency as approved by the board of county commissioners for the confinement, care, control or disposition of animals that come into its custody.

At large means any dog or cat on the owner's premises which is not within the unobstructed sight and in the control of the owner, or any dog or cat not confined by sufficient means to assure that it is maintained on the property of the owner; or any dog or cat off the owner's premises which is not controlled by an adequate leash or tether, or otherwise under the owner's physical control, as defined in this section.

Attack means the action of an animal, whether or not in response to a command by its owner, to bite, to seize with its teeth or to pursue any human being or domestic animal.

Baiting means to attack with violence, to provoke, or to harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals. In addition, "baiting" means the use of live animals in the training of racing greyhounds.

Cat means the domestic cat, Felis catus.

Cruelty (also torture and torment) shall be held to include every act, omission or neglect whereby unnecessary or unjustifiable pain or suffering is caused, except in the interest of medical science, permitted, or allowed to continue when there is a reasonable remedy or relief.

Dangerous animal means any dog that according to the records of the department:

(1)

Has aggressively bitten, attacked, or endangered or has inflicted severe injury on a human being on public or private property;

(2)

Has more than once severely injured or killed a domestic animal while off the owner's property; or

(3)

Has, when unprovoked, chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the department.

Department of animal services or department means the animal services department of the county.

Director means that person in charge of the administration of the department of animal services or anyone designated by him.

Dog means the domestic dog, Canis familiaris.

Guard dog means any type of dog used primarily for the purpose of defending, patrolling or protecting property or life at any commercial establishment.

Harboring means the act of keeping and caring for an animal, or providing food, shelter, or care for the animal for a period of at least 48 hours, regardless of whether or not the person is acting alone or in concert with others.

Kennel means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire or training for a fee dogs or cats. County-operated or city-operated animal services agencies and registered nonprofit humane organizations shall be exempt from this definition.

Owner means any person possessing, harboring, keeping, or having control or custody of an animal or, if the animal is owned by a person under the age of 18 years, that person's parent or guardian.

Pet dealer means any person who, in the ordinary course of business, engages in the sale of more than two litters or 20 dogs or cats per year, whichever comes first, to the public. Such term includes breeders of animals who sell such animals directly to a consumer. County-operated or city-operated animal services agencies and registered nonprofit humane organizations shall be exempt from this definition.

Physical control means the immediate, continuous physical control of a dog or cat at all times, such as by means of a leash, cord, or chain of such strength to restrain the dog or cat; or in the case of specifically trained dogs, "physical control" shall also include visual signals or oral commands by the owner of a dog which effectively responds to such signals or commands, if such dog is at all times within the unobstructed sight of the dog's owner.

Proper enclosure for a dangerous animal means that while on the owner's property, a dangerous animal is securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of anyone other than the owner or the owner's designee and designed to prevent the animal from escaping, Such pen or structure shall have secure sides and a secure top to prevent the animal from escaping over, under, or through the structure and shall also provide protection from the elements.

Public nuisance animal means any animal or combination of animals that unreasonably annoys humans, endangers the life or health of other animals or persons, or substantially interferes with the rights of citizens, other than their owners, to the enjoyment of life or property. The term "public nuisance animal" shall mean and include, but is not limited to, any animal that:

(1)

Is repeatedly found at large;

(2)

Damages the property of anyone other than its owner;

(3)

Chases vehicles, bicycles, persons, or other animals;

(4)

Makes excessive noises, including, but not limited to, continued or repeated howling, barking, whining, or other utterances;

(5)

Causes fouling of the air by odor;

(6)

Is offensive or dangerous to the public health, safety, or welfare; or

(7)

Repeatedly defecates on the property of another.

Severe injury means any physical injury that results in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery, regardless of the permanency of any disfigurement.

Shelter means provision of and access to a three-dimensional structure having a roof, walls and a floor, which is dry, sanitary, clean, weatherproof and made of durable material. At the minimum, the structure must:

(1)

Be sufficient in size to allow each sheltered animal to stand up, turn around, lie down, and stretch comfortably;

(2)

Be designed to protect the sheltered animal from the adverse effects of the elements and provide access to shade from direct sunlight and regress from exposure to inclement weather conditions;

(3)

Be free of standing water, accumulated waste and debris, protect the sheltered animal from injury, and have adequate ventilation and, for dogs and cats, provide a solid surface, resting platform, pad, floormat or similar device that is large enough for the animal to lie on in a normal manner; and

(4)

Be properly lighted to provide a regular lighting cycle of either natural or artificial light corresponding to the natural period of daylight unless otherwise directed by a veterinarian. Structures with wire, grid or slat floors which permit the animal's feet to pass through the openings, sag under the animal's weight or which otherwise do not protect the animal's feet or toes from injury are prohibited except for birds where perches are provided.

Unprovoked means that the victim who has been conducting himself peacefully and lawfully has been bitten or chased in a menacing fashion or attacked by an animal.

Veterinarian means a person who has graduated from an accredited school of veterinary medicine and licensed by the state board of veterinary medicine. The term "veterinarian" shall not apply to any veterinarian employed full-time by the county, and the county is specifically authorized to hire one or more veterinarians as full-time veterinarians who shall not be required to be licensed by the Florida Board of Veterinary Medicine, but shall be graduates of an accredited school of veterinary medicine.

Water means provision of and access to clean, fresh potable water of a drinkable temperature which is free from contamination and provided in a suitable manner, in sufficient volume, and at suitable intervals to at all times maintain normal hydration for the age, species, condition, size and types of each animal except as otherwise prescribed by a veterinarian or as dictated by naturally occurring states of hibernation. An animal confined outdoors shall have a continuous supply of clean, fresh, and potable water, unless the animal is under the direct supervision of a responsible person at events such as dog or cat shows or field trials. In such cases, the responsible person shall ensure sufficient water is provided to the animal in order to maintain normal hydration for the species of animal.

(Ord. No. 92-15, § 1, 3-10-92; Ord. No. 98-8, § 1, 1-6-98; Ord. No. 98-66, § 1, 7-28-98; Ord. No. 98-100, § 1, 11-24-98; Ord. No. 02-56, § 1, 7-9-02; Ord. No. 08-54, § 1, 10-7-08; Ord. No. 10-25, § 1, 5-4-10; Ord. No. 14-07, § 1, 1-28-14)

Cross reference— Definitions generally, § 1-2.

Sec. 14-27. - Violations of article; civil remedies.

(a)

A violation of this article is a civil infraction.

(b)

Any person convicted of violating any of the provisions of this article may be fined in a sum not to exceed $500.00. If a violation is continued, each day of such violation shall constitute a separate offense.

(c)

Any person who has committed a civil infraction under this article but does not contest the citation shall be fined in an amount not to exceed $300.00.

(d)

In addition to the penalties provided in this section, the board of county commissioners is hereby authorized to institute any appropriate action or proceeding, including suit for injunctive relief, in order to prevent or abate violations of this article.

(Ord. No. 92-15, § 16, 3-10-92; Ord. No. 14-07, § 1, 1-28-14)

State Law reference— Mandatory provisions, F.S. § 828.27(2), (4).

Sec. 14-28. - Areas embraced.

All territory within the legal boundaries of Pinellas County, Florida, including all incorporated and unincorporated areas, shall be embraced by the provisions of this article.

(Ord. No. 92-15, § 17, 3-10-92; Ord. No. 14-07, § 1, 1-28-14)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 14-29. - Pet dealerships and kennels.

(a)

No pet dealership or kennel shall operate without having a valid pet dealer and kennel permit issued by the department.

(b)

Any person or entity desiring to operate a pet dealership or kennel shall file with the department a permit application on such form as provided by the department.

(c)

All permits issued under this section shall be annual permits, which shall remain in effect from the date the permit is issued until the same month and day of the following year.

(d)

In order to cover administrative and enforcement costs associated with this section, there are hereby levied annual permitting fees for pet dealers and kennels in amounts set by resolution of the board of county commissioners.

(e)

A permit issued under this section is nontransferable from one entity or person to another or from one location to another.

(f)

Any animal control code enforcement officer shall, at any reasonable hour, have access to and shall have the right to inspect the premises and records of a pet dealer or kennel to determine compliance with F.S. chs. 585, 767 and 828 and this article.

(g)

It shall be a violation of this article if the dealership or kennel fails to meet the standards set forth for basic animal care and facility sanitation as established by the department.

(Ord. No. 92-15, § 3, 3-10-92; Ord. No. 08-54, § 2, 10-7-08; Ord. No. 14-07, § 1, 1-28-14)

Sec. 14-30. - Public nuisance animals.

(a)

The owner of any public nuisance animal, as defined under this article, shall be deemed to be in violation of this article, regardless of the knowledge, intent or culpability of the owner.

(b)

A citation for a violation of this section may be issued based upon:

(1)

Receipt of affidavit(s) of complaint signed by two or more residents of the county, each residing in separate dwellings in the vicinity of the animal(s) or incident(s), setting forth the nature and the time(s) and date(s) of the act(s), the owner of the animal(s), the address of the owner and a description of the animal(s) doing such act(s), the accuracy and veracity of which, shall be confirmed through an animal services investigation; or

(2)

The observance of noncompliance made by an animal control code enforcement officer, or any other such law enforcement officer authorized to enforce the provisions of this article, during the investigation of a complaint(s) from a resident(s) of the county residing in the vicinity of the animal(s), setting forth the address, the nature and time(s) and date(s) of the act(s), the owner of the animal(s) and/or the address of the owner, and a description of the animal(s) doing such act(s) and observance of such act(s) by an animal control code enforcement officer or any other such law enforcement officer; or

(3)

The personal observance of noncompliance made by an animal control code enforcement officer, or any other such law enforcement officer authorized to enforce the provisions of this article made during the course of the lawful performance of his/her duties in the vicinity of the place of the offense; or

(4)

Placing food or garbage, allowing the placement of food or garbage, or offering food or garbage in such a manner that it attracts cats, dogs, raccoons, coyotes or other wildlife, thereby creating a public nuisance animal.

(c)

The department is also authorized to investigate for violations under this section arising under other circumstances and may issue citations for noncompliance based upon that investigation.

(Ord. No. 92-15, § 6, 3-10-92; Ord. No. 98-66, § 2, 7-28-98; Ord. No. 02-56, § 2, 7-9-02; Ord. No. 08-54, § 3, 10-7-08; Ord. No. 14-07, § 1, 1-28-14)

Sec. 14-31. - Unlawful restraint of dogs and cats.

(a)

No person shall tether, fasten, chain, tie, or restrain a dog or cat, or cause a dog or cat to be tethered, fastened, chained, tied, or restrained, to a dog house, tree, fence, or any other stationary object.

(b)

Notwithstanding subsection (a), a person may do the following:

(1)

A dog or cat may be tethered when it is in visual range of the owner, and the owner is located outside with the tethered animal.

(2)

Tether, fasten, chain, tie, or otherwise restrain a dog or cat pursuant to the requirements of a camping or recreational area.

(c)

In all cases where tethering is permissible, the following conditions must be met:

(1)

The dog or cat must be attached to the tether by a buckle-type collar or a body harness. A dog or cat shall not be tethered by means of a choke-type, pinch-type, prong-type, or improperly fitting collar;

(2)

The tether has the following properties: it is at least five times the length of the tethered animal's body, as measured from the tip of the nose to the base of the tail; it terminates at both ends with a swivel; it does not weigh more than one-eighth of the tethered animal's weight; and it is free of tangles;

(3)

The dog or cat is tethered in such a manner as to prevent injury, strangulation, or entanglement;

(4)

If there are multiple dogs or cats, each dog or cat must be tethered separately. The tethering of each dog or cat must be in accordance with the requirements of this Code;

(5)

The dog or cat is not outside during a period of extreme weather, including without limitation extreme heat or near-freezing temperatures, thunderstorms, tornadoes, tropical storms, or hurricanes;

(6)

The dog or cat has access to water, adequate shelter, and dry ground;

(7)

The dog or cat is at least six months of age. Puppies or kittens shall not be tethered; and

(8)

The dog or cat is not sick or injured.

(Ord. No. 10-25, § 2, 5-4-10; Ord. No. 14-07, § 1, 1-28-14; Ord. No. 14-40, § 1, 10-21-14)

Editor's note— Ord. No. 14-40, § 1, adopted Oct. 21, 2014, effective May 1, 2015, retitled § 14-31 to read as herein set out. Section 14-31 was formerly titled "Unlawful restraint of dogs."

Sec. 14-32. - Cruelty to animals.

(a)

Whoever tortures, torments or cruelly treats an animal shall be in violation of this article.

(b)

Whoever impounds or confines any animal in any place and fails to supply the animal during such confinement with a sufficient quantity of good and wholesome food and water shall be in violation of this article.

(c)

Whoever keeps any animal in any enclosure without wholesome exercise and change of air shall be in violation of this article.

(d)

Whoever abandons to die any animal that is maimed, sick, infirm, or diseased shall be in violation of this article.

(e)

A person who unnecessarily overloads, overdrives, tortures, torments, deprives of necessary sustenance or shelter, or unnecessarily or cruelly beats, mutilates, or kills any animal, or causes the same to be done, or carries in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner, shall be in violation of this article.

(f)

Whoever leaves or deposits any poison or any substance containing poison, in any common street, alley, lane, or thoroughfare of any kind, or in any yard or enclosure other than the yard or enclosure occupied or owned by such person, shall be in violation of this article.

(g)

Any person who commits any of the following acts shall be in violation of this article:

(1)

Betting or wagering any money or other valuable consideration on the fighting or baiting of animals.

(2)

Attending the fighting or baiting of animals.

(Ord. No. 92-15, § 9, 3-10-92; Ord. No. 08-54, § 4, 10-7-08; Ord. No. 14-07, § 1, 1-28-14)

Cross reference— Offenses involving public morals, § 86-101 et seq.

State Law reference— Cruelty to animals, F.S. § 828.12 et seq.

Sec. 14-33. - Abandonment of animals.

(a)

Any person who is the owner or possessor, or has charge or custody, of any animal and who abandons such animal to suffer injury or malnutrition or who abandons any animal in a street, road, private property or public place without providing for the care, sustenance, protection, and shelter of such animal shall be in violation of this article.

(b)

Any person who releases within the county any species of the animal kingdom not indigenous to Florida without having obtained a permit to do so from the Florida Fish and Wildlife Conservation Commission shall be in violation of this article.

(c)

Upon receipt of affidavits from two citizens who are not residents of the same household, or upon the report of a law enforcement officer, stating that an animal appears to have been abandoned, or upon receipt of a report that a nonindigenous animal has been released, the department may investigate the matter and thereupon is authorized to impound and dispose of the animal in the manner provided by this article, with the assistance of a law enforcement officer if necessary. The department shall cause written notice, bearing the address where the animal may be claimed by the owner thereof and the time by which the animal must be claimed, to be sent to the owner, if known, at the owner's last known address.

(Ord. No. 92-15, § 10, 3-10-92; Ord. No. 98-66, § 4, 7-28-98; Ord. No. 02-56, § 3, 7-9-02; Ord. No. 08-54, § 5, 10-7-08; Ord. No. 14-07, § 1, 1-28-14)

State Law reference— Abandonment of animals, F.S. § 828.13.

Sec. 14-34. - Animals in vehicles.

(a)

No vehicle owner, passenger, or operator shall place or confine an animal or allow it to be placed or confined or to remain in an unattended vehicle without sufficient ventilation or under conditions or for such a period of time as may reasonably be expected to endanger the health or well-being of such animal due to heat, lack of water or such other circumstances as may be expected to cause suffering, disability or death.

(b)

No operator of a motor vehicle shall transport or keep an animal in or on any motor vehicle unless the animal is safely enclosed within the vehicle or protected by a container, cage, cross tethering or other device that will prevent the animal from falling, being thrown or jumping from the motor vehicle.

(c)

Nothing in this section shall be deemed to prohibit the transportation of horses, cattle, sheep, poultry or other agricultural livestock in trailers or other vehicles designed and constructed for such purposes.

(Ord. No. 92-15, § 11, 3-10-92; Ord. No. 08-54, § 6, 10-7-08; Ord. No. 14-07, § 1, 1-28-14)

Sec. 14-35. - Neglect.

(a)

No person who is the owner or possessor or who has charge or custody of any animal shall fail to provide shelter for the animal.

(b)

No person who is the owner or possessor or who has charge or custody of any animal shall fail to provide water for the animal.

(c)

No person shall engage in animal hoarding.

(d)

No person who is the owner or possessor or has charge or custody of any animal shall fail to provide adequate veterinary care to a suffering animal.

(e)

No person who is the owner or possessor or has charge or custody of any animal shall fail to provide proper or adequate food to any animal.

(f)

No person who is the owner or possessor or has charge or custody of an animal shall fail to provide humane care and treatment.

(Ord. No. 14-07, § 1, 1-28-14)

Sec. 14-36. - Animal control or cruelty surcharge.

(a)

The clerk of the court is hereby authorized to collect the maximum surcharge provided for by F.S. § 828.27(4)(b), as may be subsequently amended, upon each civil penalty imposed for violation of this article.

(b)

The surcharge provided for herein shall be used by the county to pay the cost of a 40-hour minimum standards training course for animal control code enforcement officers, approved by the Florida Animal Control Association.

(Ord. No. 99-45, § 1, 5-11-99; Ord. No. 14-07, § 1, 1-28-14)

Sec. 14-37. - Trap-neuter-vaccinate-return.

(a)

Trap-neuter-vaccinate-return (TNVR) activities and programs shall be authorized in Pinellas County in accordance with the provisions of this section. For the purposes of applying this section, the term "community cat" shall mean any feral or free-roaming cat that is cared for by one or more individual caregivers, provided that such cat shall be sterilized, vaccinated for rabies, and distinguished from other cats by being ear-tipped and tattooed.

(b)

A community cat cared for in accordance with this section shall not be subject to the license requirements of this Code, and shall not be considered in violation of section 14-33(b) or section 14-63, regarding abandonment or cats at large.

(c)

If a community cat is impounded, it shall be held for at least seven days including the day of impoundment. A caregiver may redeem a community cat within the holding period upon paying the fees and costs as established by the department in accordance with the requirements of this Code. The first time a community cat is impounded, the community cat shall be microchipped and vaccinated for rabies in accordance with applicable law.

(d)

The following minimum standards and requirements shall apply to anyone providing care to a community cat:

(1)

All community cat locations must be maintained on the private property of the caregiver or on property belonging to another landowner with the landowner's permission. A community cat must not be released within 150 yards of any park, conservation land, beach, wildlife area, day care center, or elementary school.

(2)

A person providing care to a community cat must provide the community cat with necessities on a regular and ongoing basis, including, but not limited to, proper nutrition and medical care. Food must be provided in a quantity adequate for the number of community cats being managed and is to be supplied no less than once per day. Food must be maintained in proper feeding containers and placed in a manner and for a duration that will not attract wildlife or other animals. Water must be provided and must be clean, potable, and free from debris and algae. Any person caring for a community cat must comply with applicable law, including laws governing animal neglect and cruelty, and the caregiver must not allow a community cat to suffer.

(e)

Any organization desiring to conduct a county-wide or targeted TNVR program ("TNVR Program") shall submit a proposal for the review of the director, who shall have the authority to approve or deny such proposal. Any TNVR program shall consist of an effort to control and reduce feral and free-roaming cat

populations in Pinellas County by establishing and responsibly managing community cat populations in accordance with the requirements of this Code and applicable law. If approved, the organization may conduct a TNVR program in accordance with the requirements of this Code, other applicable law, and the terms of their proposal. Any training provided as part of an approved TNVR program should include training on:

(1)

Educating other citizens about community cats;

(2)

Maintaining a relationship with a veterinary provider to best address community cat needs;

(3)

Proper care and common diseases, including procedures for monitoring and managing zoonotic diseases and other infections in community cats; and

(4)

Best practices for management of individual community cats or colonies.

(f)

Ordinance No. 14-41, creating section 14-37, shall stand repealed and shall be of no further force or effect on January l, 2018, unless reviewed and saved from repeal by ordinance of the board of county commissioners.

(Ord. No. 14-41, § 1, 10-21-14)

Sec. 14-38. - Irresponsible pet owner.

The purpose of this section is to protect the citizens and animals of Pinellas County from the risks and expenses resulting from individuals who repeatedly fail to care responsibly for their domestic animals.

(1)

For the purposes of this section, the following terms shall be defined as follows:

Animal safety and welfare violation means a violation of any of the following provisions of this Code: section 14-30 (except for violations based on excessive noise), 14-31, 14-32, 14-33, 14-34, 14-35, 14-61, 14-63, 14-64.

Conviction includes a finding of guilt in an adversarial proceeding or a plea of "guilty" or "no contest."

(2)

Irresponsible pet owner class I. A person with two previous convictions for animal safety and welfare violations occurring on separate dates, who commits a third animal safety and welfare violation within 24 months of the date of offense of the earliest of the three violations, may be charged with a violation of this section, punishable by a minimum fine of $300.00.

(3)

Irresponsible pet owner class II. When a person meets the conditions for an irresponsible pet owner class I violation, and the circumstances of the most recent violation evidence a knowing refusal to comply with this Code or to take corrective actions, he or she may be charged as an irresponsible pet owner class II under this paragraph, punishable by a minimum fine of $400.00.

(4)

Upon conclusion of any appeal, or the expiration of any right to an appeal, a person who has a conviction for an irresponsible pet owner class II violation shall, for a period of three years after the date of the most recent conviction, be subject to the following regulations:

a.

Any owned dogs or cats shall be spayed/neutered and microchipped within 30 days.

b.

Any owned dogs or cats shall be subject to an irresponsible pet owner license fee established in accordance with this Code and applicable law.

c.

The owner shall not become the owner of any new dogs or cats, and no licenses will be issued for newly acquired dogs or cats.

(Ord. No. 15-42, § 1, 11-10-15)

Sec. 14-39. - Bite incidents.

It shall be a violation of this Code, punishable by a minimum fine of $300.00, for an owner to fail to prevent their domestic animal ("owner's animal") from severely injuring or killing another domestic animal ("victim animal") while the owner's animal is at large, provided that the victim animal did not instigate the incident and was not in violation of any provision of this Code at the time of the incident.

(Ord. No. 15-43, § 1, 11-10-15)

Secs. 14-40—14-45. - Reserved.

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

Sec. 14-46. - Enforcement of article.

(a)

The department of animal services is designated as the agency of the board of county commissioners to implement and administer the provisions of this article, except as otherwise provided by this article. Animal control code enforcement officers are authorized by the board of county commissioners to conduct investigations pursuant to F.S. ch. 828. Animal control code enforcement officers are also authorized to conduct investigations and issue citations for violations of this article upon probable cause to believe that a person has committed an act in violation of this article.

(b)

It shall be a violation of this article to resist, obstruct, or oppose an animal control code enforcement officer while in the lawful performance of his duties, or with anyone who may be assisting in the performance of such duties.

(c)

Any person who willfully refuses to sign and accept a citation issued by a law enforcement officer or animal control code enforcement officer shall be in violation of this article.

(d)

The board of county commissioners may contract with any state chartered nonprofit humane organization to carry out the duties in this article or any part thereof. Such organizations shall carry out the duties pursuant to the provisions prescribed in this article; failure to do so shall result in the board of county commissioners assuming such duties or contracting with another organization to assume such duties. Compensation may be provided in an amount adequate to fulfill the prescribed duties.

(Ord. No. 92-15, § 15, 3-10-92; Ord. No. 98-8, § 1, 1-6-98; Ord. No. 14-07, § 1, 1-28-14)

Sec. 14-47. - Fees and charges; administration of article.

(a)

The board of county commissioners is authorized, by resolution, to establish reasonable fees and charges relating to licensing, adoption, impoundment, service fees and such other fees deemed necessary to accomplish the purposes of this article. The director is authorized to waive or modify fees in extreme hardship cases, as set forth by procedures implemented by the director pursuant to this section.

(b)

Dependent upon the availability of funds, the board of county commissioners may appropriate funds, in such amounts and under such conditions as deemed by resolution of the board, for rebates to be provided to residents of the county who are owners of dogs or cats which are sterilized within the county by licensed veterinarians.

(c)

In the administration and enforcement of this article, the board of county commissioners is authorized to appropriate such sums of money, and the use of such county property, as in the judgment of the board shall be necessary and proper.

(d)

The director is authorized to establish programs and procedures as are deemed necessary to accomplish the purposes of this article. These include, but are not limited to, enforcement actions, vaccination programs, measures to deal with kennel hazards, education programs, population control programs, licensing procedures, and the implementation of emergency procedures in the event of a disease outbreak or a state of emergency as defined by section 34-36 of this Code.

(Ord. No. 92-15, § 14, 3-10-92; Ord. No. 06-54, § 1, 6-20-06; Ord. No. 08-54, § 7, 10-7-08; Ord. No. 14-07, § 1, 1-28-14)

Sec. 14-48. - Impoundment.

(a)

The department of animal services and its animal control code enforcement officers, law enforcement officers and humane officers of state chartered nonprofit humane organizations shall have authority to pick up, catch or procure and impound any animal found to be in violation of this article, any animal infected or believed to be infected with rabies or other contagious or infectious disease to humans or animals, or any animal suspected of biting a human, in such manner as is reasonably necessary to effectuate its capture. Impounded animals shall be confined in a humane manner at an animal shelter. Animals impounded at an animal shelter shall be made available for public inspection in order to allow the owner to reclaim their animal. An animal impounded for the purpose of rabies observation shall not be moved or released from the place of quarantine unless permission is first obtained from the director of animal services. The director may approve an exception as to the above-required place of confinement for dogs, ferrets, or cats having a current rabies vaccination administered by a licensed veterinarian.

(b)

Unless otherwise provided by this article:

(1)

An impounded animal with a license or other owner identification shall be held for at least seven days, including the day of impoundment;

(2)

Impounded dogs of 16 weeks in age without such identification shall be held for four days, including the day of impoundment.

(3)

Impounded individual puppies under 16 weeks in age without such identification shall be held for two days, including the day of impoundment;

(4)

Impounded litters of puppies under 16 weeks in age shall be held for one day, including the day of impoundment.

(5)

Impounded cats over 16 weeks of age without such identification shall be held for three days, including the day of impoundment.

(6)

Impounded kittens under 16 weeks of age without such identification shall be held for one day, including the day of impoundment.

Dogs, ferrets or cats impounded for the observation of rabies shall be held at least ten days. The depositing of

a letter of notification by first class U.S. mail shall constitute adequate notification of impoundment. The owner shall also be notified by telephone, if possible. This section shall not apply to animals surrendered by the owner or an agent of the owner, in which case disposition may be made as provided in this article without notification or a holding period. At the expiration of the holding period, during which time a diligent attempt has been made to locate and contact the owner, the animal may be disposed of in the manner provided in this article.

(c)

A 30-day holding period may be imposed upon all animal shelters, humane organizations, rescue groups or foster homes for domestic animals with owner information or that bear positive owner identification in the form of an identification tag, license tag, microchip, rabies tag, or tattoo, which are impounded during a state of emergency within the county or those animals which are transferred to the county from any area where a state of emergency has been declared by competent authority. The holding period will be ten days for domestic animals that do not bear any of the aforementioned forms of positive owner identification which are impounded during a state of emergency within the county, or those animals which are transferred to the county from any area where a state of emergency has been declared by competent authority. Adoption or transfer of animals impounded during a state of emergency in the county, or of those animals which are transferred to the county from any area where a state of emergency has been declared by competent authority that are not redeemed within the holding period will be conditional and the animals will be subject to reclaim by the owner for 120 days from the date of the state of emergency declaration in the area of origin, except where the owner has relinquished all rights to the animal. These requirements may be invoked by the director based on the nature of the state of emergency and its aftermath.

(d)

A registry shall be maintained by the impounding agency or rescue group. The registry shall contain any identification and identifying characteristics of each animal impounded along with the location, date, reason for each pickup, any owner information, name of person surrendering the animal, if applicable, and final disposition, to include name and address of the reclaimant or adopter. A copy of the registry shall be provided to department of animal services monthly, and be made available for inspection by the department at the impounding agency, at any time, upon the department's request. The records shall be maintained by the impounding agency for two years.

(e)

If an animal bites and causes injury to any human, the animal shall be immediately impounded for rabies observation and quarantine[d], if necessary, for the proper length of time or held for ten days. Thereafter the animal shall either be returned to the owner or destroyed in an expeditious and humane manner in accordance with the provisions of this article and F.S. ch. 767, when applicable.

(f)

Any owner or person having custody of an animal suspected of biting a human who fails to surrender the animal to the department of animal services for impoundment or inspection when requested by an animal control code enforcement office shall be in violation of this article.

(g)

For violations of this article, an owner may be subject to a written warning or such penalties as prescribed in

this article, in addition to or in lieu of impoundment of the animal.

(h)

Every owner who voluntarily surrenders an animal must provide photo identification and sign a form acknowledging that the surrender is voluntary and acknowledging the discretion of the department to dispose of the animal. The department shall not be liable for the disposition of any voluntarily surrendered animal after receipt of the animal from its owner. The animal shall be immediately available for adoption, placement or other appropriate disposition once surrendered. Owners surrendering animals shall be responsible for paying an intake fee, and should the animal(s) not be current on vaccination required by the county, rabies vaccination fees shall also be paid by the owner wishing to surrender his/her animal(s). Owners wishing to surrender an animal with the request for euthanasia shall be allowed to do so at the discretion of the department. It is not the policy or practice of the department to supply "on-demand" euthanasia procedures, but in the interest of relieving a suffering animal, the department may provide the service for a fee or at no charge, at its sole discretion. Notwithstanding the foregoing, such fees shall not apply to any animal surrendered to the department by a licensed veterinarian or boarding kennel pursuant to F.S. § 705.19. No owner-surrendered or stray animals from outside the department jurisdiction shall be accepted except for humane reasons; such animals shall be referred to another agency. The photo identification of the owner/person wishing to surrender an animal that shows an address outside of the department jurisdiction shall be used as the origin of the animal. If an animal is accepted for humane reasons from an owner or person living outside of the department's jurisdiction, a fee equal to the average cost(s) of all services provided shall be charged.

(Ord. No. 92-15, § 12, 3-10-92; Ord. No. 98-8, § 1, 1-6-98; Ord. No. 02-56, § 4, 7-9-02; Ord. No. 06-54, § 2, 6-20-06; Ord. No. 08-54, § 8, 10-7-08; Ord. No. 10-25, § 3, 5-4-10; Ord. No. 14-07, § 1, 1-28-14)

Sec. 14-49. - Adoption, redemption and disposition of animals.

(a)

All animals, which have been impounded or rescued in accordance with the provisions of this article, may be disposed of as provided below:

(1)

Within the holding period, animals may be redeemed by the owner or his/her agent upon the payment of any fees or costs associated with the impoundment. If the animal is a dog or cat which is unlicensed, it is necessary for the owner to obtain a license before redeeming the animal. Owners or agents of dogs or cats which have no positive identification shall be required to submit a statement of ownership in addition to obtaining a license and paying all associated fees and costs prior to the animal being redeemed.

(2)

If not redeemed within the holding period, animals may be disposed of by humane euthanasia or offered for adoption to any qualified person, upon payment of the adoption fee and, if applicable, such other costs associated with the impoundment. Animals that appear to be severely diseased or injured and suffering, and those animals medically determined to be suffering from a contagious or infectious disease that could constitute a hazard to other animals or humans may be euthanized at the discretion of the director, or his or her designee, at any time.

(3)

All dogs and cats placed for adoption shall be vaccinated, licensed, and sterilized before custody is relinquished to the new owner.

(4)

Those animals which have passed medical and behavior screening, but have not been adopted, may be offered to state chartered nonprofit humane organizations for the purpose of providing adoptions of such animals. Fees and costs may be waived for the disposition of animals in this manner.

(b)

No animal may be disposed of to any medical school, college, university or person for experimentation or vivisection purposes, or to any person providing, selling, or supplying animals to any medical school, college, university or person for experimentation or vivisection purposes.

(Ord. No. 92-15, § 13, 3-10-92; Ord. No. 98-66, § 5, 7-28-98; Ord. No. 02-56, § 5, 7-9-02; Ord. No. 08-54, § 9, 10-7-08; Ord. No. 14-07, § 1, 1-28-14)

State Law reference— Animal euthanasia, F.S. § 828.05 et seq.

Sec. 14-50. - Sterilization.

(a)

All dogs and cats adopted from the county shall be sterilized by a veterinarian before adoption, except when a veterinarian determines that sterilization would endanger the animal's health due to its age, infirmity or illness.

(b)

A dog which is impounded two times within a 24-month period shall be sterilized before it may be redeemed for the second time, except when a veterinarian determines that the sterilization would endanger the animal's health due to its age, infirmity or illness.

(c)

For the purposes of controlling pet overpopulation and ensuring all animals adopted from the county are sterilized in an expeditious manner, the county shall be considered the legal owner of: all stray dogs that remain in the shelter three days after intake/impound (i.e., on the third day sterilization may take place) unless positive, traceable ownership may be indicated by a registered microchip, city tag or private id tag; and all stray cats upon intake/impound unless positive, traceable ownership may be indicated by a registered microchip, city tag, other form of traceable permanent identification, or private identification tag. The county is hereby authorized to perform sterilization procedures on any animal any time after it becomes county property. Such ownership provisions shall not affect the holding periods established in section 14-48.

(Ord. No. 14-07, § 1, 1-28-14)

Secs. 14-51—14-60. - Reserved.
DIVISION 3. - DOGS AND CATS

Sec. 14-61. - Rabies vaccinations and licensing.

(a)

Every person possessing, harboring, keeping, or having control or custody of a dog or cat over the age of four months within the county shall secure a county license from a veterinarian or from the department of animal services and, as a part of such license, shall show proof of a current rabies vaccination which shall have been administered by, or under the supervision of, a veterinarian. Evidence of circulating rabies virus antibodies shall not be used as a substitute for obtaining a license, current vaccination in managing rabies exposure or the need for a booster vaccination.

(1)

The duration of immunity of the vaccine shall be recognized in accordance with the current Compendium of Animal Rabies Prevention and Control developed by the National Association of State Public Health Veterinarians.

(2)

Animals not meeting the definition of "currently vaccinated" include:

a.

Dog, cat, ferret, horse, cattle or sheep whose first vaccination was given less than 28 days before exposure to a known or suspected rabid animal;

b.

Dog, cat, ferret, horse, cattle or sheep whose previous vaccination expired;

c.

Dog, cat, ferret, horse, cattle or sheep not vaccinated by, or under the supervision of, a veterinarian;

d.

Any wild animal, or wild and domestic animal hybrids.

(3)

Veterinarians or authorized entities shall distribute the county license tags and rabies vaccination certificates to dog or cat owners according to the most recent procedure promulgated by the department.

(4)

Licenses may be issued without the administration of a rabies vaccination provided a veterinarian has examined the dog or cat and has certified in writing that a rabies vaccination could endanger its health because of infirmity, debility, illness, or other medical consideration. The dog or cat must be vaccinated as soon as its health improves sufficiently to tolerate the vaccine. An exemption that extends beyond 12 months must be renewed annually through submission of a new exemption letter. No exemption letter shall be

deemed valid after one year from the date it was written.

(5)

The certificate and tag shall be approved and supplied by the board of county commissioners. No other license and rabies certificate or tag shall be valid in the county, except as otherwise provided under this article. The certificate shall provide space for pertinent data for identification of the animal. The license tag shall consist of a serially numbered piece of metal or other material bearing the same number as the certificate. All dogs and cats shall be required to wear a tag, except as otherwise provided under this section. The person to whom a dog or cat license has been issued shall cause the tag to be securely fastened by a substantial device about the animal's neck so as to be clearly visible at all times. If a license tag is lost or destroyed, a duplicate shall be issued by the department upon presentation of the certificate and upon payment of a fee as established by the board of county commissioners. In lieu of the tag, owners of cats may choose a breakaway collar or an alternate form of identification, as approved by the department.

(6)

Failure to comply with the provisions of subsections (a)(1) through (5) above or the current procedures promulgated by the department may result in loss of licensing and tag issuing authority.

(b)

Licenses, either certificate or tag, shall not be transferable from one dog or cat to another.

(c)

Licenses under this article expire when the rabies vaccination expires. A license shall be renewed on or before the date of expiration.

(d)

Those persons who relocate their dogs or cats, which are over the age of four months, to the county shall secure a license within 30 days of relocation.

(e)

When ownership of a dog or cat is transferred from one party to another, the transferor shall report the change of ownership to the department on such form as provided by the department, whether such change is effectuated by sale, barter, gift, or otherwise, within 30 days of such transfer. The new owner shall maintain a record of the date of transfer, the name and address of the transferor, and proof of previous vaccination and license. Such records shall be maintained by the new owner for a minimum period of one year from the date of transfer and shall be subject to inspection upon demand by any animal control code enforcement officer. All owners of dogs or cats over four months shall obtain a county license within 30 days of the date that they became the owner as defined in this article.

(f)

Every person selling or transferring ownership of a dog or cat shall keep records of the most recent proof of vaccination, license, and, when applicable pursuant to F.S. ch. 828, certificate of veterinary inspection. The previous owner shall maintain such records for a minimum period of one year from the date of transfer. All

dogs and cats offered for sale, and copies of vaccination or license records, or certificates of veterinary inspection, held by the seller and veterinarian shall be subject to inspection by any animal control officer.

(g)

Every person owning, possessing, harboring, keeping or having control or custody of a dog or a cat shall keep records of proof of vaccination, license, and when applicable pursuant to F.S. ch. 828, certificates of veterinary inspection. Every person owning, possess[ing], harboring, keeping or having control or custody of a ferret shall keep records of proof of vaccination. Such records shall be subject to inspection upon demand by any animal control code enforcement officer.

(h)

The board of county commissioners is authorized to establish reasonable fees for the issuance and renewal of dog or cat licenses. License fees shall be waived for the following:

(1)

Those persons who are legally blind and whose dogs are registered seeing eye dogs; or those persons who are legally deaf and whose dogs are certified "hearing" dogs; or such other physically handicapped persons whose dogs are certified and trained to assist the physically handicapped.

(2)

Dogs owned by a law enforcement agency and used for law enforcement purposes.

(3)

The initial license issued to dogs or cats adopted from state chartered nonprofit humane organizations based upon registry data provided in accordance with subsection 14-48(c).

(i)

The provisions of this section shall not apply to racing greyhounds.

(Ord. No. 92-15, § 2, 3-10-92; Ord. No. 98-8, § 1, 1-6-98; Ord. No. 98-66, § 6, 7-28-98; Ord. No. 98-100, § 2, 11-24-98; Ord. No. 02-56, § 6, 7-9-02; Ord. No. 06-54, § 3, 6-20-06; Ord. No. 08-54, § 10, 10-7-08; Ord. No. 14-07, § 1, 1-28-14)

Sec. 14-62. - Guard dogs.

(a)

Registration.

(1)

Guard dog owners or services shall register all dogs used in their business, whether housed or used in the county, with the department. The registration shall include: Name, address and telephone number of the service's manager; the breed, sex, weight, age, color, registration number of the guard dog, and other distinguishing physical features of the dog; a county rabies vaccination and license certificate; and a tag that

is highly visible and conspicuously different from ordinary dog tags, as approved and supplied by the board of county commissioners. As a condition to registration, proof of ownership must be presented by either a notarized bill of sale or a notarized affidavit.

(2)

Guard dogs which are newly acquired by guard dog services shall be vaccinated against rabies and registered with the department within 72 hours of acquisition.

(3)

The fee for registration of a guard dog with the department shall be established by the board of county commissioners and shall be a one-time charge for each individual dog.

(4)

Such registration shall not constitute a waiver of the annual license or other requirements of this article.

(b)

[Identification.] Each guard dog shall be permanently identified by microchip implantation.

(c)

Reporting requirements. Any person possessing, harboring, keeping or having control or custody of a guard dog shall immediately notify the department when such guard dog:

(1)

Is loose or unconfined;

(2)

Has bitten a human being or attacked another animal; or

(3)

Is sold or given away, or dies. Prior to a guard dog being sold or given away, the owner shall provide the name, address and telephone number of the new owner to the department.

(d)

Inspection. As a condition to possessing, harboring, keeping, or having control or custody of a guard dog, any animal control code enforcement officer shall, at any reasonable hour, have access to and shall have the right to inspect any premises housing the guard dog to determine compliance with F.S. chs. 828 and 767 and this article.

(e)

[Unlawful custody.] It shall be unlawful for any person to own, harbor, keep, maintain, use or otherwise have custody of any guard dog in the county which has not been vaccinated, registered, and microchipped as provided by this article.

(f)

Transportation of guard dog.

(1)

Any vehicle transporting a guard dog must be clearly marked showing that it is transporting a dangerous dog. A compartment separate from the driver is required which shall allow adequate ventilation for the animal.

(2)

No guard dog shall be transported in the trunk of a car or on open-bed trucks.

(3)

Guard dogs must be muzzled and leashed, or maintained in a proper enclosure, as defined in this article, when not on guard duty at a commercial establishment.

(g)

Requirements for businesses using guard dogs.

(1)

Each business which hires or uses a guard dog must provide proper fencing to keep the guard dog from digging or jumping out, or must otherwise properly confine the animal within a secure enclosure.

(2)

At each appropriate location and entry point, and at 50-foot intervals along the fence perimeter, a sign shall be posted including the words "Bad Dog."

(3)

Entry points shall have a sign posted with the telephone number of the dog's trainer or handler in case of an emergency.

(Ord. No. 92-15, § 4, 3-10-92; Ord. No. 98-66, § 7, 7-28-98; Ord. No. 14-07, § 1, 1-28-14)

Sec. 14-63. - Dogs or cats at large.

(a)

No dog or cat shall run at large within the county, as defined under this article. Any person who possesses, harbors, keeps, or has control or custody of any dog or cat which is running at large shall be in violation of this article, regardless of the knowledge, intent or culpability of the owner.

(b)

This section shall not apply to police dogs as defined in F.S. § 843.19 when such dogs are engaged by a law enforcement agency in an official capacity, or to any dog which is actually engaged in or being trained for the sport of hunting during a legal hunting season within authorized areas and supervised by the owner.

(c)

The owner of any female dog or cat in heat (estrus) which is not kept confined in a secure enclosure, such as a building, veterinary hospital, boarding kennel or closed kennel, such that the female dog or cat cannot come in contact with any male dog or cat, except when the owners of both animals intend to breed such animals, shall be deemed in violation of this article. A fenced area is not sufficient enclosure for the purpose and intent of this subsection.

(Ord. No. 92-15, § 5, 3-10-92; Ord. No. 14-07, § 1, 1-28-14)

Sec. 14-64. - Dangerous animals.

(a)

Procedures to classify an animal dangerous.

(1)

Investigation. The department shall investigate reported incidents involving any animal whose actions may result in the animal being classified as dangerous. As part of the investigation, the department shall, if possible, interview the animal's owner and require a notarized affidavit from any person, including any animal care officer or enforcement officer, who may have information relating to whether the animal might be dangerous.

(2)

Initial determination. Upon completing its investigation, the department shall make an initial determination as to whether there is sufficient cause to classify the animal as dangerous. If the department determines that there is sufficient cause, the department shall provide written notification of its initial determination to the owner by registered mail, certified hand delivery (signed receipt), or service in conformance with the provisions of F.S. ch. 48, as amended, relating to service of process.

(3)

Availability of hearing to challenge the initial determination. The written notification referenced in subsection (a)(2) shall inform the owner that, notwithstanding any other provisions of this article, if the owner wishes to challenge the initial determination, the owner must file a request for a hearing with the department within seven calendar days after the owner receives notice of the department's initial determination.

(4)

Effect of not timely requesting hearing. If the owner fails to timely request a hearing pursuant to subsection (a)(3) above, the animal shall be classified as dangerous. The department shall provide written notice of this classification to the owner by registered mail, certified hand delivery (signed receipt), or service in conformance with the provisions of F.S. ch. 48, as amended, relating to service of process. The notice shall inform the owner that he or she may, within ten business days after receipt of the notice, file a petition for writ of certiorari review in county court, to appeal the classification.

(5)

Effect of timely requesting hearing. If the owner timely requests a hearing pursuant to subsection (a)(3)

above, the hearing shall be held no sooner than five calendar days after filing of the request and no later than 21 calendar days after the filing. The hearing shall be conducted in accordance with section 14-67. If the hearing officer determines that the animal should be classified as dangerous, the department shall provide written notice of such classification (along with a copy of the hearing officer's decision) to the owner by registered mail, certified hand delivery (signed receipt), or service in conformance with the provisions of F.S. ch. 48, as amended, relating to service of process. The notice shall inform the owner that he or she may, within ten business days after receipt of the notice, file a petition for writ of certiorari review in county court, to appeal the classification.

(6)

Confinement of animal pending investigation, hearing and appeal. Any animal that is the subject of a dangerous animal investigation, that is not impounded with animal services, shall be maintained by the owner in a proper enclosure as that term is defined in section 14-26. The owner shall post the premises with clearly visible warning signs at all entry points that inform both children and adults of the presence of a dangerous animal on the property. Furthermore, it is unlawful for the owner of the animal to permit the animal to be outside a proper enclosure unless the animal is muzzled and restrained by a substantial chain or leash and under the control of a competent person over the age of 18. The muzzle shall be made in a manner that will not cause injury to the animal or interfere with its vision or respiration, but shall prevent it from biting any person or animal. When being transported, such animals shall be safely and securely restrained within a vehicle. The provisions of this section shall apply pending the outcome of the investigation and resolution of any hearing or appeals related to the dangerous animal classification. The address of where the animal resides shall be provided to animal services. No animal that is the subject of a dangerous animal investigation may be relocated or ownership transferred pending the outcome of the investigation or any hearings or appeals related to the determination of the dangerous animal classification.

(7)

Failure to securely confine an animal during investigation. In the event that any animal control code enforcement office has sufficient cause to believe that an animal is or may be dangerous and that the owner is unable or unwilling to securely confine the animal pending a final determination, the animal control code enforcement officer may impound the animal pending the investigation or any hearing or appeals regarding the dangerous animal classification, if deemed necessary to protect the public. If the animal is subsequently classified as dangerous by the animal control authority and such classification is appealed, it shall remain impounded pending final resolution. The owner shall be responsible for boarding fees, veterinary and other costs incurred by the county to maintain the animal during such investigation, classification and appeals.

(8)

Timing for compliance with dangerous animal requirements. Within 14 calendar days after an animal has been classified as dangerous under subsections (a)(4) or (5) above, or within 14 calendar days after such classification has been upheld in any appeal (dismissal of the appeal by the owner shall be deemed to uphold the classification), the owner of the animal must comply with all the dangerous animal requirements referenced in subsection (b) below.

(b)

Dangerous animal requirements.

(1)

Registration. Any person who owns (or keeps, if that person is someone other than the owner) a dangerous animal within the county must register the animal as dangerous with the department. Any person who brings an animal into the county that has been declared dangerous by another jurisdiction, and who intends to reside in the county with such animal, shall register the dangerous animal within 14 calendar days of establishing residency in the county. The fees for registration shall be as established by resolution.

(2)

Conditions precedent to registration. No dangerous animal may be registered with the department unless and until all of the following requirements have been met:

a.

The owner shall, at the owner's expense, have the dangerous animal implanted with a department-approved electronic animal identification device (microchip), and shall provide the department with the microchip manufacturer and number. The owner may obtain microchips from the department, if available, at the fee set by resolution. The microchip number will become the dangerous animal registration number.

b.

The animal shall be spayed/neutered unless a licensed veterinarian has examined the animal and certifies, in writing (with a copy provided to the department within such 14-day period), that at such time spaying/neutering the animal would endanger its health. Under the circumstance, the animal shall be spayed/neutered as soon as its health permits.

c.

The owner shall display a sign on his or her property warning that there is a dangerous animal on the premises. Said sign shall be clearly visible from all entry points and inform both children and adults of the presence of a dangerous animal on the property. The sign shall read "Dangerous Animal" or "Beware of Animal."

d.

The owner of a dangerous animal must have in place, on the property where the dangerous animal will be kept, the proper enclosure of a dangerous animal as defined above in this article, if said property allows.

e.

The owner of a dangerous animal must provide department with two color photos displaying full body, head and face of the animal.

f.

The owner shall provide evidence of a current Pinellas County license and rabies vaccination for the animal.

g.

The owner shall execute a document consenting to the department entering the exterior of the owner's

property, with or without prior notice, for the sole purpose of conducting inspections to ensure that the animal's owner is meeting his or her responsibilities, as applicable, under subsection (c) below.

(c)

Responsibilities of dangerous animal owners. The owner (or keeper, if other than owner) of a dangerous animal shall:

(1)

Renew the dangerous animal registration annually.

(2)

Ensure that the animal, while on the owner's property, is securely confined indoors, or securely confined in a proper enclosure of a dangerous animal as defined above. At any time that a dangerous animal is not so confined, the animal shall be muzzled and restrained in such a manner as to prevent it from biting or injuring any person or animal, and kept on a substantial chain or leash by a person able to exercise control over the animal. The muzzle must be made in a manner that will not cause injury to the animal or interfere with its vision or respiration but will prevent it from biting any person or animal. However, the foregoing requirements of this subsection do not apply:

a.

When the animal is in attendance at and participating in any animal show, contest, or exhibition not prohibited under F.S. § 828.122, as amended, and sponsored by an animal club, association, society, or similar organization.

b.

While the animal is being transported within the cab or passenger portion of any motor vehicle, provided the vehicle has a roof, and the animal cannot escape through an open window.

c.

When the owner is exercising the animal in a securely fenced or enclosed area that does not have a top, provided that the animal remains within the owner's sight and only member of the immediately household or persons 18 years of age or older are allowed in the enclosed or fenced area when the animal is present.

(3)

Notify the department immediately if the dangerous animal becomes loose, unconfined, attacks, or bites a human being or another animal, dies, is sold, or is given away. In the event of the animal's death, the owner shall provide to the department satisfactory evidence (as determined by the department) of the animal's death. If the dangerous animal is sold or given away, the owner shall provide to the department the name, address, and telephone number of the new owner of the dangerous animal. The new owner shall, within 14 calendar days after receiving the animal, execute a new document to be supplied by the department, acknowledging that he or she is aware of the dangerous animal classification, and agreeing that the new owner shall comply with all of the requirements of this article.

(4)

Notify the department immediately if the owner believes that the dangerous animal has been stolen. The owner must, concurrently with that notification, report the theft to the appropriate local law enforcement authority and provide the official police report to the department.

(5)

Notify the department immediately if the owner moves to another address with the dangerous animal, which notification shall identify such address.

(6)

Have the dangerous animal destroyed in a humane manner at his or her sole expense by the department or a licensed veterinarian if the owner is unable or unwilling to comply with all applicable requirements and mandates contained in this article.

(7)

Meet the obligation under any agreement executed as referenced in subsection (b)(2)g of this section.

(d)

[Department authority.] The department shall have the authority to make whatever inspections are deemed necessary to ensure that the provisions of this article are complied with.

(e)

[Surrender of dangerous animal.] The owner of a dangerous animal may surrender the dangerous animal to the department if the owner is unable or unwilling to comply with the requirements of this article.

(f)

[Inapplicability to law enforcement animals.] This article shall not apply to animals owned and used by a law enforcement agency.

(g)

Violations of dangerous animal requirements or responsibilities of dangerous animal owners. Each failure to comply with a dangerous animal requirement or responsibility of a dangerous animal owner contained in this article shall constitute a noncriminal infraction, punishable by a fine.

(h)

Impoundment, confiscation, and destruction of dangerous animals.

(1)

If an animal that has previously been classified as dangerous attacks or bites a person or a domestic animal without provocation, the department shall immediately confiscate and impound the animal and, after written notice to the owner and expiration of ten business days from the date the owner receives the notice, destroy such dangerous animal in an expeditious and humane manner. This ten-day time period shall allow the owner to request a hearing under section 14-67.

(2)

If an animal attacks and causes severe injury to or death of any human, the animal shall be immediately confiscated by the department, placed in quarantine, if necessary, for the proper length of time, or otherwise impounded, and held for ten business days after the owner is given written notice, and thereafter destroyed in an expeditious and humane manner. This ten-day time period shall allow the owner to request a hearing under section 14-67.

(3)

For any period of impoundment or quarantine referenced in subsections (h)(1) or (2) above, or referenced elsewhere in this article, the owner shall be responsible for payment of all boarding costs and other fees associated therewith.

(4)

Notice under this subsection shall be effected by registered mail, certified hand delivery (signed receipt), or service in conformance with the provisions of F.S. ch. 48, as amended, relating to service of process.

(5)

If the owner requests a hearing or files an appeal under subsection (h)(1), (2) or (3) above, the animal must be held by the department, at the owner's expense, and may not be destroyed while the hearing or appeal is pending. If any owner or keeper of a dangerous animal is a minor, the parent or guardian of such minor shall be responsible for complying with the provisions of this article.

(Ord. No. 92-15, § 7, 3-10-92; Ord. No. 98-66, § 3, 7-28-98; Ord. No. 02-56, § 7, 7-9-02; Ord. No. 08-54, § 11, 10-7-08; Ord. No. 10-25, § 4, 5-4-10; Ord. No. 14-07, § 1, 1-28-14)

Sec. 14-65. - Reserved.

Editor's note— Section 14-65 has been deleted by the editor, at the direction of the county, inasmuch as it has been superseded by Ord. No. 08-54, § 11, adopted Oct. 7, 2008. Former § 14-65 derived from Ord. No. 92-15, § 8, adopted Mar. 10, 1992; Ord. No. 98-8, § 1, adopted Jan. 6, 1998; Ord. No. 98-12, § 1, adopted Jan. 13, 1998; Ord. No. 98-66, § 7, adopted July 28, 1998; and Ord. No. 99-16, § 1, adopted Feb. 16, 1999. See § 14-64 for similar provisions.

Sec. 14-66. - Reserved.

Editor's note— Section 14-66 has been deleted by the editor, at the direction of the county, inasmuch as it has been superseded by Ord. No. 08-54, § 11, adopted Oct. 7, 2008. Former § 14-66 derived from Ord. No. 98-66, § 8, adopted July 28, 1998. See § 14-64 for similar provisions.

Sec. 14-67. - Hearings.

(a)

Hearing officer. There is hereby created for the purposes of this article the position of hearing officer. Said hearing officer shall be the director of the health department, or his/her designee, or alternatively a member in good standing of the Florida Bar.

(b)

Burden of proof. The department shall bear the burden of establishing that an animal is dangerous by a preponderance of evidence. The owner shall bear the burden of establishing any factual or legal defense to the classification of dangerousness by a preponderance of evidence.

(c)

Hearing procedures. These procedures govern hearings before a hearing officer as provided in this article. Such hearings shall provide an opportunity for the owner to be heard. All hearings shall be conducted in accordance with the Florida Rules of Civil Procedure and the Florida Evidence Code, except as otherwise stated herein. However, the hearing shall be conducted in an informal manner to the extent practicable. Each party shall be afforded the following rights:

(1)

To be accompanied, represented, and advised by counsel;

(2)

To offer the testimony of witnesses and examine opposing witnesses on relevant matters; and

(3)

To present his or her case by oral or documentary evidence.

(d)

Evidence.

(1)

In any hearing before a hearing officer, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. All other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether such evidence would be admissible in a trial in the courts of the state. Any part of the evidence may be received in written form, and all testimony of parties and witnesses shall be made under oath. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

(2)

A party shall be permitted to conduct cross-examination when testimony is taken or documents are made a part of the record.

(3)

The rules of privilege shall be effective to the same extent that they are recognized under state law.

(e)

Written determinations of the hearing officer.

(1)

After conducting a hearing, the Hearing Officer shall issue a determination within 20 calendar days of the hearing.

(2)

All determinations of the hearing officer shall be in writing, signed, and dated by the hearing officer, shall contain findings of fact and conclusions of law, and shall be served upon the owner by registered mail, certified hand delivery (signed receipt), or service in conformance with the provisions of F.S. ch. 48, as amended, relating to service of process.

(f)

Obligation to pay hearing officer's fee; deposit. The non-prevailing party shall be responsible for paying the hearing officer's fee in full. When filing a written request for a hearing, the owner shall provide a deposit in the amount established by resolution as security for payment of the hearing officer's fee. If the owner prevails in the hearing, the deposit shall be returned in full. If the owner does not prevail, and the hearing officer's fee exceeds the deposit, the owner shall pay the difference within ten business days after written demand is made by the hearing officer or department. If the owner does not prevail, and the deposit exceed the hearing officer's fee, the department shall return the excess deposit to the owner within ten business days after paying the hearing officer's fee.

(g)

[Failure to appear before hearing officer.] Once a hearing is scheduled, failure to appear before the hearing officer may, at the discretion of the hearing officer, result in dismissal of the hearing with prejudice, in which case the initial classification by the department shall stand and the animal shall be classified as aggressive or dangerous.

(Ord. No. 98-66, § 9, 7-28-98; Ord. No. 02-56, § 8, 7-9-02; Ord. No. 08-54, § 12, 10-7-08; Ord. No. 14-07, § 1, 1-28-14)

Sec. 14-68. - Striking or interfering with a law enforcement animal.

(a)

[Definitions.] For the purpose of this section, the following terms shall have the meaning indicated in this subsection. No attempt is made to define ordinary words which are used in accordance with their established dictionary meaning, except when necessary to avoid misunderstanding.

Law enforcement animal means an animal that is owned or leased by a law enforcement agency for the principal purposes of:

a.

Aiding in:

1.

The detention of criminal activity;

2.

The enforcement of the laws; and

3.

The apprehension of offenders.

b.

Ensuring the public welfare.

c.

The term includes, but is not limited to, the following:

1.

A horse:

i.

Full-time mounted patrol;

ii.

Part-time mounted patrol;

iii.

Posse.

b.

A dog:

i.

Arson investigation;

ii.

Bomb detection;

iii.

Narcotic detection;

iv.

Patrol;

v.

Search and rescue;

vi.

Tracking;

vii.

Cadaver.

(b)

Striking or interfering with a law enforcement animal.

(1)

It shall be unlawful and punishable as provided by law for any person to knowingly or intentionally:

a.

Strike, torment, bait, injure, or otherwise mistreat a law enforcement animal; or

b.

Interfere with the actions of a law enforcement animal or harass or bait a law enforcement animal while the animal/handler is:

1.

On duty working for his/her respective agency; or

2.

In an off-duty capacity working at an approved off duty/extra duty event for a contracted entity being paid for law enforcement services; or

3.

An approved non-pay volunteer event.

(2)

It is a defense that the accused person:

a.

Engaged in training activity or discipline; and

b.

Acted as an employee or agent of a law enforcement agency.

(3)

In addition to any sentence or fine imposed for the conviction of an offense under this section, the court may order the person convicted to make restitution to the person or law enforcement agency owning the animal for reimbursement of:

a.

Veterinary bills; and

b.

Cost of retraining and temporary loss of use; and

c.

Replacement cost if the animal is disabled, unable to perform its duty, or is killed.

(c)

[Enforcement.] In addition to any other law enforcement or code enforcement officer authorized to issue citations under this chapter, the Sheriff of Pinellas County, his deputies, the Florida Highway Patrol, and police officers in municipalities without conflicting ordinance shall have the duty and authority to enforce the provisions of this section.

(Ord. No. 98-99, § 1, 11-30-98; Ord. No. 14-07, § 1, 1-28-14)

Secs. 14-69—14-85. - Reserved.

ARTICLE III. - GAME AND FISH[3]

Footnotes:

--- (**3**) ---

Cross reference— Aquatic preserves, § 58-366 et seq.; natural resources, ch. 82; parks and recreation, ch. 90; waterways, ch. 130.

State Law reference— Special laws or general laws of local application pertaining to hunting or freshwater fishing prohibited, Fla. Const. art. III, § 11(a)(19).

DIVISION 1. - GENERALLY

Secs. 14-86—14-95. - Reserved.

DIVISION 2. - SALTWATER FISHING[4]

Footnotes:

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Editor's note—The acts contained in this division retain their status as special acts. See charter § 5.02. The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected

without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

State Law reference— Special laws or general laws of local application pertaining to sale or purchase of speckled sea trout or weakfish prohibited, F.S. § 370.083; special laws or general laws of local application pertaining to spearfishing in salt waters and saltwater tributaries prohibited, F.S. § 370.172(4); restriction on county powers relative to saltwater fish, F.S. § 125.01(4); saltwater fish, F.S. ch. 370.

Subdivision I. - In General

Sec. 14-96. - Unlawful to permit net or seine to remain set in inland salt waters in excess of four hours.

(a)

The words "inland waters," for the purpose of this section shall be defined as follows: All rivers, creeks, runs, brooks, streams, channels, passes, inlets, sounds, bays, bayous, harbors, lagoons or any other inland water, whether the same be salt or brackish, up to and including all approaches of all inland waters to the open waters of the Gulf of Mexico, in Pinellas County, Florida. The dividing line between inland salt waters and open waters of the Gulf of Mexico, for the purpose of this section, shall be established by a line drawn from the farthest point to the farthest point of the outside beach or shoreline at noon low tide, or of the mainland or islands in question, where such beach or shoreline joins the open Gulf of Mexico, as the case may be, said line to be drawn across the entrance to the pass, inlet, harbor, river, creek, lagoon, bay, or bayou, and be considered as the dividing line between inland waters and open waters.

(b)

It shall be unlawful to set any net or seine of any description in the inland salt waters of Pinellas County and allow it to remain for a period of time exceeding four hours. The time of such net being in the water [is] to be calculated from the time any portion of such nets is or are first placed in the water. Provided, however, this restriction shall not apply to gill-nets of standard mesh and twine, used in the practice known as "drift-netting."

(c)

The owner or owners of nets and seines used or found in use in said inland waters of Pinellas County shall be responsible for the use to which nets or seines are put, when used by themselves or any other person or persons accused of violation of this section, and the court trying said cause shall make a suitable order to the sheriff or other law enforcement officer.

(d)

Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than $100.00 nor more than $500.00 or by

imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment, and upon conviction of a second or subsequent violation of this section shall be punished by a fine of not less than $300.00 nor more than $1,000.00 or by imprisonment in the county jail not to exceed six months, or by both such fine and imprisonment.

(Laws of Fla. ch. 21486(1941), §§ 1—4)

Editor's note— The specific penalty provided for in the above section is unconstitutional and unenforceable as a special act may not prescribe punishment for crime. See Fla. Const. art. III, § 11. However as this section makes a violation a misdemeanor, such violation is punishable as a misdemeanor of the second degree. See F.S. §§ 775.08—775.083; Delmonico v. State, § 155 So. 2d 368 (Fla. 1963); Lynch v. Durrance, 77 So. 2d 489 (Fla. 1955); Jannett v. Windham, 109 Fla. 129, 147 So. 296 (1933); reh. denied, 109 Fla. 129, 153 So. 784, aff'd. 290 U.S. 602.

Sec. 14-97. - Taking of saltwater fish in manmade canals.

(a)

[Regulated.] It is unlawful for any person to take or attempt to take any saltwater fish, except by hook and line or handheld cast net or with no more than five blue-crab traps, within any manmade saltwater canal located in Pinellas County, Florida.

(b)

[Penalty.] The violation of this section is declared to be a criminal offense and misdemeanor within the meaning of F.S. § 775.08, and shall be punishable as provided by law.

(Laws of Fla. ch. 85-492, §§ 1, 2)

Secs. 14-98—14-110. - Reserved.
Subdivision II. - Net License

Sec. 14-111. - Required.

No person, firm or corporation shall use or cause to be used any gill net or nets from a boat in the saltwaters of Pinellas County for the purpose of taking or catching fish without a valid license issued by the department of natural resources [now department of environmental protection].

(Laws of Fla. ch. 83-504, § 1)

Sec. 14-112. - Fee.

An annual fee of $300.00 shall be collected by the department for the issuance of the gill net license during a 60-day period beginning May 1 of each year; provided, however, that in 1983 the license issue period shall begin 60 days after this subdivision becomes law. Only one such license shall be required per boat when fishing upon the waters of Pinellas County and shall be valid for the licensee and those members of his immediate family.

(Laws of Fla. ch. 83-504, § 2)

Sec. 14-113. - Number to be displayed on boat.

Each person who obtains a license pursuant to this subdivision shall prominently display the license number upon the boat in numerals which are at least ten inches in height and one inch in width in such manner that the permit number is visible both horizontally and vertically.

(Laws of Fla. ch. 83-504, § 3)

Sec. 14-114. - Disposition of proceeds.

The proceeds from the collection of fees pursuant to this subdivision minus reasonable administrative cost, shall be used for marine habitat research and restoration in Pinellas County.

(Laws of Fla. ch. 83-504, § 4)

Sec. 14-115. - Exceptions to subdivision.

This subdivision shall not apply to a common cast or throw net.

(Laws of Fla. ch. 83-504, § 5)

Sec. 14-116. - Application of fee toward future licenses.

In the event the legislature provides for a saltwater products or commercial fishing license, such license fee shall be credited against the fee provided in section 14-112.

(Laws of Fla. ch. 83-504, § 6)

Sec. 14-117. - Validity of existing licenses.

For the purpose of complying with the provisions of section 14-111, any similar license issued for any other Florida county shall be valid, as long as the total fee for the license is not less than $300.00.

(Laws of Fla. ch. 83-504, § 7)

Sec. 14-118. - Penalty for violation of subdivision.

The violation of any provision of this subdivision is declared to be a criminal offense and misdemeanor within the meaning of F.S. § 775.08, and shall be punishable as provided by law.

(Laws of Fla. ch. 83-504, § 8)

Chapter 18 - AVIATION[1]
Footnotes:
--- (**1**) ---

Charter reference— General powers of county, § 2.01.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g); aeronautics, F.S. chs. 329—333.

ARTICLE I. - IN GENERAL

Sec. 18-1. - Definitions.

The following terms whenever used or referred to herein shall have the following respective meanings, unless a different meaning clearly appears from the context:

Airport shall include all of that property conveyed to the county by the United States of America through its War Assets Administrator under that certain quit claim deed and surrender of lease dated the 17th day of December, 1947, and recorded in Deed Book 1163, pages 270—284, Official Records of Pinellas County, together with that certain quit claim deed dated the 2nd day of July, 1948, and recorded in Deed Book 1186, pages 178—193, Official Records of Pinellas County.

Airport rules and regulations shall mean the rules and regulations for the governance of the airport as adopted by resolution of the board of county commissioners.

(Ord. No. 12-21, § 1, 6-5-12)

Sec. 18-2. - Airport rules and regulations.

The board of county commissioners shall approve and adopt by resolution the airport rules and regulations which may be amended from time to time and which shall govern the operations at the airport.

(Ord. No. 12-21, § 1, 6-5-12)

Sec. 18-3. - Fees.

The board of county commissioners shall approve and adopt by resolution airport user fees which shall include, but not be limited to terminal ramp parking fees, passenger screening fees, fuel flowage fees, airline landing fees, related security card charges, parking lot fees, passenger facility charges and any other fees which may be subsequently approved and adopted by the board of county commissioners.

(Ord. No. 12-21, § 1, 6-5-12)

Sec. 18-4. - Area embraced.

The area embraced by these regulations shall be all of the real property conveyed to the county by the United States of America through its War Assets Administrator under that certain quit claim deed and surrender of lease dated the 17th day of December, 1947, and recorded in Deed Book 1163, pages 270—284, Official Records of Pinellas County, together with that certain quit claim deed dated the 2nd day of July, 1948 and recorded in Deed Book 1186, pages 178—193, Official Records of Pinellas County.

(Ord. No. 12-21, § 1, 6-5-12)

Secs. 18-5—18-25. - Reserved.

Chapter 22 - BUILDINGS AND BUILDING REGULATIONS[1]

Footnotes:

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Charter reference— General powers of county, § 2.01.

Cross reference— Housing finance authority, § 2-386 et seq.; community development, ch. 38; fire

prevention code, § 62-56 et seq.; Honeymoon Island setback line for coastal construction, § 130-2; zoning, ch. 138; airport zoning, ch. 142; historical preservation, ch. 146; impact fees, ch. 150; site development and platting, ch. 154; floodplain management, ch. 158; signs, ch. 162; falsely obtaining building moratorium variance, § 170-5; flood damage prevention, § 170-101 et seq.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g); building construction standards, F.S. ch. 553; contractors, F.S. ch. 489.

ARTICLE I. - COUNTYWIDE BUILDING CONSTRUCTION INDUSTRY REGULATIONS AND CONSTRUCTION CODES
DIVISION 1. - COUNTYWIDE STANDARDS

Sec. 22-1. - Intent.

It is the intent of the legislature to provide for uniform building codes and uniform life safety codes for the county. It is further the intent of the legislature to provide for continuing uniformity of the aforementioned codes by placing the sole authority for making technical amendments to the codes, applicable within the boundaries of Pinellas County, with the Pinellas County Construction Licensing Board.

(Ord. No. 98-9, § 1, 1-6-98; Laws of Fla. Ch. 2002-350, § 1; Ord. No. 03-98, § 1, 12-2-03)

Sec. 22-2. - Adoption of codes.

For the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use, occupancy, location and maintenance of buildings and structures, the county hereby adopts the codes known as:

(1)

The Florida Building Code.

(2)

The applicable version of the National Fire Protection Association Life Safety Code 101 adopted through the provisions of the Florida Fire Prevention Code or adopted pursuant to the powers of the Florida State Fire Marshal as described in Florida Administrative Code § 4A-60, as either may be subsequently amended.

Copies of all applicable codes, appendices and amendments or variations thereto adopted by the board [county construction licensing board], pursuant to the provisions of section 22-3, shall be filed with and available for inspection at the office of the board.

(Ord. No. 98-9, § 1, 1-6-98; Laws of Fla. Ch. 2002-350, § 1; Ord. No. 03-98, § 1, 12-2-03)

Sec. 22-3. - Amendments.

The board [county construction licensing board] shall have the power to amend the codes from time to time, subject to the provisions of section 553.73(4), Florida Statutes, and may adopt variations for different areas of the county if the variations are justified under the procedures contained herein and in section 553.73, Florida Statutes. Before making any amendment or variation, the board shall refer the proposed amendment to the

appropriate county-wide board of adjustment and appeals described in section 22-6 for study and recommendations. The board shall then hold a public hearing on the proposed amendment or variation and shall reject, adopt, or defer action upon the recommendation of the board of adjustment and appeals. A two-thirds vote of the board is required to reject any recommendation of the board of adjustment and appeals. The board may adopt amendments to the codes that are necessary as a condition precedent to any federal- or state-sponsored program and the governing body of any municipality or the county may adopt amendments to the administrative chapter of the Florida Building Code. For the purposes of section 553.73, Florida Statutes, and chapter 98-287, Laws of Florida, as amended by chapter 98-419, Laws of Florida, and chapter 2001-186, Laws of Florida, and as may be subsequently amended, the Pinellas County Construction Licensing Board shall be the sole local governing body authorized to make technical amendments to the Florida Building Code or the version of the National Fire Protection Association Life Safety Code 101 as described in section 22-2 and is deemed to be the countywide compliance review board for Pinellas County as required by section 553.73(4)(b)7., Florida Statutes. The Pinellas County Construction Licensing Board shall likewise be the local administrative board for the provision of interpretations upon request of local building officials and the resolution of conflicts of interpretations between local building officials and local fire code enforcement officials. The resolution of these disputes shall be in accordance with applicable general law. The decision of the board interpreting a code, resolving a conflict of interpretation, or adopting an amendment following a recommendation by the applicable board of adjustment and appeals shall be the final local determination of the matter which is subject to appeal to the Florida Building Commission pursuant to section 553.73, Florida Statutes, and/or the state fire marshal pursuant to chapter 633, Florida Statutes.

(Ord. No. 98-9, § 1, 1-6-98; Laws of Fla. Ch. 2002-350, § 1; Ord. No. 03-98, § 1, 12-2-03)

Sec. 22-4. - Applicability of codes.

Except as provided in this division for amendments and variations, the codes [adopted in this division] shall be exclusively controlling in the construction of all buildings and structures within the county and no municipality of the county shall adopt any technical amendments, ordinances, rules or regulations for the construction, alteration, removal, demolition, equipment, use, occupancy, location and maintenance of buildings and structures that conflict with the codes as amended.

(Ord. No. 98-9, § 1, 1-6-98; Laws of Fla. Ch. 2002-350, § 1; Ord. No. 03-98, § 1, 12-2-03)

Sec. 22-5. - Inspection and enforcement.

Inspection and enforcement of the codes [adopted in this division] shall be effected by the county, the municipalities in the county or the authorized designees of either.

(Ord. No. 98-9, § 1, 1-6-98; Laws of Fla. Ch. 2002-350, § 1; Ord. No. 03-98, § 1, 12-2-03)

Sec. 22-6. - Boards of adjustment and appeals.

(a)

The board [county construction licensing board] shall create four boards of adjustment and appeals as follows:

(1)

A plumbing, mechanical and gas board of adjustment and appeals consisting of one mechanical engineer, two

plumbing contractors, two natural gas contractors and two mechanical or Class A air conditioning contractors. This board of adjustment and appeals shall have the powers and duties specified in subsection (b) for appeals relating to plumbing, mechanical and gas provisions of the Florida Building Code.

(2)

An electrical board consisting of one electrical engineer, two electrical contractors and one member of the building industry at large. This board shall have the powers and duties provided in subsection (b) for appeals relating to the electrical provisions of the Florida Building Code.

(3)

A board of adjustment and appeals for the Florida Building Code provisions not falling within the jurisdiction of the boards created by subsection (1) or subsection (2).

(4)

A life safety and fire code board of adjustment and appeals of two active fire marshals, two active building officials and a fifth member to be selected from the joint recommendation of the fire marshals and building officials comprising said board.

(b)

Any appeal which may be brought before either the board of adjustment and appeals for the Florida Building Code or the board of adjustment and appeals for the Life Safety and Fire Code, shall be referred to the latter. The board of adjustment and appeals for the Life Safety and Fire Code shall determine whether or not it has jurisdiction over said appeal. Upon a determination that said board has no jurisdiction, the appeal shall be considered by the board of adjustment and appeals for the Florida Building Code. The boards of adjustment and appeals shall meet as frequently as is required but not less often than once every three months. Members of the boards shall serve without compensation. Any person aggrieved by a ruling of a building director or a fire marshal or other fire official of any municipality or of the county, or any building director or fire marshal or other fire official desiring interpretation of a code, may file a written appeal to the proper board of adjustment and appeals. Provided, however, if the municipality in which the dispute occurred has established a board of adjustment and appeals the aggrieved party must first appeal to the municipal board. After a decision is rendered by the municipal board the aggrieved party shall have 15 days to file the appeal provided for in this subsection. The decision of the boards shall be furnished to the appealing party in writing within 15 days after the meeting at which the appeal was considered. The decisions of the boards are subject to appeal pursuant to section 553.73, Florida Statutes.

(Ord. No. 98-9, § 1, 1-6-98; Laws of Fla. Ch. 2002-350, § 1; Ord. No. 03-98, § 1, 12-2-03)

Sec. 22-7. - Interpretation of codes.

The respective boards of adjustment and appeals shall have authority to interpret its respective code adopted for the county. Interpretations of the codes shall be based upon specific findings of fact and may be made when any provision of the code is ambiguous as applied to an activity subject to the code or to allow alternate material and types of construction if found to be in conformity with the intent of said code. The codes shall be interpreted liberally to provide safe, economic and sound buildings and structures in the county. Code interpretations of any board of adjustment and appeals made under this section shall be final administrative actions and shall not be subject to review by the board [county construction licensing board]. Final decisions

of the board or any board of adjustment and appeals shall be based upon substantial competent evidence and shall be subject to review by the Florida Building Commission or the Florida State Fire Marshal.

(Ord. No. 98-9, § 1, 1-6-98; Laws of Fla. Ch. 2002-350, § 1; Ord. No. 03-98, § 1, 12-2-03)

DIVISION 2. - ENFORCEMENT OF COUNTYWIDE STANDARDS

Sec. 22-8. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Application for permit means any permit application made under the codes listed in section 22-14(5), including all documents submitted therewith.

Appropriate editions means the version of the code listed in section 22-14(5), as amended and adopted by the appropriate local government entity, the county construction licensing board, state building commission, or state fire marshal, as applicable.

Duly qualified means in conformance with the requirements of F.S. ch. 489 or Laws of Fla. ch. 75-489 (compiled in ch. 26, art. III, div. 2 of this Code), as they may be amended, by being certified, licensed, or registered.

Investigator means any law enforcement officer, or any individual authorized, by the applicable local governmental entity through ordinance, resolution, policy, or administrative order, to enforce the provisions of this article and who has the authority to issue notices to appear, including the county construction licensing board investigators and executive director.

Licensed means licensed as required pursuant to F.S. ch. 489 or Laws of Fla. ch. 75-489 (compiled in ch. 26, art. III, div. 2 of this Code), as amended.

Registered means registered as required pursuant to said statute.

Regulated means required to be certified, licensed, and/or registered pursuant to F.S. ch. 489 or Laws of Fla. ch. 75-489 (compiled in ch. 26, art. III, div. 2 of this Code), as amended, excluding those trades or activities not subject to, or specifically exempt from, F.S. ch. 489 or Laws of Fla. ch. 75-489, as amended.

Said Laws of Florida means Laws of Fla. ch. 75-489, as amended by Laws of Fla. chs. 78-594, 81-466, 85-490, 89-504, 93-387 and 2002-350 (compiled as ch. 26, art. III, div. 2 of this Code), as amended, and any rules or regulations adopted thereunder.

Said statute means the provisions of F.S. ch. 489, pts. I and II (F.S. §§ 489.101 et seq. and 489.501 et seq.), as amended, and any rules and regulations adopted thereunder.

(Ord. No. 98-9, § 1, 1-6-98; Ord. No. 03-98, § 2, 12-2-03)

Sec. 22-9. - Purpose.

This article is intended to facilitate the uniform, orderly, and comprehensive enforcement of construction trade ordinances in the county.

(Ord. No. 98-9, § 1, 1-6-98; Ord. No. 03-98, § 2, 12-2-03)

Sec. 22-10. - Territory embraced.

The provisions of this article shall apply to both the incorporated and unincorporated areas of the county.

(Ord. No. 98-9, § 1, 1-6-98; Ord. No. 03-98, § 2, 12-2-03)

Sec. 22-11. - Enforcement.

(a)

The executive director and investigators of the Pinellas County Construction Licensing Board (PCCLB) are hereby charged with the enforcement responsibilities of this article.

(b)

The PCCLB executive director and investigators are hereby authorized to enforce against any violation of F.S. § 489.127(1) or F.S. § 489.531(1), section 122-1 of this Code, and of this article. The investigator may issue a citation or notice to appear for any such violation when, based upon personal investigation, the investigator has reasonable and probable grounds to believe such violation has occurred.

(c)

PCCLB investigators shall not have the power of physical arrest.

(d)

Law enforcement officers are additionally authorized to enforce the provisions of this article.

(e)

Municipalities within which this article is effective may, by interlocal agreement with the PCCLB and by ordinance, resolution, policy, or administrative order, authorize individual(s) to enforce the provisions of this article.

(Ord. No. 98-9, § 1, 1-6-98; Ord. No. 03-98, § 2, 12-2-03; Ord. No. 10-68, § 1, 12-14-10)

Sec. 22-12. - Citation procedures.

(a)

Any person cited for violation of this article shall be cited to appear either:

(1)

Before the PCCLB, or a special master designated by the PCCLB, for an administrative hearing pursuant to F.S. § 489.127(5); or

(2)

In county court, under F.S. § 125.69.

(b)

Any person cited for an infraction under this section shall sign and accept a citation indicating a promise to appear.

(c)

Any person who willfully refuses to accept and sign the citation shall be in violation of this article and may be prosecuted in accordance with section 1-8, or under applicable law.

(d)

Any person cited with a violation of this article may pay the penalty in accordance with the fine amount as listed on the face of the citation within 20 days of the date of receiving the citation, in lieu of the court appearance or appearance before the PCCLB or special master under subsection (a)(1).

(e)

If the person cited follows the procedure in subsection (d) of this section, he shall be deemed to have admitted the violation and to have waived his right to a hearing on the issue of the commission of the infraction.

(f)

Any person electing to appear or who is required to so appear shall be deemed to have waived his right to the payment of the civil penalty in subsection (d) of this section, and shall be subject to whatever penalty or penalties, if any, in addition to any and all court fees and costs, including costs of prosecution and investigation, as are set by the county court, PCCLB or special master.

(Ord. No. 98-9, § 1, 1-6-98; Ord. No. 03-98, § 2, 12-2-03)

Sec. 22-13. - Penalties for violations.

(a)

Pursuant to F.S. §§ 125.69, and 489.127(5)(f), violations of this division may result in a civil penalty of up to $1,000.00 or up to 60 days in county jail or both. Citations written by enforcement officers pursuant to sections 22-11 and 22-12 shall be written to impose a $500.00 civil penalty. Special masters may impose enhanced civil penalties pursuant to state law. This division shall not be construed to effect any provision of F.S. § 489.127(5).

(b)

Each day of a continuing violation, each advertisement, each permit, each contract, and each separate activity requiring a permit shall constitute a separate violation under section 22-14.

(c)

Jail shall be a possible sentence only under the county court process, and no jail time shall be given as a sentence for a violation of this division unless:

(1)

The defendant has been previously convicted or assessed fines relating to citations under this division twice in the previous 12 months under either process contained in section 22-12; and

(2)

The prosecuting attorney files a written notice with the court that a jail sentence will be requested.

(Ord. No. 98-9, § 1, 1-6-98; Ord. No. 03-98, § 2, 12-2-03; Ord. No. 05-33, § 1, 5-17-05)

Sec. 22-14. - Acts prohibited.

It shall be a violation of this article for any person or entity to:

(1)

Engage in the business of contracting in the construction trades regulated pursuant to F.S. ch. 489, pts. I and II (F.S. §§ 489.101 et seq. and 489.501 et seq.); Laws of Fla. ch. 75-489, as amended by Laws of Fla. chs. 78-594, 81-466, 85-490, 86-444, 89-504, 93-287, 2002-350, and 2003-319 (compiled in ch. 26, art. III, div. 2 of this Code) and as may be amended by special act hereafter; and any rules and regulations promulgated under F.S. ch. 489 and under Laws of Fla. ch. 75-489, as amended, without being in compliance with all of said statutes, said Laws of Florida, and any rules and regulations promulgated thereunder.

(2)

Intentionally furnish any materially false, misleading, or misrepresentative information on an application for permit or license.

(3)

Hold oneself out as being certified pursuant to said statute or said Laws of Florida when not so certified.

(4)

Hold oneself out as being licensed or registered pursuant to said statute or said Laws of Florida when not so licensed or registered.

(5)

Engage in any activity requiring a permit without having obtained the appropriate permits under the applicable edition or version of the Florida Building Code, the Standard for the Storage and Handling of Liquefied Petroleum Gases (NFPA 58), the National Fire Protection Association Life Safety Code 101, or any other applicable construction-related code.

(6)

To advertise to the public in any publication, transmission, business card, pamphlet, telephone directory, or otherwise that he is a contractor, is qualified to engage in business as a contractor, or that he will perform work in a trade regulated by said statute or said Laws of Florida without being duly qualified to so act.

(7)

Submit an advertisement to any publisher for placement in any publication which is primarily circulated, displayed, distributed or marketed within the county, which advertisement identifies a contractor offering services regulated by said statute or said Laws of Florida as they may be amended from time to time, unless the advertisement included the name of the contractor or business and the certification number issued by the state or by the county to that contractor, pursuant to section 26-81 as it has been or may be amended.

(8)

Subcontract any work to any person, firm or business organization not holding an active certificate of competency for work involved in the subcontract.

(Ord. No. 98-9, § 1, 1-6-98; Laws of Fla. Ch. 2002-350, § 1; Ord. No. 03-98, § 2, 12-2-03; Ord. No. 10-68, § 2, 12-14-10)

Sec. 22-15. - Limitation on powers of investigators; director; inspections; subpoenas; telephone records.

(a)

Nothing contained in this article shall be construed to authorize or permit the investigators or the construction licensing board executive director to perform any function or duty of a law enforcement officer other than as specified in this article.

(b)

The construction licensing board executive director and investigators are authorized to inspect and audit the records of construction firms to determine compliance with this article, Laws of Fla. ch. 75-489, as amended, or F.S. ch. 489, based upon reasonable suspicion that a violation of any law or ordinance has occurred.

(c)

The construction licensing board executive director and investigators are authorized to subpoena records, surveys, drawings, contracts or other documentary materials regarding activities regulated by this article, Laws of Fla. ch. 75-489, as amended, or F.S. ch. 489, based upon reasonable suspicion that a violation of any law or ordinance has occurred.

(d)

The construction licensing board executive director and investigators are authorized to subpoena telephone company records regarding telephone numbers used in advertisements or listings regarding regulated activity pursuant to this article, Laws of Fla. ch. 75-489, as amended, or F.S. ch. 489, where address of the telephone number or name and address of the subscriber is unavailable to the investigator. The information obtained via subpoena shall be limited to the name of the person or entity who has obtained phone service, the mailing address of the person or entity who has obtained phone service, and the address where the phone line in question is located.

(Ord. No. 98-9, § 1, 1-6-98; Ord. No. 03-98, § 2, 12-2-03; Ord. No. 10-68, § 3, 12-14-10)

Secs. 22-16—22-25. - Reserved.

ARTICLE II. - RESERVED[2]

Footnotes:
--- (**2**) ---

Editor's note—Ord. No. 02-14, § 5, adopted Feb. 26, 2002, deleted Art. II, §§ 22-26—22-29, which pertained to administration and enforcement of county construction industry regulations in unincorporated areas, as derived from Ord. No. 98-9, § 2, adopted Jan. 6, 1998.

Secs. 22-26—22-55. - Reserved.
ARTICLE III. - RESERVED[3]

Footnotes:
--- (**3**) ---

Editor's note—Ord. No. 03-98, § 3, adopted Dec. 2, 2003, repealed art. III, §§ 22-56—22-59, 22-86 and 22-96—22-100, which pertained to building trades boards and construction industry regulations in unincorporated areas and derived from Ord. No. 88-38, §§ 1 and 3—8, adopted Sept. 27, 1988.

Secs. 22-56—22-120. - Reserved.
ARTICLE IV. - BUILDING NUMBERING[4]
Footnotes:
--- (**4**) ---

Cross reference— Roads and bridges, ch. 98; identification of residential and nonresidential structures, § 170-4.

DIVISION 1. - GENERALLY

Secs. 22-121—22-130. - Reserved.
DIVISION 2. - U.S. 19

Sec. 22-131. - Authority.

This division is adopted under the authority of F.S. ch. 125 and F.S. § 336.05.

(Ord. No. 89-67, § 1, 12-19-89)

Sec. 22-132. - Area embraced.

This division shall be applicable within the entire territory comprising Pinellas County, including the incorporated areas of the county, unless exempted or otherwise inconsistent with a municipal ordinance.

(Ord. No. 89-67, § 5, 12-19-89)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 22-133. - Designation of addresses.

Addresses for dwelling units and places of business on U.S. Highway 19 shall be assigned by the county department designated by the county administrator. Addresses shall be assigned in accordance with administrative procedures adopted by the county administrator; however, such procedures shall, at a minimum, include the following:

(1)

Central Avenue in St. Petersburg will be the north/south dividing line, and all addresses south of Central Avenue will retain their U.S. Highway 19 South (or 34th Street) street numbers, and all addresses north of Central Avenue will retain their existing U.S. Highway 19 North (or 34th Street) street numbers up to 150th Avenue North.

Thereafter, all U.S. Highway 19 addresses will be renumbered by the responsible ju-risdictions in accordance with the following guidelines:

a.

Odd numbers will be used on the east side of U.S. Highway 19, and even numbers will be used on the west side of U.S. Highway 19.

b.

All addresses will carry a five-digit U.S. Highway 19 North number with values increasing to the next higher multiple of 100 approximately every 330 feet and with the following benchmarks established:

Segment	Distance (miles)	Numbers
150th Avenue to East Bay Drive	½	15,001 —15,800
East Bay Drive to Whitney Road	½	15,801 —16,400
Whitney Road to Haines Bayshore	½	16,401 —17,200
Haines Road to Belleair Road	½	17,201 —18,000
Belleair Road to State Road 60	½	18,001 —20,400
State Road 60 to Drew Street	½	20,401 —21,200
Drew Street to State Road 590	1	21,201 —22,800
State Road 590 to Sunset Point Road	½	22,801 —23,600

Sunset Point Road to Enterprise Road	13/8	23,601 —25,800
Enterprise Road to State Road 580	¾	25,801 —27,000
State Road 580 to Curlew Road	2	27,001 —30,200
Curlew Road to County Road 39	½	30,201 —31,000
County Road 39 to Tampa Road	¾	31,001 —32,200
Tampa Road to Highlands Boulevard	1	32,201 —33,800
Highlands Boulevard to Alderman Road	7/8	33,801 —35,200
Alderman Road to Glen Eagles Parkway	1	35,201 —36,800
Glen Eagles Parkway to Klosterman Road	1	36,801 —38,400
Klosterman Road to Tookes Road	½	38,401 —39,200
Tookes Road to Tarpon Avenue	11/8	39,201 —41,000
Tarpon Avenue to Live Oak Street	½	41,001 —41,800
Live Oak Street to Beckett Way	7/8	41,801 —43,200
Beckett Way to Pasco County	½	43,201 —44,000

(2)

The owner, occupant, or person in charge of any house or building to which an address has been assigned will be notified, in writing, of the address assigned. The owner, occupant, or person in charge of a parcel of land containing multiple addresses, including but not restricted to shopping centers, strip commercial developments, and apartment or condominium complexes, will be responsible for reassigning each multiple address as a suite or unit number or letter. A single address will be assigned to the parcel by the county department designated by the county administrator and the owner, occupant or person in charge of the above-stated type of parcel will be notified in writing of the address assigned. A map of the parcel showing the location of the new suite or unit addresses and a list of the old addresses and the corresponding new addresses must be sent to the county department designated by the county administrator.

(3)

Within 90 days after the receipt of such written notification, the owner, occupant, or person in charge of the house or building to which an address has been assigned shall affix the address in a conspicuous place over or near the principal entrance.

(4)

In the case of new construction, two legible copies of approved final subdivision plats showing all lots with lot numbers and all streets with current names; or, alternatively, where no subdivision is involved, an approved final site plan, shall be furnished to the reviewing department. The plats or plans will be on a scale of one inch equals 200 feet. Upon completion of the numbering by the reviewing department, one copy of the plat or plan depicting addresses assigned by the reviewing department shall be returned to the developer.

(Ord. No. 89-67, § 2, 12-19-89)

Sec. 22-134. - Standards for address numbering.

The physical numbering of buildings or houses shall conform to the following standards:

(1)

Numbers must be easily legible from the street with figures not less than three inches high for residences and not less than five inches high for commercial businesses.

(2)

Numbers must be in a color contrasting to the building background.

(3)

Easily legible numbers shall also be affixed to the mailbox serving the building or house.

(4)

Assigned numbers shall be displayed on the front entrance of each principal building and, in the case of a principal building which is occupied by more than one business or family dwelling unit, on each separate front entrance.

(5)

Any different numbers which might be mistaken for or confused with the number assigned by the appropriate county department shall be removed upon the display of the assigned number in accordance with the requirements of this article.

(Ord. No. 89-67, § 3, 12-19-89)

Sec. 22-135. - Violations of division; penalty.

(a)

No building permit or certificate of occupancy shall be issued for any principal building until the owner or

developer has procured the official addresses for the premises and displays such addresses in accordance with the requirements of this division.

(b)

Any person failing to comply with the terms or provisions of this division within 90 days after notification of an address change shall be deemed in violation of this division.

(c)

Violations of this division are punishable as provided in section 1-8.

(Ord. No. 89-67, § 4, 12-19-89)

Secs. 22-136—22-155. - Reserved.

ARTICLE V. - COMMERCIAL, BUSINESS AND INDUSTRIAL MINIMUM STANDARDS CODE

DIVISION 1. - GENERALLY

Sec. 22-156. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory structure means a structure, the use of which is incidental to that of the main building and which is attached thereto or located on the same premises.

Board of appeals means the building board for examinations, adjustments and appeal.

Building means a combination of materials to form a construction adapted to permanent or continuous occupancy for use for public, institutional, residence, business or storage purposes.

Building code means the building code of the county.

Deterioration means the condition or appearance of a building, or parts thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay or neglect, excessive use or lack of maintenance.

Enforcing authority means the Pinellas County Building Department.

Exposed to public view means any premises, or any part thereof, or any building, or any part thereof, which may be lawfully viewed by the public or any member thereof, from a sidewalk, street, alleyway, licensed open-air parking lot or from any adjoining or neighboring premises.

Exterior of premises means those portions of a building which are exposed to public view and the open space of any premises outside of any building erected thereon.

Extermination means the control and elimination of insects, termites, rodents and vermin by eliminating their harborage places; by removing or making inaccessible material that may serve as their food; or by poisoning, spraying, fumigating, tenting, trapping, or any other approved means of pest elimination.

Fire hazard means any thing or any act which increases or may cause an increase of the hazard or menace of

fire to a greater degree than that customarily recognized as normal by persons in the public service of preventing, suppressing, or extinguishing fire; or which may obstruct, delay or hinder or may become the cause of an obstruction, delay, a hazard or a hindrance to the prevention, suppression or extinguishment of fire.

Garbage means putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Health officer means the health officer of the county.

Infestation means the presence of insects, termites, rodents, vermin or other pests on the premises, which constitutes a health or structural hazard.

Mixed occupancy means any building containing one or more dwelling units or rooming units and also having a portion thereof devoted to nondwelling uses.

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 ordinances of the county.

(2)

Any attractive nuisance which may prove detrimental to the health or safety of children, whether in a building, on the premises of a building, or upon an unoccupied lot. This includes, but is not limited to: abandoned wells, shafts, basements, excavations, abandoned iceboxes, refrigerators, motor vehicles and any structurally unsound fences or structures, lumber, trash, fences, debris or vegetation such as poison ivy, oak or sumac, which may prove a hazard for inquisitive minors.

(3)

Physical conditions dangerous to human life or detrimental to the health of persons on or near the premises where the condition exists.

(4)

Unsanitary conditions or anything offensive to the senses or dangerous to health, in violation of this article.

(5)

Whatever renders air, food or drink unwholesome or detrimental to the health of human beings.

(6)

Fire hazards.

Operator means any person who has charge, care or control of premises or a part thereof, whether with or without the knowledge or consent of the owner.

Owner means any person who, alone or jointly or severally with others, shall have legal or equitable title to any premises, with or without accompanying actual possession thereof; or shall have charge, care or control of premises, as owner or agent of the owner, or as executor, administrator, trustee, receiver, or guardian of the estate, or as a mortgagee in possession either by virtue of a court order or by voluntary surrender by the person holding the legal title. Any person who is a lessee subletting or reassigning any part or all of any premises shall be deemed to be a co-owner with the lessor and shall have joint responsibility over the portion of the premises sublet or assigned by such lessee.

Plumbing means all of the following supplies, facilities and equipment: Gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catchbasins, vents, and any other similar supplied fixtures, together with all connections to water, sewer or gas lines and water pipes and lines utilized in connection with air conditioning equipment.

Premises means a lot, plot or parcel of land, including the buildings or structures thereon.

Refuse means all putrescible and nonputrescible solid wastes (except body wastes), including but not limited to garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes.

Registered mail means registered mail or certified mail.

Room means space in an enclosed building or space set apart by a partition or partitions.

Rubbish means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

Sanitary sewer means any sanitary sewer owned, operated and maintained by the county and available for public use for the disposal of sewage.

Sewage means waste from a flush-toilet, bathtub, sink, lavatory, dishwashing or laundry machine, or the water-carried waste from any other fixture, equipment or machine.

Story means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished ceiling level directly above a basement or cellar is more than six feet above grade, such basement or cellar shall be considered a story.

Structure means a combination of any materials, whether fixed or portable, forming a construction, including buildings.

Washroom means an enclosed space containing one or more bathtubs, showers, or both, and which shall also include toilets, lavatories, or fixtures serving similar purposes.

Water closet compartment means an enclosed space containing one or more toilets which may also contain one or more lavatories, urinals and other plumbing fixtures.

Weathering means deterioration, decay or damage caused by exposure to the elements.

(Ord. No. 73-4, § 4, 4-17-73; Ord. No. 96-37, § 1, 4-16-96; Ord. No. 97-50, § 1, 7-1-97)

Cross reference— Definitions generally, § 1-2.

Sec. 22-157. - Penalty for violation of article.

Violations of this article are punishable as provided in section 1-8.

Sec. 22-158. - Declaration of policy.

It is hereby found and declared that there exist in the county structures used for commercial, business or industrial use which are, or may become in the future, substandard with respect to structure, equipment or maintenance, or further, that such conditions, including but not limited to structural deterioration, lack of maintenance and appearance of exterior of premises, infestation, plumbing, lack of maintenance or upkeep of essential facilities and utilities, existence of fire hazards, inadequate provisions for light and air and unsanitary conditions constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens and inhabitants of the county. It is further found and declared that, by reason of lack of maintenance and progressive deterioration, certain properties have the further effect of creating blighting conditions and initiating slums, and that if the same are not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate the same, and that by reason of timely regulations and restrictions as contained in this article, the growth of slums and blight may be prevented and the neighborhood and property values thereby maintained, the desirability and amenities of neighborhoods enhanced and the public health, safety and welfare protected and fostered.

(Ord. No. 73-4, § 2, 4-17-73)

Sec. 22-159. - Purpose.

The purpose of this article is to protect the public health, safety, morals and welfare by establishing minimum standards governing the maintenance, appearance and condition of commercial, business and industrial premises; to establish minimum standards governing utilities, facilities and other physical components and conditions essential to make the aforesaid facilities fit for occupancy and use; to fix certain responsibilities and duties upon owners and operators; to authorize and establish procedures for the inspection of commercial, business and industrial premises; to fix penalties for violations of this article, and to provide for the repair, demolition or vacation of commercial, business or industrial premises. This article is hereby declared to be remedial and essential for the public interest and it is intended that this article be liberally construed to effectuate the purposes as stated herein.

(Ord. No. 73-4, § 3, 4-17-73)

Sec. 22-160. - Higher standard to prevail in case of conflicting provisions.

In any case where the provisions of this article impose a higher standard than set forth in any other ordinance of the county or under the laws of the state, then the standards as set forth in this article shall prevail, but if the provisions of this article impose a lower standard than any other ordinance of the county or laws of the state, then the higher standard contained in any such ordinance or law shall prevail.

(Ord. No. 73-4, § 6, 4-17-73)

Sec. 22-161. - Applicability.

Every commercial, business or industrial establishment and the premises on which it is situated in the county used or intended to be used for commercial, business or industrial occupancy shall comply with the provisions of this article, whether or not such building shall have been constructed, altered or repaired before or after the enactment of this article, and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the building or premises for the construction or repair of the building, or for the installation or repair of equipment or facilities prior to the effective date of this article. This article establishes minimum standards for the initial and continued occupancy and use of all such buildings and does not replace or modify standards otherwise established for the construction, repair, alteration or use of the building, equipment or facilities contained therein, except as provided in section 22-160. Where there is mixed occupancy, any commercial, business or industrial use therein shall nevertheless be regulated by and subject to the provisions of this article.

(Ord. No. 73-4, § 5, 4-17-73)

Sec. 22-162. - Issuance and renewal of other permits and licenses.

All licenses and permits shall be issued upon compliance with this article as well as compliance with the ordinance under which such licenses and permits are granted.

(Ord. No. 73-4, § 7, 4-17-73)

Sec. 22-163. - Enforcement of and compliance with other ordinances.

No license or permit or other certification of compliance with this article shall constitute a defense against any violation of any other ordinance of the county applicable to any structure or premises, nor shall any provision in this article relieve any owner or operator from complying with any such other provision or any official of the county from enforcing any such other provision.

(Ord. No. 73-4, § 8, 4-17-73)

Secs. 22-164—22-175. - Reserved.

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

Subdivision I. - In General

Sec. 22-176. - Supervision vested in the enforcing authority.

Responsibility for enforcement of this article is vested in the enforcing authority and all inspections, regulations, enforcement and hearings on violations of the provisions of this article, unless expressly stated to the contrary, shall be under his direction and supervision. The enforcing authority may appoint or designate other employees of the county to perform duties as may be necessary to the enforcement of this article, including the making of inspections.

(Ord. No. 73-4, § 11, 4-17-73)

Sec. 22-177. - Inspections.

All buildings and premises subject to this article are subject to inspection from time to time by the enforcing authority. At the time of such inspections, all rooms and parts of the premises must be available and

accessible for such inspections, and the owner and operator are required to provide the necessary arrangements to facilitate such inspections. Such inspections shall be made during regular open hours of the business occupying such premises unless there is reason to believe a violation exists of a character which is an immediate threat to health or safety requiring inspection or abatement without delay.

(Ord. No. 73-4, § 12, 4-17-73)

State Law reference— Inspection warrants, F.S. § 933.20 et seq.

Sec. 22-178. - Refusal of entry.

Where the enforcing authority or his agent is refused entry or access or is otherwise impeded or prevented by the owner or operator from conducting an inspection of the premises, such persons shall be in violation of this article and subject to the penalties hereunder.

(Ord. No. 73-4, § 13, 4-17-73)

Sec. 22-179. - Commercial, business and industrial board of appeals.

(a)

Creation of board. The commercial, business and industrial board of appeals (hereinafter called "board of appeals") shall be the building board for examinations, adjustments and appeals, as established in section 22-71(a)(1) of this Code.

(b)

Organization. The chairperson of the building board for examinations, adjustments and appeals shall act as the chairperson of the board of appeals when convened as such. The enforcing authority shall serve as secretary to such board.

(c)

Membership; meetings; quorum. The standards for membership, meetings, and quorum shall be as found in section 22-71 of this Code.

(Ord. No. 73-4, § 30, 4-17-73; Ord. No. 74-6, § 1, 5-21-74; Ord. No. 96-37, § 2, 4-16-96; Ord. No. 97-50, § 2, 7-1-97)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 22-180. - Emergency orders.

Whenever the enforcing authority finds that an emergency exists which requires immediate action to protect the health and safety of any persons, he may issue an order reciting the existence of the emergency and requiring immediate action to be taken as deemed necessary to meet the emergency. Notwithstanding any other provision of this article, such order shall take effect immediately. Any person to whom such order is directed shall comply therewith immediately.

(Ord. No. 73-4, § 29, 4-17-73)

Secs. 22-181—22-190. - Reserved.
Subdivision II. - Violations

Sec. 22-191. - Procedure where violation is discovered.

Whenever the enforcing authority determines that there has been or is a violation, or that there are reasonable grounds to believe that there has been or is a violation of any provision of this article, he shall give notice of such violation or alleged violation to the person or persons responsible for the correction thereof. Such notice shall:

(1)

Be in writing;

(2)

Include a description of the real estate sufficient for identification;

(3)

Specify the violation which exists and the remedial action required;

(4)

Allow a period of time, not in excess of 120 days, to correct or abate the violation.

(Ord. No. 73-4, § 14, 4-17-73)

Sec. 22-192. - Service of notice of violation.

The notice provided for in section 22-191 shall be served upon the owner or his agent or the occupant, as the case may require. Such notice shall be deemed to be properly served when served upon the owner or agent or occupant by delivery of a copy thereof to such owner or agent or occupant, or by forwarding a copy thereof to the owner or agent or occupant by registered or certified mail to his last known address, or by serving the owner or agent or occupant with such notice by any other method authorized under the laws of the state. In the event that service cannot be effected by one of the foregoing methods, the posting of a copy of such notice in a conspicuous place in or about the structure affected by the notice shall be deemed proper service of such notice.

(Ord. No. 73-4, § 15, 4-17-73)

Sec. 22-193. - Hearings.

Any person affected by any notice which has been issued in connection with the enforcement of any provision of this article or of any rule or regulations adopted pursuant thereto may request and shall be granted a hearing on the matter before the board of appeals, provided that such person shall file in the office of the enforcing authority a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within 15 days after the day the notice has been served. The filing of such petition shall suspend the effect of the notice until the appeal to the board has been decided, unless an emergency order has been issued pursuant to section 22-180 of this Code. Upon receipt of such petition, the board of appeals shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the

petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than 45 days after the day on which the petition requesting the hearing was filed.

(Ord. No. 73-4, § 16, 4-17-73; Ord. No. 96-37, § 3, 4-16-96; Ord. No. 97-50, § 3, 7-1-97)

Sec. 22-194. - Decision of board of appeals.

After such hearing, the board of appeals shall issue its order in writing sustaining, modifying or withdrawing the notice, depending upon its findings, which order shall be served upon the persons affected thereby in the same manner provided for the service of notice.

(Ord. No. 73-4, § 17, 4-17-73; Ord. No. 96-37, § 4, 4-16-96; Ord. No. 97-50, § 4, 7-1-97)

Sec. 22-195. - Failure to petition for hearing.

Any notice served pursuant to this article shall automatically become an order of the county if a written petition for hearing is not filed in the office of the enforcing authority within 15 days after such notice is served.

(Ord. No. 73-4, § 18, 4-17-73)

Sec. 22-196. - Failure to comply with order.

If the owner or occupant fails to comply with an order to repair, alter, or improve, or to vacate and close the structure, the enforcing authority may cause such structure to be repaired, altered or improved by such owner or occupant or to be vacated and closed; the enforcing authority may cause to be posted on the main entrance of any structure so ordered closed, a placard with the following words: "This building is unfit for public occupancy; the use of this building for public occupancy is prohibited and unlawful," provided, however, that such placard is not to be so posted by the enforcing authority until the 15-day hearing period, as set forth herein, has expired, or in the event the person affected does request such hearing, that such placard is not to be posted until a date subsequent to the decision of the board of appeals.

(Ord. No. 73-4, § 19, 4-17-73; Ord. No. 96-37, § 5, 4-16-96; Ord. No. 97-50, § 5, 7-1-97)

Sec. 22-197. - Prosecution of violation.

In case any violation order issued under this article is not promptly complied with, the enforcing authority may request the county attorney to institute an appropriate action or proceeding at law or in equity against the person responsible for the violation ordering him to:

(1)

Restrain, correct or remove the violation or refrain from any further execution of work;

(2)

Restrain or correct the erection, installation or alteration of such building;

(3)

Require the removal of work in violation;

(4)

Prevent the occupation or use of the building, structure or part thereof erected, constructed, installed or altered in violation of, or not in compliance with, the provisions of this article, or in violation of a plan or a specification under which an approval, permit or certificate was issued; or

(5)

Enforce the penalty provisions of this article.

(Ord. No. 73-4, § 20, 4-17-73)

Secs. 22-198—22-210. - Reserved.

Subdivision III. - Structures Unfit for Public Occupancy

Sec. 22-211. - Authority to declare structure unfit.

Whenever the enforcing authority finds that any structure constitutes a hazard to the safety, health, or welfare of the occupants or to the public because it lacks maintenance or because it lacks the sanitary facilities or equipment or otherwise fails to comply with the minimum provisions of this article, he may declare such structure as unfit for public occupancy and order it to be vacated. It shall be unlawful to again occupy such structure until it or its occupation, as the case may be, has been made to conform to the law.

(Ord. No. 73-4, § 21, 4-17-73)

Sec. 22-212. - Posting of notice.

Any structure declared as unfit for public occupancy shall be posted with a placard by the enforcing authority. The placard shall be in substantially the following form:

VIOLATION

By Order of Pinellas County, Florida, This Structure is Declared Unfit for Public Occupancy and Ordered Vacated.

The Use of This Structure for Public Occupancy is Prohibited.

This order is posted pursuant to the Pinellas County Code. A penalty is provided in the Pinellas County Code for any person who alters, defaces or removes this notice or occupies this structure without authorization from the undersigned.

	_____ Pinellas County Building Department

(Ord. No. 73-4, § 22, 4-17-73; Ord. No. 96-37, § 6, 4-16-96; Ord. No. 97-50, § 6, 7-1-97)

Sec. 22-213. - Form of notice to vacate.

Whenever the enforcing authority has declared a structure as unfit for public occupancy, he shall give notice to the owner of such declaration and placarding of the structure as unfit for public occupancy. Such notice shall:

(1)

Be in writing;

(2)

Include a description of the real estate sufficient for identification;

(3)

Include a statement of the reason or reasons why it is being issued;

(4)

State the time to correct the conditions;

(5)

State the time occupants must vacate the structure.

(Ord. No. 73-4, § 23, 4-17-73)

Sec. 22-214. - Service of notice to vacate.

Service of notice to vacate a structure declared unfit for public occupancy shall be as follows:

(1)

By delivery to the owner personally or by leaving the notice at the usual place of abode of the owner with a person of suitable age and discretion;

(2)

By depositing the notice in the United States post office addressed to the owner at his last known address with postage prepaid thereon; or

(3)

By posting and keeping posted for 24 hours a copy of the notice in placard form in a conspicuous place on the premises to be vacated.

(Ord. No. 73-4, § 24, 4-17-73)

Sec. 22-215. - Removal of placard or notice.

No person shall deface or remove the placard from any structure which has been declared or placarded as unfit for human occupancy except by authority in writing from the enforcing authority.

(Ord. No. 73-4, § 25, 4-17-73)

Sec. 22-216. - Vacating of structure.

Any structure which has been declared and placarded as unfit for public occupancy by the enforcing authority shall be vacated within a reasonable time as required by the enforcing authority and it shall be unlawful for any owner or operator to let to any person such structure; and no person shall occupy any structure which has been declared or placarded by the enforcing authority as unfit for public occupancy after the date set forth in the placard; and it shall be unlawful for any person to occupy any structure which has been so declared or placarded after the date set forth.

(Ord. No. 73-4, § 26, 4-17-73)

Sec. 22-217. - Occupancy of building.

No structure which has been declared or placarded as unfit for public occupancy shall again be used for public occupancy until written approval is secured from the enforcing authority. The enforcing authority shall remove such placard whenever the defect or defects upon which the declaration and placarding action were based have been eliminated.

(Ord. No. 73-4, § 27, 4-17-73)

Sec. 22-218. - Report of notice to vacate.

The enforcing authority shall furnish a copy of each notice to vacate a building to the health officer and any other designated county official concerned therewith.

(Ord. No. 73-4, § 28, 4-17-73)

Secs. 22-219—22-230. - Reserved.

DIVISION 3. - MINIMUM STANDARDS AND REQUIREMENTS

Sec. 22-231. - Duties and responsibilities of owner and operator.

(a)

Maintenance of exterior of premises. The exterior of the premises and of all structures thereon shall be kept free of all nuisances, and any hazards to the safety of occupants, pedestrians and other persons utilizing the premises, and free of unsanitary conditions, and any of the foregoing shall be promptly removed and abated by the owner or operator. It shall be the duty of the owner or operator to keep the premises free of hazards which include but are not limited to the following:

(1)

Brush, weeds, broken glass, stumps, roots, obnoxious growths and accumulations of filth, garbage, trash, refuse, debris and inoperative machinery.

(2)

Dead and dying trees and limbs or other natural growth which, by reason of rotting or deteriorating condition or storm damage, constitute a hazard to persons in the vicinity thereof. Trees shall be kept pruned and

trimmed to prevent such conditions.

(3)

Loose and overhanging objects which by reason of location above ground level constitute a danger of falling on persons in the vicinity thereof.

(4)

Holes, excavations, breaks, projections, obstructions, and excretions of pets and other animals on paths, walks, driveways, parking lots and parking areas, and other parts of the premises which are accessible to and used by persons on the premises. All such holes and excavations shall be filled and repaired, walks and steps replaced and other conditions removed where necessary to eliminate hazards or unsanitary conditions with reasonable dispatch upon their discovery.

(5)

Adequate runoff drains shall be provided and maintained in accordance with the appropriate provisions of the county to eliminate any such return or excessive accumulation of stormwater.

(6)

Sources of infestation.

(7)

Foundation and walls shall be kept structurally sound, free from defects and damage and capable of bearing imposed loads safely.

(8)

Chimneys and all flues and vent attachments thereto shall be maintained structurally sound, free from defects and so maintained as to capably perform at all times the function for which they were designed. Chimneys, flues, gas vents or other draft producing equipment shall provide sufficient draft to develop the rated output of the connected equipment, shall be structurally safe, durable, smoketight and capable of withstanding the action of flue gases.

(9)

Exterior porches, landings, balconies, stairs and fire escapes shall be provided with banisters or railings properly designed and maintained in accordance with the applicable Standard Building Code in order to minimize the hazard of falling, and the same shall be kept structurally sound, in good repair and free from defects.

(b)

Appearance of exterior of premises and structures. The exterior of the premises and the condition of accessory structures shall be maintained so that the appearance of the premises and all buildings thereon shall reflect a level of maintenance in keeping with the standards of the neighborhood, or such higher standards as may be adopted as part of the plan of minimum property standards of the county, and such that the appearance of the premises and structures shall not constitute a blighting factor for adjoining property owners

nor an element leading to the progressive deterioration and downgrading of the neighborhood with the accompanying diminution of property value, including the following:

(1)

Premises shall be kept landscaped and lawns, hedges and bushes shall be kept trimmed and from becoming overgrown and unsightly where exposed to public view and where the same constitutes a blighting factor depreciating adjoining property.

(2)

All permanent signs and billboards exposed to public view permitted by reason of other regulations or as a lawful nonconforming use shall be maintained in good repair. Any signs which have excessively weathered or faded, or those upon which the paint has excessively peeled or cracked shall, with their supporting members, be removed forthwith or put into a good state of repair. All nonoperative or broken electrical signs shall be repaired or shall, with their supporting members, be removed forthwith.

(3)

All windows exposed to public view shall be kept clean and free of marks or foreign substances except when necessary in the course of changing displays. No storage of materials, stock or inventory shall be permitted in window display areas or other areas ordinarily exposed to public view unless such areas are first screened from the public view by drapes, venetian blinds or other permanent rendering of the windows opaque to the public view. All screening of interiors shall be maintained in a clean and attractive manner and in good state of repair.

(4)

All storefronts and walls exposed to public view shall be kept in good repair. Paint or similar protective coating shall be applied where required and shall not constitute a safety hazard or nuisance. In the event repairs to a storefront become necessary, such repairs shall be made with the same or similar materials used in the construction of the storefront in such a manner as to permanently repair the damaged area or areas. Any cornices visible above a storefront shall be kept painted, where required, and in good repair.

(5)

Except for "for rent" signs, any temporary sign or other paper advertising material glued or otherwise attached to a window, or otherwise exposed to public view, shall be removed at the expiration of the event or sale for which it is erected or within 60 days after erection, whichever shall sooner occur.

(6)

Any awning or marquee and its accompanying structural members which extend over any street, sidewalk or any other portion of the premises shall be maintained in good repair and shall not constitute a nuisance or a safety hazard. In the event such awnings or marquees are not properly maintained in accordance with the foregoing, they shall, together with their supporting members, be removed forthwith. In the event such awnings or marquees are made of cloth, plastic or of a similar material, such cloth or plastic, where exposed to public view, shall be maintained in good condition and shall not show evidence of excessive weathering, discoloration, ripping, tearing, or other holes. Nothing herein shall be construed to authorize any encroachment on streets, sidewalks or other parts of the public domain.

(c)

General maintenance. The exterior of every structure or accessory structure, including fences, signs and storefronts, shall be maintained in good repair and all surfaces thereof shall be kept painted or have similar protective coating where necessary for purposes of preservation and appearance. All surfaces shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling paint or other conditions reflective of deterioration or inadequate maintenance to the end that the property itself may be preserved, safety and fire hazards eliminated, and adjoining properties and the neighborhood protected from blighting influences.

(1)

All reconstruction of walls and sidings shall conform to the requirements of the county building code and shall be structurally sound and maintained in a clean condition. Materials used will not be of a kind that by their appearance, under prevailing practices and standards, will depreciate the values of neighboring and adjoining premises.

(2)

Floors, interior walls and ceilings of every structure shall be structurally sound and maintained in a clean and sanitary condition.

(3)

Floors shall be considered to be structurally sound when capable of safely bearing imposed loads and shall be maintained at all times in a condition so as to be smooth, clean, free from cracks, breaks and other hazards.

(4)

All roofs shall have a suitable covering free of holes, cracks or excessively worn surfaces, which will prevent the entrance of moisture into the structure and provide reasonable durability. Metal roofs showing signs of corrosion shall be painted with an approved product, or have similar protective coating applied in accordance with the manufacturer's specifications.

(5)

Washroom and water closet compartment floors shall be surfaced with water resistant materials and shall be kept in a dry, clean and sanitary condition at all times.

(6)

Supporting structural members are to be kept structurally sound, free of deterioration and capable of bearing imposed loads safely.

(7)

Walls and ceiling shall be considered to be in good repair when clean, free from cracks, breaks, loose plaster and similar conditions. Walls shall be provided with paint, paper, sealing material or other protective covering so that such walls and ceiling shall be kept clean, free of visible foreign matter, sanitary and well maintained at all times.

(8)

Every washroom and water closet compartment shall be provided with permanently installed artificial lighting fixtures with a switch and wall plate so located and maintained that there is no danger of short circuiting from water, from other bathroom facilities or from splashing of water.

(9)

All premises shall be properly connected to and be provided with electric power through safely insulated conductors conforming to the National Electrical Code as adopted and amended by the county.

(10)

Except as hereinafter provided, all wiring or cables shall be properly affixed or attached to the structure. Installation shall be provided for all wiring and cables and kept in good repair. No loose cords or loose extension lines in excess of six feet in length shall be permitted and no ceiling or wall fixture shall be used for supplying power to equipment other than that for which they are designed.

(11)

The owner or operator shall have the duty and responsibility of providing garbage storage containers and for the disposal thereof.

(Ord. No. 73-4, § 9, 4-17-73; Ord. No. 96-37, § 7, 4-16-96; Ord. No. 97-50, § 7, 7-1-97)

Sec. 22-232. - Duties and responsibilities of operator.

(a)

Upon discovery by an occupant of any condition on the premises which constitutes a violation of this article, the occupant shall report such condition to the enforcing authority responsible for the enforcement thereunder.

(b)

All parts of the premises under the control of the operator shall be kept in a clean and satisfactory condition and the occupant shall refrain from performing any acts which would render other parts of the premises unclean or unsanitary or which would obstruct the owner or operator from performing any duty required under this article or maintaining the premises in a clean and sanitary condition.

(c)

Every operator shall be responsible for the elimination of infestation in and on the premises subject to his control.

(d)

Every operator shall be responsible for willfully or maliciously causing damage to any part of the premises.

(e)

Every operator shall maintain all plumbing fixtures used by him in a clean and sanitary condition and shall not deposit any material in any fixture or sewer system which would result in stoppage of or damage to the fixture or sewer system.

(f)

Where the owner would not otherwise know of a defect of any facility, utility or equipment required to be furnished under this article and the same is defective or inoperable, each operator affected thereby shall, upon learning of such defect, provide notice to the owner or person in charge of the premises. Nothing herein shall be construed to provide a defense to any owner violating this article.

(Ord. No. 73-4, § 10, 4-17-73)

Secs. 22-233—22-255. - Reserved.

ARTICLE VI. - HOUSING CODE[5]

Footnotes:

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State Law reference— Authority to adopt housing code, F.S. § 125.01(1)(i).

DIVISION 1. - GENERALLY

Sec. 22-256. - Definitions.

(a)

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory structure means a structure, the use of which is incidental to that of the main building and which is attached thereto or located on the same premises, including a pool or spa.

Alter or alteration means any change or modification in construction or occupancy.

Apartment means a room or a suite of rooms occupied, or which is intended or designed to be occupied, as the home or residence of one individual, family, or household, for housekeeping purposes.

Apartment house means any building, or portion thereof, which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied, as the home or residence of more than two families living independently of each other and doing their own cooking in such building, and shall include flats and apartments.

Applicable governing body means a city, county, state, state agency, or other political government subdivision or entity authorized to administer and enforce the provisions of this article, as adopted or amended.

Approved means approved by the housing official.

Area. See Floor area.

Attic story means any story situated wholly or partly in the roof so designated, arranged, or built as to be used for business, storage, or habitation.

Basement means that portion of a building between floor and ceiling, which is partly below and partly above grade (as defined in this section), but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling; provided, however, that the distance from grade to ceiling shall be at least four feet six inches (see Story).

Building means any structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind, together with its premises. The term "building" shall be construed as if followed by the words "or part thereof."

Cellar means a portion of a building located partly or wholly underground, having one-half or more of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Dilapidated dwelling or structure means a dwelling, dwelling unit, multiple dwelling, apartment, or mobile home, including, among others, garages, sheds, and similar accessory structures, which by reason of inadequate maintenance, dilapidation, obsolescence or abandonment is unsafe, insanitary, or which constitutes a fire hazard or is otherwise dangerous to human life and is no longer adequate for the purpose for which it was originally intended. It is the intent of this definition to include any and all structures as may legally come within the scope of the definition of structure as set forth in this section.

Dwelling means any building which is wholly or partly used or intended to be used for living or sleeping by human occupants, whether or not such building is occupied or vacant, including mobile homes, provided that temporary housing as defined in this section shall not be regarded as a dwelling.

Dwelling unit means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating, whether such unit is occupied or vacant.

Exit corridor means any corridor or passageway used as an integral part of the exit system. That portion of a corridor or passageway which exceeds the allowable distance of travel to an exit becomes an exit corridor or passageway.

Exit passageway means an enclosed hallway or corridor connecting a required exit to an open and safe area at ground level.

Extermination means the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating or trapping; or by any other recognized and legal pest elimination methods.

Family means one or more persons living together, whether related to each other by birth or not, and having common housekeeping facilities.

Floor area means the total area of all habitable space in a building or structure.

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

Grade, with reference to a building, means, when the curb level has been established, the mean elevation of

the curb level opposite those walls that are located on, or parallel with and within 15 feet of, street lines; or, when the curb level has not been established, or all the walls of the building are more than 15 feet from street lines, grade means the average of the finished ground level at the center of all walls of a building.

Habitable room means a room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers, or communicating corridors, closets, and storage spaces.

Housing official means the officer or other person charged with the administration and enforcement of this article, or a duly authorized representative.

Infestation means the presence, within or around a dwelling, of any insects, rodents, or other pests.

Inner court means an open unoccupied space bounded by the walls of the building but located within the exterior walls of the building.

Landlord means the owner or lessor of a dwelling unit.

Major violation means a defect that exists on premises which is immediately dangerous to the health, safety or welfare of the occupants, passersby or persons in contiguous areas.

Minor violation means a defect that exists on premises which in its present state of disrepair, deterioration or abandonment does not constitute an immediate hazard to the health, safety and welfare of the public.

Multiple dwelling has the same meaning as Apartment house.

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 ordinances of the county, including this article;

(2)

Any attractive nuisance which may prove detrimental to the health or safety of children whether in a building, on the premises of a building, or upon an unoccupied lot. This includes, but is not limited to: Abandoned wells, shafts, basements, pools or spas, excavations, abandoned iceboxes, refrigerators, motor vehicles and any structurally unsound fences or structures; lumber, trash, fences, debris or vegetation which may prove a hazard for inquisitive minors;

(3)

Physical conditions dangerous to human life or detrimental to health;

(4)

Insanitary conditions or anything offensive to the senses or dangerous to health;

(5)

Whatever renders air, food or drink unwholesome or detrimental to the health of human beings; and

(6)

Fire hazards.

Occupant means any person living, sleeping, cooking, or eating in, or having actual possession of, a dwelling unit or rooming unit.

Openable area means that part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

Operator means any person who has charge, care or control of a building in which dwelling units or rooming units are let.

Ordinary minimum winter conditions means the temperature 20 degrees Fahrenheit above the lowest recorded temperature for the previous 15-year period.

Owner means the holder of the title in fee simple and any person, group of persons, company, association, or corporation in whose name tax bills on the property are submitted. It shall also mean any person who, alone or jointly or severally with others:

(1)

Shall have legal title to any dwelling or dwelling unit with or without accompanying actual possession thereof; or

(2)

Shall have charge, care or control of any dwelling or dwelling unit as owner, executor, executrix, administrator, trustee, guardian of the estate of the owner, mortgagee or vendee in possession, assignee of rents, lessee, or other person in control of a building, or their duly authorized agents. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article, and of rules and regulations adopted pursuant thereto, to the same extent as if that person were the owner. It is the duly authorized agent's responsibility to notify the actual owner of the reported infractions of this article pertaining to the property which apply to the owner.

Person means a natural person, heirs, executors, administrators, or assigns, and also includes a firm, partnership, or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

Physical value means the actual cost of replacement of a building or structure with similar materials erected in a like manner to the original construction. The term "physical value" could also mean the fair market value or the appraised value of a building or structure, exclusive of land value.

Plumbing means the practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, and appurtenances in connection with any of the following: Sanitary drainage or storm drainage facilities; the venting system and the public or private water supply systems within or adjacent to any building, structure, or conveyance; also, the practice and materials used in the installation, maintenance, extension, or alteration of stormwater, liquid waste, or sewerage; and water supply systems of any premises to their connection with any point of public disposal or other acceptable

terminal.

Premises means a lot or parcel of land, including the buildings or structures thereon.

Public areas, as used in this article, means an unoccupied open space adjoining a building and on the same property.

Repair means the replacement of existing work with the same kind of material used in the existing work; or the reconstruction or renewal of any part of an existing building for the purpose of its maintenance.

Required means required by some provision of this article.

Residential occupancy. Buildings in which families or households live or in which sleeping accommodations are provided, and all dormitories, shall be classified as "residential occupancy." Such buildings include, among others, the following: dwellings, multiple dwellings, and lodginghouses.

Rooming unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Roominghouse means any dwelling, or that part of any dwelling, containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.

Rubbish means combustible and noncombustible waste materials, except garbage; and the term shall include the residue from the burning of wood, coal, coke, and other combustible material; paper, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust.

Stairway means one or more flights of stairs and the necessary landings and platforms connecting them to form a continuous and uninterrupted passage from one story to another in a building or structure.

Story means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term "structure" shall be construed as if followed by the words "or part thereof."

Substandard dwelling or structure means a dwelling, dwelling unit, multiple dwelling, apartment, apartment house, or any other space used or intended to be used as a habitable living space in any building or structure, which does not meet the basic minimum requirements of this article for such use.

Supplied means paid for, furnished or provided by, or under the control of, the owner or operator.

Temporary housing means any tent, trailer, or other structure used for human shelter which is designed to be transportable, and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

Unsafe building means any dilapidated dwelling or structure as defined in this article.

Valuation or value, as applied to a building, means the estimated cost to replace the building in kind. Value may also mean the fair market value or appraised value of a building or parcel of land.

Ventilation means the process of supplying and removing air by natural or mechanical means to or from any space.

Walls:

Bearing wall means a wall which supports any vertical load in addition to its own weight.

Exterior wall means a wall, bearing or nonbearing, which is used as an enclosing wall for a building but which is not necessarily suitable for use as a party wall or fire wall.

Foundation wall means a wall below the first floor extending below the adjacent ground level and serving as support for a wall, pier, column or other structural part of a building.

Yard means an open unoccupied space, on the same lot with a building, extending along the entire length of a street, or rear or interior lot line.

(b)

Meaning of certain words. Whenever the words "apartment," "apartment house," "dwelling," "dwelling unit," "roominghouse," "rooming unit," and "premises" are used in this article, they shall be construed as though they were followed by the words "or any part thereof."

(Ord. No. 92-65, § 2(201), 10-27-92)

Cross reference— Definitions generally, § 1-2.

Sec. 22-257. - Penalty for violation of article.

Violations of this article are punishable as provided in section 1-8.

(Ord. No. 92-65, § 2(501), 10-27-92)

Sec. 22-258. - Remedial; purposes.

This article is hereby declared to be remedial, and shall be construed to secure the beneficial interest and purposes thereof, which are public safety, health, and general welfare, through structural strength, stability, maintenance, sanitation, adequate light and ventilation, and safety to life and property from fire, vermin, blight and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of dwellings, apartment houses, roominghouses, or buildings or structures used as such, together with their premises.

(Ord. No. 92-65, § 2(101.2), 10-27-92)

Sec. 22-259. - Scope of article.

(a)

Every building and its premises used in whole or in part as a dwelling unit or as two or more dwelling units,

or as rooming or boarding houses, shall conform to the requirements of this article, irrespective of the primary use of such building and premises, and irrespective of when such building may have been constructed, altered or repaired.

(b)

This article establishes minimum standards for occupancy and does not replace or modify standards otherwise established for construction, replacement or repair of buildings except such as are contrary to the provisions of this article.

(c)

The provisions of this article shall apply to all mobile homes and house trailers used as residential occupancy in excess of 30 days.

(Ord. No. 92-65, § 2(101.3), 10-27-92)

Sec. 22-260. - Existing buildings.

The provisions of this article shall apply to any dwelling, apartment, apartment house or roominghouse, irrespective of when such building was constructed, altered or repaired.

(1)

If, within any period of 12 months, alterations or repairs costing in excess of 50 per cent of the then physical value of the building are made to an existing building, such building shall be made to conform to the requirements of the county building code for new construction.

(2)

If an existing building is damaged by fire or otherwise in excess of 50 percent of its then physical value before such damage is repaired, it shall be made to conform to the requirements of the county building code for new construction.

(3)

If the cost of such alterations or repairs, or the amount of such damage, is more than 25 percent but not more than 50 percent of the then physical value of the building, the portions to be altered or repaired shall be made to conform to the requirements of the county building code for new buildings to such extent as the housing official may determine.

(4)

Repairs and alterations not covered by the preceding subsections of this section, restoring a building to its condition previous to damage or deterioration, or altering it in conformity with the provisions of the county building code, or in such manner as will not extend or increase an existing nonconformity or hazard, may be made with the same kind of materials as those of which the building is constructed.

(5)

For the purpose of this section, the "physical value" of a building or structure, as defined in this article, shall

be determined by the housing official.

(Ord. No. 92-65, § 2(101.5), 10-27-92)

Sec. 22-261. - Requirements not covered by article.

Any requirement, not specifically covered by this article, found necessary for the safety, health, and general welfare of the occupants of any dwelling, shall be determined by the housing official subject to hearing and appeal as provided in this article.

(Ord. No. 92-65, § 2(103.4), 10-27-92)

Sec. 22-262. - Areas embraced.

All territory within the legal boundaries of the county, including all unincorporated and incorporated areas, shall be embraced by the provisions of this article. Where a municipality has adopted housing code standards, the municipal ordinance or code shall govern.

(Ord. No. 92-65, § 2(502), 10-27-92)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 22-263. - Conflicting provisions.

Should any provisions of this article be in conflict with any existing zoning, standard building code, standard electric code, standard plumbing code, fire code or any other code of the county, then the provisions establishing the higher standard will prevail.

(Ord. No. 92-65, § 2(503), 10-27-92)

Sec. 22-264. - Service of written notice.

For the purposes of this article, a written notice shall be considered served when it is sent by certified mail, return receipt requested, to the property owner as shown on the current tax rolls of the county. For the purposes of any notice required by F.S. § 125.69, such notice may be provided by regular mail.

(Ord. No. 92-205, § 2(201), 10-27-92; Ord. No. 96-12, § 3, 1-16-96; Ord. No. 06-09, § 1, 1-24-06)

Secs. 22-265—22-275. - Reserved.

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

Sec. 22-276. - Administrative authority.

(a)

Authority for the administration and enforcement of this article shall be vested in the county department of environmental management.

(b)

Enforcement of this article shall be conducted by the director of the county department of environmental

management, referred to in this article as the "housing official."

(c)

No officer or employee connected with the department which is responsible for the enforcement of this article shall be financially interested in the furnishing of labor, material or appliances for the construction, alteration, or maintenance of a building unless that person is the owner of such building. No such officer or employee shall engage in any work which is inconsistent with the duties or interests of the department.

(d)

The housing official shall keep, or cause to be kept, a record of the business of the department of environmental management. The records of the department shall be open to public inspection.

(e)

Any officer, employee, or member of the board of county commissioners, charged with the enforcement of this article, in the discharge of duties, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of duties under this article.

(f)

The housing official shall submit reports as required to the county administrator covering the work of the department of environmental management.

(Ord. No. 92-65, § 2(101.4), (102), (103.5), (103.6), 10-27-92; Ord. No. 96-12, § 1, 1-16-96)

Sec. 22-277. - Powers and duties of housing official.

(a)

Right of entry.

(1)

The housing official or duly authorized representative shall enforce the provisions of this article, and upon presentation of proper identification to the owner or duly authorized agent, may enter any building, structure or premises in the county during reasonable hours to perform any duty imposed upon them by this article. This right of entry shall be subject to the following guidelines:

a.

There must be an identified public interest which justifies inspection of the building, structure or premises; and

b.

Entry into the building, structure or premises may not be gained by force.

(2)

In the event that the housing official, or duly authorized representative, is refused consent to enter a building, structure or premises to perform an inspection under this article, the housing official or duly authorized representative may apply for an inspection or search warrant. The application for an inspection or search warrant shall be submitted to any court authorized to issue inspection or search warrants under state law.

(b)

Emergency order. In cases of emergency where extreme hazards are known to exist within a building, structure or on the premises which may involve the potential loss of life or severe property damage, the limitations of subsection (a) of this section shall not apply.

(Ord. No. 92-65, § 2(103.1), (103.2), 10-27-92)

State Law reference— Search warrants and inspection warrants, F.S. ch. 933.

Sec. 22-278. - Unsafe buildings.

All dwellings, apartment houses, roominghouses, buildings or structures and their premises used as such which are unsafe, insanitary, unfit for human habitation, or not provided with adequate egress, or which constitute a fire hazard or are otherwise dangerous to human life, or which in relation to their existing use constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are unsafe buildings. All such unsafe buildings and nuisances are hereby declared to be in violation of this article and shall be secured, repaired and rehabilitated or demolished in accordance with the following procedure.

(1)

Whenever the housing official determines that there are reasonable grounds to believe that there has been a violation of any provision of this article, or of any rule or regulation adopted pursuant thereto, the housing official shall give notice of such alleged violation to the person or persons responsible therefor. Such notice shall:

a.

Be put in writing.

b.

Include a statement of the reasons why it is being issued.

c.

Allow 15 days to correct major violations and 30 days to correct minor violations with a maximum time limit of 60 days for either, subject to approval of the housing official.

d.

Where extreme hazards are known to exist within a building or structure on the premises which may involve the potential loss of life or severe property damage, the housing official may take or require immediate corrective action. The terminology "to correct" includes, but is not limited to, action taken to alter, upgrade, secure, repair, remodel or demolish any unsafe building.

e.

Such notice shall further state that if such corrections are not voluntarily completed within the stated time, as set forth in the notice, the housing official shall institute legal proceedings charging the owner with a violation of this article.

f.

Such notice shall contain the provisions of this article providing for hearing and appeal.

(2)

Any written notice required under this section shall be considered properly served so long as it complies with the requirements of section 22-264.

(3)

In the event that the owner does not, after due notice has been given and all rights of appeal have been exhausted, comply with the notice to correct violations of such premises, the housing official shall cause such premises to be repaired, secured or demolished. Where an unsafe building is to be secured, repaired or demolished without the owner's consent, the housing official shall obtain approval of the board of county commissioners prior to securing, repairing or demolishing such building.

(4)

The housing official shall implement the provisions of subsection (3) of this section through any available public agency or by contracting with an independent licensed contractor, submitting the lowest and best qualified bid for the performance of the necessary work in connection with the correction of violations. Any work implemented by the housing official in connection with the correction of violations identified under this section, including demolitions, and performed by the housing official or his agent, may be performed without the necessity of first obtaining a permit(s) from the Pinellas County Building Department.

(5)

Costs incurred under subsection (4) of this section shall be charged to the owner and shall constitute a lien upon the property and shall be collected in the manner provided by law.

(Ord. No. 92-65, § 2(103.3), 10-27-92; Ord. No. 96-12, § 4, 1-16-96; Ord. No. 98-11, § 1, 1-6-98; Ord. No. 06-09, § 2, 1-24-06)

Sec. 22-279. - Inspections.

(a)

The housing official shall make or cause to be made inspections to determine the condition of dwellings, dwelling units, rooming units, and premises in the interest of safeguarding the health and safety of the occupants of dwellings and of the general public.

(b)

The applicable governing body shall not provide, nor permit another to provide, utility services (either public

or private) such as water, gas, electricity, sewer, etc., to any substandard dwelling unit until such dwelling unit has been inspected, brought into compliance with this article and the building code, and a valid certificate of occupancy, as required, has been issued. This requirement shall not preclude the temporary use of such utility services as may be deemed necessary during construction, repair or alteration. The housing official shall be responsible for making the determination as to when such temporary services may be necessary.

(Ord. No. 92-65, § 2(104), 10-27-92)

Sec. 22-280. - Condemned dwellings.

(a)

Designation of; procedures. The designation of dwellings or dwelling units as unfit for human habitation, and the procedure for the condemnation and placarding of such unfit dwellings or dwelling units, shall be carried out in compliance with the following procedures:

(1)

Designation; placarding. Any dwelling or dwelling unit which shall be found to have any of the following defects shall be condemned as unfit for human habitation and shall be so designated and placarded by the housing official:

a.

One which is so damaged, decayed, dilapidated, insanitary, unsafe, vandalized, or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public.

b.

One which lacks illumination, ventilation, or sanitation facilities adequate to protect the health or safety of the occupants or of the public.

(2)

Form and service of notice. Whenever the housing official has declared a dwelling or multifamily dwelling as unfit for human habitation, as defined in this article, the housing official shall give notice to the owner in accordance with section 22-264.

(3)

Vacating of condemned dwelling. Any dwelling or dwelling unit condemned as unfit for human habitation and so designated and placarded by the housing official shall be vacated within 30 days after notice of such condemnation has been given by the housing official to the owner of the building. Such notice shall require the building, structure or portion thereof to be vacated forthwith and not be reoccupied until the specified repairs and improvements are completed, inspected, and approved by the housing official.

(4)

Occupancy of dwelling. No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until approval is secured from, and such placard is

removed by, the housing official. The housing official shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.

(b)

Removal of placard. No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such pursuant to this section, except as provided in subsection (a)(4) hereof.

(Ord. No. 92-65, § 2(107), 10-27-92; Ord. No. 06-09, § 3, 1-24-06)

Sec. 22-281. - Appeals.

(a)

Grounds for appeal. When the application of the requirements of this article would appear to cause undue hardship on an owner or when it is claimed that the true intent and meaning of this article or any of the regulations therein have been misconstrued or wrongly interpreted, the owner of such building or structure, or a duly authorized agent, may appeal the decision of the housing official.

(b)

Filing; administrative action.

(1)

An owner receiving an official notice of violation pursuant to section 22-278 may appeal the decision of the housing official to the board of county commissioners. The notice of appeal shall be in writing and shall be filed within 15 days from the date of the notice of violation. The appeal shall state the location of the property, the date of the notice of violation and the number of such notice. The appeal must state the relief requested, the reasons therefor, and the grounds upon which the appeal is made.

(2)

No appeal filed later than 15 days after the date of such notice shall be acted upon by the board of county commissioners unless the housing official shall consent thereto.

(3)

Upon receipt of the written notice of appeal, the board of county commissioners shall direct the county administrator to review all aspects of the appeal. It shall be the duty of the county administrator to review the notice of violation and the appeal with the housing official and the county attorney. The county administrator shall be required to take all reasonable steps to resolve the case in question in a manner which is consistent with the requirements of this article.

(4)

In the event that administrative action as provided for in subsection (b)(3), above, does not result in a satisfactory resolution of the matter, the county administrator shall inform the board of county commissioners in writing that all administrative remedies have been exhausted.

(Ord. No. 92-65, § 2(105), 10-27-92)

Sec. 22-282. - Action by board of commissioners.

(a)

Procedure. The board of county commissioners shall establish rules and regulations for its own procedures not inconsistent with the provisions of this article and the laws of the state.

(b)

Hearing.

(1)

Upon receipt of a written notice from the county administrator that all administrative remedies have been exhausted, the board of county commissioners shall hold a public hearing and shall notify the owner or the owner's duly authorized agent in writing of the time, date and place at which a hearing will be held. The hearing shall be held no less than 30 days after the notice of appeal is filed. At the hearing, the owner or duly authorized agent shall be given an opportunity to be heard, present evidence, and show cause why the decision of the housing official should be modified, varied or reversed.

(2)

The board of county commissioners may vary the application of any provision of this article when in its judgement the enforcement thereof would do manifest injustice, cause undue hardship or be contrary to the intent and meaning of this article, or if in the judgement of the board the housing official has misinterpreted or misapplied the provisions of this article.

(3)

The decision of the board of county commissioners to modify, vary or reverse the application of any provision of this article shall specify the manner in which such modification or variation is to be made, the conditions upon which it is made and the reasons therefor.

(4)

Every decision of the board of county commissioners shall be final. The proceedings of each hearing, including the findings and decisions of the board, shall be summarized in writing and entered in the public records of the board. A copy of the decision of the board of county commissioners shall be sent by certified mail to the appellant and the original shall be filed with the housing official. The housing official shall immediately take action in accordance with the decision of the board.

(c)

Appeal from action of board. An owner aggrieved by the decision of the board of county commissioners rendered pursuant to this article may seek relief therefrom in a court of competent jurisdiction as provided by the laws of the state.

(Ord. No. 92-65, § 2(106), 10-27-92)

Secs. 22-283—22-295. - Reserved.

DIVISION 3. - MINIMUM STANDARDS

Sec. 22-296. - Generally.

No person shall occupy as owner-occupant, or let or sublet to another for occupancy, any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, nor shall any vacant dwelling be permitted to exist, which does not comply with the following requirements:

(1)

Sanitary facilities required. Every dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower and a water closet, all in good working condition and properly connected to an approved water and sewer system. Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks and obstructions.

(2)

Location of sanitary facilities. All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet, tub or shower and lavatory shall be located in a room affording privacy to the user and such room shall have a minimum floor space of 30 square feet, with no dimension less than four feet.

(3)

Hot and cold water supply. Every dwelling unit shall have connected to the kitchen sink, lavatory and tub or shower an adequate supply of both cold and hot water. All water shall be supplied through a pipe distribution system connected to a potable water supply.

(4)

Water heating facilities. Every dwelling shall have water heating facilities which are properly installed and maintained in a safe and good working condition and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than 120 degrees Fahrenheit. Such water heating facilities shall be capable of meeting the requirements of this subsection when the dwelling or dwelling unit heating facilities required under the provisions of this article are not in operation.

(5)

Heating facilities.

a.

Every dwelling unit shall have heating facilities which are properly installed, are maintained in safe and good working condition, and are capable of safely, adequately, and simultaneously heating all habitable rooms and bathrooms in every dwelling unit located therein to a temperature of at least 70 degrees Fahrenheit at a distance of three feet above floor level under ordinary minimum winter conditions. If central heating is not provided, each dwelling unit shall be equipped with proper connections for heating appliances.

b.

Unvented fuel burning heaters shall be prohibited.

c.

Portable heaters shall be situated and designed in a safe and stable manner.

(6)

Cooking and heating equipment. All cooking and heating equipment facilities shall be installed in accordance with the building, gas or electrical code and shall be maintained in a safe and good working condition.

(7)

Garbage disposal facilities. Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers, the type and location of which facilities or containers are approved by the applicable governing body.

(8)

Smoke detection devices. Every landlord of a single-family home or duplex shall comply with F.S. § 83.51(2)(b), and any amendments thereto, which requires the installation of working smoke detection devices unless otherwise agreed in writing.

(Ord. No. 92-65, § 2(301), 10-27-92)

Sec. 22-297. - Light and ventilation.

No person shall occupy as owner-occupant, or let or sublet to another for occupancy, any dwelling or dwelling unit designed and intended to be used for the purpose of living, sleeping, cooking or eating therein, nor shall any vacant dwelling building be permitted to exist, which does not comply with the following requirements:

(1)

Window area.

a.

Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be eight percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any such room and such light obstruction structures are located less than three feet from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight type window in the top of such room, the total window area of such skylight shall equal at least 15 percent of the total floor area of such room.

b.

Yearround mechanically ventilating conditioned air systems may be substituted for windows, as required herein, in rooms other than rooms used for sleeping purposes. Window type air-conditioning units are not included in this exception.

(2)

Habitable rooms. Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total of openable window area in every habitable room shall equal at least 45 percent of the minimum window area size or minimum skylight-type window size, as required, or shall have other approved, equivalent ventilation.

(3)

Bathrooms and water closet compartments. Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

(4)

Electric service. Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room of such dwelling shall contain at least two separate and remote wall type electric convenience outlets; and every kitchen, bathroom and porch shall contain at least one supplied ceiling or wall type electric light fixture. Every such outlet and fixture shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to the source of electric power in a safe manner.

(5)

Light in public halls and stairways. Every public hall and stairway in every multiple dwelling containing five or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to dwelling occupancy and containing not more than four dwelling units may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.

(Ord. No. 92-65, § 2(302), 10-27-92)

Sec. 22-298. - Electrical systems.

No person shall occupy as owner-occupant, or let or sublet to another for occupancy, any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, nor shall any vacant dwelling building be permitted to exist, which does not comply with the following requirements: All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used and installed and connected to the source of electric power, in accordance with the adopted electrical code of the county.

(1)

Where the determination is made, upon examination of the existing electrical service supply, that such electrical service is obsolete or is being used in such manner as would constitute a hazard to the occupants or would otherwise constitute a hazard to life and property, the following shall be used for determining the

adequacy of such service: Less than ten kilowatt load and less than six separate circuits requires a minimum of 60-ampere service; ten kilowatt load or six or more separate circuits requires a minimum of 100-ampere service.

(2)

The minimum capacity of the service supply shall be sufficient to adequately carry the total load applied in accordance with the adopted electrical code of the county.

(Ord. No. 92-65, § 2(303), 10-27-92)

Sec. 22-299. - Exterior and interior of structures.

No person shall occupy as owner-occupant, or let or sublet to another for occupancy, any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, nor shall any vacant dwelling be permitted to exist, which does not comply with the following requirements:

(1)

Foundation. The building foundation walls, piers or other structural elements shall be maintained in a safe manner and capable of supporting the load which normal use may cause to be placed thereon.

(2)

Exterior walls. The exterior walls shall be weathertight, watertight and shall be made impervious to the adverse effects of weather with a protective coating if not constructed of a material that is weathertight, watertight and impervious to the adverse effects of weather in its natural state, and be maintained in sound condition and good repair. Further, such walls shall be maintained so that their appearance shall reflect a level of maintenance in keeping with the standards of the neighborhood, or such higher standards as may be adopted as part of a plan of minimum property standards of the county, and such that the appearance of the buildings shall not constitute a blighting factor for adjoining property owners, nor an element leading to the progressive deterioration and downgrading of the neighborhood with the accompanying diminution of property value. In furtherance of this goal, no exterior wall, door, window or casement that is secured by plywood, boards, or other protective covering, whether of a permanent or temporary nature, may remain so secured for longer than a period of 90 days, unless such protective covering is a professionally manufactured product made solely for purposes of storm protection.

(3)

Roofs.

a.

Roofs shall be structurally sound and maintained in a safe manner and have no defects which might admit rain or cause dampness in the walls or interior portion of the building.

b.

All portions, additions or sections of a roof, including, but not limited to, fascia, eaves, soffit, sheathing, rafter tails, barge rafter, vent screening, gutters, downspouts, roof jacks, lead or metal flashing, shall be structurally sound and shall be complete with all trim strips, moldings, brackets, braces and supports in

accordance with standard building practices. No portion, addition or section of a roof shall display signs of deterioration, abuse, or improper installation that causes damage to the roof, admits rain or causes dampness.

(4)

Means of egress. Every dwelling shall have safe, unobstructed means of egress with minimum ceiling height of seven feet leading to a safe and open space at ground level. Stairways shall have a minimum head room of six feet eight inches.

(5)

Stairs, porches and appurtenances. Every inside and outside stair, porch, and any appurtenances thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in sound condition and good repair.

(6)

Protective railings. Protective railings shall be required on any unenclosed structure over 30 inches from the ground level or on any steps containing four risers or more.

(7)

Windows and doors. Every window, exterior door and casement, or cellar door and hatchway, shall be substantially weathertight, watertight and rodentproof, and shall be kept in sound working condition and good repair. No such window, exterior door or casement that is secured by plywood, boards, or other protective covering, whether of a permanent or temporary nature, may remain so secured for longer than a period of 90 days, unless such protective covering is a professionally manufactured product made solely for purposes of storm protection.

(8)

Windows to be glazed. Window panes or an approved substitute shall be maintained without cracks or holes.

(9)

Window sash. Window sash shall be properly fitted and weathertight within the window frame.

(10)

Windows to be openable. Every window required for light and ventilation for habitable rooms shall be capable of being easily opened and secured in position by window hardware. No such window that is secured by plywood, boards, or other protective covering, whether of a permanent or temporary nature, may remain so secured for longer than a period of 90 days, unless such protective covering is a professionally manufactured product made solely for purposes of storm protection.

(11)

Hardware. Every exterior door shall be provided with proper hardware and maintained in good condition.

(12)

Door frames. Every exterior door shall fit reasonably well within its frame so as to substantially exclude rain and wind from entering the dwelling building.

(13)

Screens. Every window with opening to outdoor space shall have screens.

(14)

Protective treatment. All exterior surfaces not constructed of a material which is weathertight, watertight and impervious to the elements in its natural state shall be protected from the elements by painting or other protective covering or treatment.

(15)

Accessory structures. Garages, storage buildings and other accessory structures shall be maintained and kept in good repair and sound structural condition. Utility sheds shall be constructed and maintained on a flooring made of non-biodegradable material.

(16)

Interior floor, walls and ceilings.

a.

Every floor, interior wall and ceiling shall be substantially rodent-proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

b.

Every toilet, bathroom, kitchen and laundry room floor surface shall be constructed and maintained so as to be substantially impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

(17)

Structural supports. Every structural element of the dwelling shall be maintained structurally sound and show no evidence of deterioration which would render it incapable of carrying loads which normal use may cause to be placed thereon.

(18)

Protective railings for interior stairs. Interior stairs and stairwells more than four risers high shall have handrails located in accordance with the requirements of the building code. Handrails or protective railings shall be capable of bearing normally imposed loads and be maintained in good condition.

(Ord. No. 92-65, § 2(304), 10-27-92; Ord. No. 05-11, § 1, 2-22-05; Ord. No. 06-09, § 4, 1-24-06)

Sec. 22-300. - Dwelling space.

No person shall occupy as owner-occupant, or let or sublet to another person for occupancy, any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, nor shall any vacant dwelling building be permitted to exist, which does not comply with the following requirements:

(1)

Required space in dwelling unit. Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor area per additional occupant. The floor area shall be calculated on the basis of the total area of all habitable rooms.

(2)

Required space in sleeping rooms. In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant thereof.

(3)

Minimum ceiling height. Every habitable room, foyer, bathroom, hall or corridor shall have a ceiling height of at least seven feet. If any room has a sloping ceiling, the prescribed ceiling height for the room is required in only one-half the area thereof, but the floor area of that part of any room where the ceiling height is less than seven feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

(4)

Occupancy of dwelling unit below grade. No basement or cellar space shall be used as a habitable room or dwelling unit unless:

a.

The floor and walls are impervious to the intrusion of underground and surface runoff water and are insulated against dampness;

b.

The total window area in each room is equal to at least the minimum window area size as required in section 22-297(1) of this article;

c.

Such required minimum window is located entirely above the grade of the ground adjoining such window area; and

d.

The total openable window area in each room is equal to at least the minimum as required under section 22-297(2) of this article, except where there is supplied some other device affording adequate ventilation.

(Ord. No. 92-65, § 2(305), 10-27-92)

Sec. 22-301. - Sanitation.

No person shall occupy as owner-occupant, or let or sublet to another for occupancy, any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, nor shall any vacant dwelling building be permitted to exist, which does not comply with the following requirements:

(1)

Owner's responsibility for common areas. Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(2)

Responsibility of occupants. Every occupant of a dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which is occupied and controlled by, or which is provided for, the occupant's particular use.

(3)

Garbage disposal. Every owner or occupant of a dwelling or dwelling unit shall place all garbage in a clean and sanitary manner in garbage disposal facilities or garbage/rubbish storage containers and arrange for regular garbage disposal service.

(4)

Care of premises.

a.

It shall be unlawful for the owner or occupant of a residential building, structure or property to utilize the premises of such residential property for the open storage of any building material, building rubbish, icebox, refrigerator, stove, glass, or similar items. It shall be unlawful for such owner or occupant to openly store any liquids or chemicals that may become hazardous or stagnant. It shall be the duty and responsibility of every such owner or occupant to keep the premises of such residential property clean and to remove from the premises all such items that constitute a nuisance, as defined by this article.

b.

Utilization of any building for storage purposes shall be consistent with local land use and zoning requirements.

(5)

Extermination. Every occupant of a single-dwelling building and every owner of a building containing two or more dwelling units shall be responsible for the extermination of any insects, rodents or other pests within the building or premises.

(6)

Use and operation of supplied plumbing fixtures. Every occupant of a dwelling unit shall keep all plumbing fixtures in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

(Ord. No. 92-65, § 2(306), 10-27-92; Ord. No. 96-12, § 2, 1-16-96; Ord. No. 97-102, § 1, 12-9-97)

Secs. 22-302—22-310. - Reserved.

DIVISION 4. - ROOMINGHOUSES[6]

Footnotes:
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Cross reference— Businesses, ch. 26.

Sec. 22-311. - Compliance required.

No person shall operate a roominghouse, or shall occupy or let to another for occupancy any rooming unit in any roominghouse, except in compliance with the provisions of every section of this article, except the provisions of section 22-296 and section 22-301.

(Ord. No. 92-65, § 2(401), 10-27-92)

Sec. 22-312. - License required.

No person shall operate a roominghouse unless that person holds a valid roominghouse license.

(Ord. No. 92-65, § 2(401.1), 10-27-92)

Sec. 22-313. - Water closet, lavatory and bath facilities.

(a)

At least one flush water closet, lavatory basin, and bathtub or shower, properly connected to a water and sewer system and in good working condition, shall be supplied for each four rooms within a roominghouse wherever such facilities are shared.

(b)

All such facilities required under subsection (a) of this section shall be located on the floor they serve within the dwelling, so as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities.

(Ord. No. 92-65, § 2(401.2), 10-27-92)

Sec. 22-314. - Water heater required.

Every lavatory basin, and bathtub or shower in a roominghouse shall be supplied with hot water at all times.

(Ord. No. 92-65, § 2(401.3), 10-27-92)

Sec. 22-315. - Minimum floor area for sleeping purposes.

Every room in a roominghouse occupied for sleeping purposes by one person shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet of floor space for each occupant thereof.

(Ord. No. 92-65, § 2(401.4), 10-27-92)

Sec. 22-316. - Heating facilities.

(a)

Every roominghouse shall have heating facilities which are properly installed, are maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms, rooming units and bathrooms located therein to a temperature of at least 70 degrees Fahrenheit at a distance of three feet above floor level under ordinary minimum winter conditions.

(b)

Unvented fuel burning heaters shall be prohibited in roominghouses.

(Ord. No. 92-65, § 2(401.5), 10-27-92)

Sec. 22-317. - Exit requirement.

Every rooming unit in a roominghouse shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required by the laws of the governed area or of the state.

(Ord. No. 92-65, § 2(401.6), 10-27-92)

Sec. 22-318. - Sanitary conditions.

The operator of every roominghouse shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for the maintenance of a sanitary condition in every other part of the roominghouse; and shall further be responsible for the sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by the operator.

(Ord. No. 92-65, § 2(401.7), 10-27-92)

Chapter 26 - BUSINESSES[1]

Footnotes:
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Charter reference— General powers of county, § 2.01.

Cross reference— Industry council, § 2-311 et seq.; alcoholic beverages, ch. 6; amusements and entertainments, ch. 10; roominghouses, § 22-311 et seq.; cable communications, ch. 30; consumer protection, ch. 42; adult uses, § 42-51 et seq.; health and dance studios, § 42-171 et seq.; peddlers and solicitors, §

42-201 et seq.; sale of future consumer services, § 42-236 et seq.; sale of goods to persons in motor vehicles or solicitation of contributions from occupants of motor vehicles, § 98-1; solid waste management facilities, § 106-131 et seq.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g); authority to regulate businesses, F.S. § 125.01(1)(h).

ARTICLE I. - IN GENERAL

Secs. 26-1—26-25. - Reserved.

ARTICLE II. - CHILD CARE CENTERS[2]

Footnotes:

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Editor's note—The acts contained in this article retain their status as special acts. See charter § 5.02. The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Cross reference— Juvenile welfare board, § 2-236 et seq.

State Law reference— Child care facilities, F.S. § 402.301 et seq.

DIVISION 1. - GENERALLY

Sec. 26-26. - Definitions.

(a)

A "children's center" includes any day nursery, nursery school, kindergarten, or other facility whatsoever which, with or without compensation, cares for five or more children 17 years of age or under, not related to the operator by blood, marriage, or adoption, away from the child's own home for from two to 12 hours per day per child. This term shall not be construed to include any center under the jurisdiction of the state board of education or to include any nonpublic academic school except in regard to children below first grade level.

(b)

A "day nursery" means a children's center consisting of improved realty, equipment, and staff, conducted for children ranging in age from two years through six years nine months for the purpose of providing shelter,

food, rest and care and training. Such centers may accept schoolchildren under 17 years before and after school hours.

(c)

A "nursery school" means a children's center consisting of improved realty, equipment and staff, conducted for children ranging in age from two years through five years nine months for the purpose of offering an educational program of directed, organized play and training at the level of the child's growth and development, and providing shelter, food, rest and care, for from two to seven hours per day per child.

(d)

A "kindergarten" means a children's center consisting of improved realty, equipment and staff, conducted for children ranging from five years through six years nine months in age, for the purpose of offering an educational program of directed, organized play and training at the level of the children's growth and development, and providing shelter, food, rest, and care for from two to seven hours per day per child.

(e)

A "family day care home" means a facility for child care in a place of residence of a family, person, or persons who receive no more than four children under 17 years of age away from their own homes who are not related to such person or persons by blood, marriage, or adoption, for the purpose of providing family care and training for such children for from two to 12 hours per day. No more than three of the four children may be under two years of age. This term shall not be construed to include children above first grade level except in homes where children below first grade level are also received for care.

Under special circumstances, family day care homes may be licensed to care for children 24 hours a day. To fall under the administration of the license board, these family day care homes may not receive children from any licensed child-placing agencies. These family day care homes shall meet the same minimum standards established by the state welfare board for the care of children under 17 years of age being cared for away from their own parents or guardians, except where the requirements are in conflict with this article or changed as provided herein.

(f)

"Children's centers" licensed hereunder shall not provide regular overnight care for children. Overnight care on New Year's Eve and other similar occasions to be specified by the license board for a number not in excess of the total enrollment authorized on its license is permissive, subject to the determination by the license board that such overnight care is reasonable under the circumstances.

(g)

An "operator" means any person responsible for the operation of a children's center or family day care home as previously defined, whether or not he is the owner.

(h)

"Child care staff" means all persons who participate daily in direct care, teaching or training children cared for by any children's center or family day care home.

(i)

"Maintenance staff" means all persons engaged by any children's center or family day care home, full or part time, in preparation of food, cleaning, janitor service, chauffeuring, or nonsupervisory assistance with children.

(Laws of Fla. ch. 61-2681, § 2; Laws of Fla. ch. 70-893, § 1)

Cross reference— Definitions generally, § 1-2.

Sec. 26-27. - Purpose.

The purpose of this article is to protect the health, safety, and mental development of children cared for in children's centers and family day care homes in Pinellas County as defined in section 26-26.

(Laws of Fla. ch. 61-2681, § 1)

Sec. 26-28. - Violations.

The state attorney or his successor shall prosecute to final determination all violations of this article. In addition to other remedies, the license board may institute any appropriate action or proceeding to prevent, restrain, enjoin, abate, or otherwise discontinue violations of this article. In civil matters the license board shall be represented by the attorney for the county commissioners with the consent of the board of county commissioners. If consent is withheld the license board may hire counsel.

(Laws of Fla. ch. 61-2681, § 20; Laws of Fla. ch. 70-893, § 5)

Sec. 26-29. - Penalty.

Every person who violates any of the provisions of this article governing the operation of children's centers and family day care homes for children in Pinellas County, or who operates without obtaining a license to do so, or who operates after revocation or license board's refusal to renew license, or who intentionally or willfully makes any false statements or reports to the license board in connection with said children's centers and family day care homes, shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punished as provided by law. Each day of operation in violation of the provisions of this section shall constitute a separate offense.

(Laws of Fla. ch. 61-2681, § 21; Laws of Fla. ch. 70-893, § 5)

State Law reference— Penalties for misdemeanors, F.S. § 775.08 et seq.

Sec. 26-30. - Appropriation.

The board of county commissioners is authorized to levy an annual tax to be used as an appropriation for the license board in accordance with its needs. Such appropriation shall be in addition to the revenue derived from the application fees paid to the license board. Further, the license board is authorized to accept any financial gift or grant from any source, and shall properly account for same.

(Laws of Fla. ch. 61-2681, § 22; Laws of Fla. ch. 70-893, § 5)

Sec. 26-31. - License board, creation and composition; meetings.

(a)

There is created in Pinellas County the license board for children's centers and family day care homes, herein called the "license board," which shall be composed of:

(1)

A member of the board of county commissioners, said member to be designated by action of the board of county commissioners.

(2)

The director of the district division of family services or a person delegated by him.

(3)

A member of the juvenile welfare board, or the director of said board, said member to be designated by action of the juvenile welfare board.

(4)

The district school superintendent or a teacher in elementary preschool education delegated by him.

(5)

The county health officer or a person delegated by him.

(6)

One member in good standing of the Upper Pinellas County Preschool Association and one member in good standing of the Pinellas County Preschool Association On Children Under Six selected by majority vote of the elected officers of each said associations.

(b)

The license board as constituted by this section shall proceed to elect a chairman from its membership, who shall serve as administrative officer of the license board. The license board shall hold quarterly meetings. Meetings may be called by the chairman whenever he deems it necessary or by a quorum of the members of the license board.

(Laws of Fla. ch. 61-2681, § 4; Laws of Fla. ch. 70-893, § 2)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 26-32. - Rules and regulations.

The license board shall have the power and duty to promulgate and adopt rules and regulations for the purposes of administering and enforcing minimum standards prescribed in this article. In the event the license board determines it reasonable to decrease the requirements of any particular standard, it may do so by the action of the board only. In the event the license board determines that there is a reasonable necessity to supplement or increase any standard, it may do so according to the following procedure:

(1)

There shall be a finding of necessity, not merely desirability.

(2)

There must be a notice of the finding, the old standard, the proposed new standard, the reason for the change and a hearing date mailed to all licensees.

(3)

There must be a hearing at which all affected persons are given an opportunity to present their views.

(4)

The proposed new standard may not be considered again by the board until a meeting at least 90 days after the hearing, at which time, if approved by five-sevenths of the membership of the board, it shall be adopted.

(5)

Any new standard must provide that it shall not become effective for a particular period of time specified in it, which is reasonable considering the particular standard involved.

(6)

No rule or regulation shall require medical examination or immunization for admission to a children's center of a child whose parent or guardian files a letter with the operator stating that such medical examination and/or immunization is contrary to his or her religious beliefs, or provide for the exclusion of a child from the center because of parent or guardian having filed such a letter; provided however, that whenever there is good cause to believe that a child is suffering from a recognized contagious or infectious disease, the child may be temporarily excluded from the center until the operator is satisfied that any contagious or infectious disease does not exist.

(7)

After the meeting approving the standard, within 30 days, notice of the new standard and the effective date of it shall be mailed to all members.

(Laws of Fla. ch. 61-2681, § 5)

Sec. 26-33. - Advisory committee.

The license board shall appoint a committee to serve in an advisory capacity. Such committee shall consist of three operators in good standing, representing privately-operated kindergartens or nursery schools, day care centers, and church-operated kindergartens or nursery schools, and two other persons qualified by education and experience in the field of early childhood education. The license board shall consult with the committee before changing rules and regulations and in matters dealing with policy.

(Laws of Fla. ch. 61-2681, § 19)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 26-34. - Inspection of children's centers and family day care homes.

Every children's center and family day care home conducted by a licensee hereunder, and any premises proposed to be used by an applicant for license, shall be open at all reasonable times to inspection by the license board. Inspection shall be at least once annually.

(Laws of Fla. ch. 61-2681, § 17; Laws of Fla. ch. 70-893, § 4)

Sec. 26-35. - Minimum standards for children's center and family day care home personnel.

(a)

General qualifications. Personnel in both children's centers and family day care homes shall be of good character, free of mental illness and drug or excessive alcohol habits, in good health, and shall not exercise any influence detrimental to the progress or development of children. All personnel in contact with children enrolled in centers or family day care homes licensed under this article shall have an annual physical examination, including chest X-ray and blood test. The person in charge shall be at least 21 years of age, and no employee in direct supervision of children shall be under 18 years of age.

(b)

Education.

(1)

Day nursery workers caring directly for children in any day nursery shall be high school graduates. The staff member in charge of the staff and program shall have completed a minimum of six semester hours of college credits in early childhood education with passing grades.

(2)

The nursery school or kindergarten teacher in charge of curriculum, staff, and program shall have completed two years of college training including 12 semester credit hours in early childhood education with passing grades and shall have had two years of teaching experience. Teachers working directly under the person in charge of curriculum, staff, and program shall be high school graduates, and in addition shall have completed two years of college training including 12 semester hours credit in early childhood education with passing grades or shall have completed 12 semester hours credit in early childhood education with passing grades and have had two years of teaching experience.

(3)

All personnel of nursery schools and kindergartens shall continue professional training by earning at least three semester credit hours or appropriate quarter hours in early childhood education each three years, over and above the minimum requirements herein until a minimum of 30 credits have been earned.

(4)

A staff member not in charge of curriculum, staff, or program who does not fully meet requirements may be employed temporarily as a staff member of a licensed day nursery, nursery school, or kindergarten, if said staff member is in the process of acquiring the necessary educational qualifications.

(5)

An experienced staff member who does not meet the educational requirements for a staff member as outlined in this section may apply for an exemption examination approved by the license board. Successful completion of the exemption examination will serve to exempt the teacher from the college credit requirements, except that every three years the staff member shall continue professional training by earning at least three semester credit hours in early childhood education as hereinbefore required.

(6)

Members of child care staffs in children's centers caring exclusively for mentally or physically handicapped children are not required to meet the college credit requirements outlined herein for nursery school and kindergarten staff. They shall enroll in courses pertinent to work with exceptional children, when such courses are available in the county.

(c)

Number of personnel and supervision. The number of adults on the child care staff shall be no less than the following:

One adult for each ten children two years old;

One adult for each 15 children three years old;

One adult for each 20 children four years old;

One adult for each 25 children five years old or over.

(1)

In groups where children of varying ages are combined, number of staff shall be determined by the ages of the youngest children in the group. These adults shall be engaged in child care exclusively and shall regularly work no more than eight hours in 24 hours. No infants under two years of age shall be taken into a day nursery for group care unless the license board determines that no family day care home is available. A staff member qualified to be in charge shall be on the premises at all times when children are present.

(2)

In children's centers where only one child care staff member is required, at least one other person must be on the premises for emergency purposes.

(3)

The number of children in a family day care home is limited to a maximum of four children other than the children or relatives of the operator and no more than five preschool children including the pre-school-aged child or relatives of the operator may be in the family day care home at one time.

(4)

In family day care homes, there shall be one adult, the operator, who shall remain on the premises at all times when children under care are present, with at least one on-call person available for emergency purposes.

(Laws of Fla. ch. 61-2681, § 6; Laws of Fla. ch. 70-893, § 2)

Sec. 26-36. - Records required; display of license.

(a)

Facility records. An identification record, a health certificate, and a daily attendance record shall be kept for each child in care. Evidence of annual physical examination and suitable information regarding qualifications shall be kept for each staff member in each facility. The official license issued by the license board shall be prominently displayed.

(b)

License board records. All applications for licenses, inspection reports on facilities, recommendations of board members or employees, and formal action taken by the license board shall be kept on file for each children's center and family day care home.

(Laws of Fla. ch. 61-2681, § 7; Laws of Fla. ch. 70-893, § 2)

Sec. 26-37. - Minimum standards for buildings and grounds, facilities and equipment.

(a)

Building. The building to be used for housing children in a children's center shall conform to the building and electrical codes of the local authority within whose jurisdiction the facility is located. It shall conform to the fire regulations of the local fire authority within whose jurisdiction the facility is located. Where no local fire department is responsible, the county health department shall be the responsible inspecting agency. Any costs required to be paid to procure such inspection and the appropriate certification shall be paid by the applicant directly to the inspecting authority.

(b)

Indoor play space. Indoor play space is required. The maximum number of children shall be equivalent to the total square feet of suitable and usable space divided by 25 square feet. The maximum number of children enrolled shall be computed according to the above calculation.

(c)

Outdoor play space. Outdoor play space is required. The maximum number of children who can occupy the outdoor space at any one time shall be equivalent to the total suitable and usable square feet of space divided by 90 square feet.

(d)

Napping space. Child capacity shall be limited to the resulting figure arrived at by determining the total square feet of usable space for this purpose and dividing it by 25 square feet. Cots shall be set up so that each child is no closer to another during the nap period than two feet.

(e)

Bathroom facilities. Such facilities shall include at least one lavatory and one toilet for every 18 children, and

facilities for bathing children when necessary, with a minimum of two lavatories and two toilets for each children's center operating four or more hours each day.

(f)

Outdoor equipment. In a children's center, outdoor equipment shall be scaled to the age group under care. It shall be sufficient in number and designed to motivate physical activities, social development and imagination. Equipment may include swings, slides, climbing apparatus, wheeled toys, sandbox, packing boxes, tables and benches, or the equivalent of any of these items.

(g)

Indoor equipment. Every children's center may include a piano, or a record player, rhythm instruments, easels or drawing boards, and shall maintain tables and chairs suitable in size and sufficient for the total number of children and for the age group under care. Adequate and appropriate supplies such as paper, paints, crayons and plastic clay are to be provided. Play materials shall also include a sufficient number of balls, toys, blocks, dolls, toy housekeeping supplies, or similar items, to ensure an adequate program for development of the age group under care. For children's centers which may provide overnight care or [care] on an all day schedule as prescribed by section 26-26(f), there shall be a separate lightweight cot with washable cover for each child. All equipment shall be maintained in a sanitary and safe condition.

(Laws of Fla. ch. 61-2681, § 8)

Sec. 26-38. - Minimum standards for safety, health and sanitation.

(a)

Sanitation. Each center and family day care home must pass a sanitary inspection before it can be licensed, and at least once annually before it can be relicensed. The premises, furnishings, and equipment shall be kept clean, free of rodents and vermin, and in general good order.

(b)

Transportation. Vehicles used for transporting children shall be maintained in safe condition at all times as required by the motor vehicle inspection law.

(c)

[Building, area and safety standards.] Minimum standards for the physical plant housing family day care homes and foster boarding homes:

(1)

Building. The building housing a family day care home or foster boarding home must be safe and in good repair. It must be adequately lighted and have a safe source of heat.

(2)

Indoor space. There must be adequate indoor play space per child in some part of the building designated for this purpose, apart from kitchens, bathrooms, pantries, and halls. A porch will be considered as indoor play space if it is enclosed and can be adequately heated.

(3)

Outdoor play space. There shall be adequate outdoor play space on the premises. Where children in care are under six years of age, the play space shall be enclosed if it is near well-traveled streets, lakes, ditches, brooks, or other hazards. It shall have adequate sun, with provision for shade in warm weather. Any unfenced yard shall have competent adult supervision when preschool children are playing outdoors. Any swimming pool on the premises where children under six years of age are in care shall be enclosed and a lock placed on all doors leading to it, high enough to be out of the reach of children.

(4)

Sleep and napping space.

a.

Children receiving day care may sleep on beds used by the family, provided that a sheet solely for the use of each child covers the bedding.

b.

Children receiving overnight care shall be provided with separate beds, except that two children of the same family and of the same sex may share a double bed.

c.

All bedrooms for children receiving overnight care shall contain 500 cubic feet of air space per child. Beds and cribs shall be two feet apart on all sides.

d.

No child over the age of two shall sleep in the same room with two adults who are of different sex.

e.

Children of opposite sex over the age of five shall not sleep in the same room.

f.

Sleeping quarters shall be near enough to those of a responsible adult to facilitate supervision of the children.

(5)

Bathroom facilities.

a.

Homes shall have at least one toilet, one bathtub and one lavatory for hand washing purposes, provided no more than a total of eight persons, including family of the operator, are using the bathroom facilities of the home.

b.

For the use of infants there shall be an adequate number of toilet receptacles which shall be kept in sanitary condition.

(6)

Equipment.

a.

Cribs, bassinets, or playpens with bases raised above the floor shall be provided for infants.

b.

Play materials, toys, books, and equipment safe and suitable for the use of children of the age levels cared for shall be provided.

(7)

Cleanliness and orderliness of the family day care home and foster boarding home.

a.

All parts of the building housing the family day care home or foster boarding home, the plumbing fixtures, furnishings, equipment and the premises shall be kept in clean, sanitary, and orderly condition at all times, and rodents and vermin shall be controlled.

b.

Medicines and chemicals must be kept out of the reach of children.

(Laws of Fla. ch. 61-2681, § 9; Laws of Fla. ch. 70-893, § 2)

Sec. 26-39. - Advertising.

A children's center or family day care home licensed by the license board may publish advertisements only of the service for which it is specifically licensed under this article. No person, firm, organization, corporation, association, or society, unless licensed as a children's center or a family day care home, shall publish any advertisement soliciting child care in any home or other establishment. The holder of a temporary permit may advertise. Said advertisement shall state that the advertiser is the holder of a temporary permit.

(Laws of Fla. ch. 61-2681; Laws of Fla. ch. 70-893, § 4)

Secs. 26-40—26-50. - Reserved.
DIVISION 2. - LICENSE

Sec. 26-51. - Required.

(a)

It is unlawful for any person, firm, corporation or any other group to operate or maintain a children's center or family day care home without first obtaining a license or temporary permit as provided in this article.

(b)

Children's centers and family day care homes which hold current licenses issued by the Pinellas County license board for day nurseries and foster boarding homes under the authority of Laws of Fla. ch. 57-1738, on the date this article becomes effective shall be considered to be in valid operation until the date of expiration stipulated on their licenses.

(c)

Separate licenses shall be required for centers maintained and operated on separate premises, even though under the same ownership or management.

(Laws of Fla. ch. 61-2681, § 3)

Sec. 26-52. - Application for license; fee.

(a)

Application for license shall be made to the license board on blanks furnished by the board.

(b)

Application shall be under oath, and shall contain the following:

(1)

The name and address of the applicant if an individual, and if a firm, partnership, association, or other group, the name and address of every member thereof, except corporation or association, and in the case of a corporation or an association the name and address thereof and of its officers.

(2)

The location of the center for which a license is sought.

(3)

The category of the operator as defined in section 26-26.

(4)

The maximum number of children to be enrolled, ages of children, and hours of care.

(5)

Such information relating to the number, experience and training of employees of the center and of the moral character of the applicant and employees as the board may deem necessary.

(c)

The license board is authorized to charge an application fee not in excess of $25.00 for each children's center and family day care home for which a license is sought. The license board is authorized to use such sums for the payment of supplies and equipment required by them in the administration of this article, the renting of

office space and for the payment of employees required in the administration of this article.

(Laws of Fla. ch. 61-2681, § 10)

Sec. 26-53. - Issuance or denial; temporary permit; term.

(a)

License. Upon receipt of an application for a license hereunder and the payment of the application fee, the license board within 60 days therefrom shall cause a thorough investigation to be made of the premises to be licensed, and shall issue a license or temporary permit if satisfied that the minimum standards specified in this article are met and that the applicant is otherwise qualified; if not, it shall reject the application. Said license shall set out on the face thereof the maximum number of children to be enrolled.

(b)

Temporary permit. The chairman of the board, or in his absence two members of the board, may grant a temporary permit if it appears that the applicant has fulfilled all requirements for the granting of a license. Said temporary permit shall continue until the next board meeting, at which time the board shall make such orders as it deems appropriate.

(c)

Term; assignment. A license or permit and renewals thereof shall be valid only in the hands of the applicant to whom it is issued, and shall not be subject to sale, assignment, or transfer, voluntary or involuntary, nor shall a license be valid for any premises other than those for which originally issued. The license shall be valid for a period of one year from the date of issuance.

(Laws of Fla. ch. 61-2681, § 11; Laws of Fla. ch. 70-893, § 3)

Sec. 26-54. - Annual renewal of license.

Any owner or operator of a children's center or family day care home licensed under this article or a prior act shall, on or before the date of his license expiration, make application for a renewal of his license on forms to be furnished by the license board. Upon receipt of his application properly filled in and executed, the license board shall automatically issue the applicant a license authorizing the continuation of the operation of his children's center or family day care home for a period of one year unless action is pending to revoke or suspend the license of the applicant. In such event, the applicant may continue under the old license pending the outcome of the action.

(Laws of Fla. ch. 61-2681, § 12)

Sec. 26-55. - Grounds for denial.

An application for license may be denied for any of the following reasons:

(1)

Failure to meet any of the minimum standards;

(2)

Conviction of an applicant of a crime of moral turpitude as shown by a certified copy of the record of the court of conviction, or by a copy of the applicant's fingerprint record from the federal bureau of investigation showing conviction of said crime; or

(3)

If the applicant is a member of a firm or an officer or director of a corporation or the person designated to manage or supervise the center, there must be satisfactory evidence that the moral character of the applicant, or the manager, or supervisor of the center is not good.

(Laws of Fla. ch. 61-2681, § 13)

Sec. 26-56. - Revocation of license; grounds.

The license board may revoke or suspend a license for any of the following reasons:

(1)

Cruelty or indifference to the welfare of children;

(2)

Violation of any provision of this article; or

(3)

Any ground upon which a license may be denied as prescribed in section 26-55.

(Laws of Fla. ch. 61-2681, § 14)

Sec. 26-57. - Refusal of license; revocation; notice, hearing.

(a)

No license shall be denied, revoked or suspended except after notice in writing to the applicant or licensee, setting forth the particular reasons for the proposed action and a hearing if demanded by the licensee or applicant. Such notice shall be effected by registered and certified mail with return receipt requested, or by personal service. The licensee or applicant shall within ten days after receipt of said notice request a hearing, which request shall be in writing, and be delivered to the license board in person or by due course of mail. If no such request is made within the time fixed, said license board shall proceed to refuse, revoke or suspend said license as set out in the notice of the proposed action.

(b)

All hearings under this article shall be held by the entire license board or a hearing agent designated by it from the membership of the license board within the county at a time and place designated in the notice. If the hearing is conducted by an agent designated by the license board, a transcript of the proceedings shall be reviewed by the entire license board. The rules of evidence applicable in Florida shall apply.

(c)

On the basis of any such hearing, or upon the failure of the applicant or licensee to request a hearing, the license board shall enter its order thereon. A copy of such order shall be sent by registered or certified mail or personally served upon the applicant or licensee. The order shall become final 60 days after it is so mailed or served unless the applicant or licensee within that period applies for a rehearing or review as provided in subsection (e).

(d)

A full and complete record shall be kept of proceedings and all testimony shall be reported but need not be transcribed unless the decision is appealed, or the hearing is conducted by an agent. A copy or copies of the transcript may be obtained by any interested party on payment of the cost of preparing such copy or copies.

(e)

Any person aggrieved by any final order of the license board denying, suspending, or revoking his license may apply to the license board in writing for a rehearing or may file an appeal with the circuit court pursuant to the Florida Appellate Rules. In the event the appeal is granted, the court may issue its mandate or order with directions to the license board to enter such order in the proceedings as is appropriate on the record, or the court may order further proceedings including the taking of testimony as may seem to the court necessary and proper.

(Laws of Fla. ch. 61-2681, § 15)

Sec. 26-58. - Procedure for reinstatement of revoked or suspended license.

(a)

When a license has been revoked or suspended in accordance with the provisions of this article, the licensee, provided he has not previously had a license revoked or suspended under this article may, within three years after the order has become final, request a hearing for the purpose of showing that the reasons for the revocation or suspension of license have been corrected and that the license should be reinstated. No licensee who has previously had a license suspended or revoked under this article shall request a hearing to reinstate the license prior to one year after the order becomes final. Any licensee whose license has been revoked or suspended must show the grounds upon which he or it relies in attempting to requalify. Any licensee whose license has been revoked or suspended three times under the provisions of this act shall not be permitted to reapply for a license.

(b)

The request for hearing shall be in writing, and shall be delivered to the license board office in person or by due course of mail.

(c)

Any hearing conducted under this section shall not operate to stay or supersede any order revoking or suspending a license.

(d)

Hearings conducted under this section shall be conducted in the same manner as prescribed in section 26-57.

(Laws of Fla. ch. 61-2681, § 16)

Secs. 26-59—26-80. - Reserved.

ARTICLE III. - CONSTRUCTION INDUSTRY BUSINESS[3]

Footnotes:

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Cross reference— Enforcement of construction industry regulations and construction codes, § 22-26 et seq.

State Law reference— Contractors, F.S. ch. 489, as amended.

DIVISION 1. - GENERALLY

Sec. 26-81. - Publication of advertisements for construction contractors.

(a)

Intent. It is the intent of this section to prohibit the publication of advertising without the inclusion of the contractor's license number, in order to avoid misleading advertising which represents individuals or business organizations to be qualified certified or registered contractors, when in fact they are not.

(b)

Prohibitions.

(1)

No person or other legal entity or agent thereof shall cause or permit to be published an advertisement in any newspaper, airwave transmission, phone directory or other advertising medium used, which is primarily circulated, displayed, distributed, marketed or transmitted over the airwaves within the county, which advertisement identifies a contractor offering services regulated by F.S. ch. 489, or by Laws of Fla. ch. 75-489 (compiled in division 2 of this article), as they may be amended from time to time, unless the advertisement includes either the license number issued by the state or the license number issued by the county construction licensing board, as may apply to the specific services offered by the contractor.

(2)

An "advertisement" shall be defined to include any announcement, listing, estimate, invoice, contract, proposal, display, entry or other written or oral statement, of whatever nature or kind, appearing in any newspaper, airwave transmission, phone directory, or other advertising medium used, which specifically includes a name and address or telephone number describing or advertising services regulated by F.S. ch. 489 or by Laws of Fla. ch. 75-489.

(c)

Enforcement. The provisions of this section shall be enforced by either or both of the department of justice and consumer services and the county construction licensing board.

(d)

Penalties. Violations of this section are punishable as provided in section 1-8.

(Ord. No. 87-51, §§ 1—4, 7-28-87; Ord. No. 90-49, § 1, 7-3-90; Ord. No. 92-20, § 1, 4-28-92; Ord. No. 98-8, § 3, 1-6-98)

Secs. 26-82—26-90. - Reserved.

DIVISION 2. - COUNTYWIDE REGULATION[4]

Footnotes:

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Editor's note—The acts contained in this division retain their status as special acts. See charter § 5.02. The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Cross reference— Regulation of contractors in unincorporated areas, § 22-86 et seq.

Subdivision I. - In General

Sec. 26-91. - Definitions.

(a)

Contractor means, except those herein exempted, any person who, for compensation, undertakes to, or submits a bid to, or does himself or by others, construct, repair, alter, remodel, add to, subtract from, improve any building or structure, including related improvements to real estate for others, or for resale to others, and who is responsible for substantially the entire project. A contractor shall subcontract the electrical, mechanical, plumbing, sheet metal, roofing, commercial swimming pool, and air conditioning work if an examination for a certificate of competency or a license is required for such work, unless the contractor holds a certificate of competency or license in such classification. The term "contractor" includes the following:

(1)

General contractor means a contractor whose services are unlimited as to the type of work which he may do except as provided in this division.

(2)

Building contractor means a contractor whose services are limited to construction of commercial buildings and single- or multiple-dwelling residential buildings, neither to exceed three stories in height, and accessory use structures in connection therewith, or those whose services are limited to remodeling, repair or

improvement of any size building if the services do not affect the structural members of the building.

(3)

Residential contractor means any person whose services are limited to construction, remodeling, repair, or improvement of one-, two- or three-family residences not exceeding two stories in height and accessory use structures in connection therewith.

(4)

Mechanical contractor means any person whose services are unlimited in the execution of contracts to perform the following: Install, maintain, repair, fabricate, alter, extend or design, when not prohibited by law, central air conditioning, refrigeration, heating and ventilating, including duct work in connection with a complete system only to the extent the duct work is performed by the contractor necessary to make complete an air distribution system, boiler and unfired pressure vessel systems, lift station equipment and piping and all appurtenances, apparatus, or equipment used in connection therewith; also piping, insulation of pipes, vessels and ducts, pressure and process piping, pneumatic control piping, gasoline tanks and pump installations and piping for same, fire sprinkling systems and standpipes, air piping, vacuum line piping, oxygen lines, nitrous oxide piping, ink and chemical lines, fuel transmission lines, and natural gas fuel lines within buildings; to disconnect or reconnect power wiring on the load side of the disconnect switch and low voltage heating, ventilating, and air conditioning control wiring; and to install a condensate drain from an air conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system, all in such a manner as to comply with all plans, specifications, codes, laws, and regulations applicable thereto.

The scope of work for the mechanical contractor shall also include any excavation work incidental thereto, but shall not include any work such as liquefied petroleum gas fuel lines within buildings, potable water lines or connections thereto, sanitary sewer lines, swimming pool piping and filters and electrical power wiring.

(5)

Class A air conditioning contractor means a contractor whose services are unlimited in the execution of contracts requiring the experience, knowledge, and skill to perform the following: Install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, central air conditioning, refrigeration, heating, and ventilating, including duct work in connection with a complete system only to the extent such duct work is performed by the contractor necessary to make complete an air distribution system, boiler and unfired pressure vessel systems, and all appurtenances, apparatus, or equipment used in connection therewith; also piping, insulation of pipes, vessels and ducts, pressure and process piping and pneumatic control piping; to disconnect or reconnect power wiring and the load size of the disconnect switch and low voltage heating, ventilating, and air conditioning control wiring; and to install a condensate drain from an air conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system, all in such a manner as to comply with all plans, specifications, codes, laws, and regulations applicable thereto.

The scope of work for such contractor shall also include any excavation work incidental thereto, but shall not include any work such as liquefied petroleum or natural gas fuel lines within buildings, potable water lines or connections thereto, sanitary sewer lines, swimming pool piping and filters, and electrical power wiring on the line side of the disconnect switch.

(6)

Class B air conditioning contractor means a contractor whose services are limited to 25 tons cooling and 500,000 Btu's heating (in any one system) in the execution of contracts requiring the experience, knowledge, and skill to perform the following: Install, maintain, and repair, fabricate, alter, extend or design, when not prohibited by law, central air conditioning, refrigeration, heating and ventilating, including duct work in connection with a complete system only to the extent such duct work is performed by the contractor necessary to make complete an air distribution system being installed under this classification; also piping and insulation of pipes, vessels, and ducts; to disconnect or reconnect power wiring on the load side of the disconnect switch and low voltage heating, ventilating, and air conditioning control wiring; and to install a condensate drain from an air conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system, all in such a manner as to comply with all plans, specifications, codes, laws, and regulations applicable thereto.

The scope of work for such contractor shall also include any excavation work incidental thereto, but shall not include any work such as liquefied petroleum or natural gas fuel lines within buildings, potable water lines or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring on the line side of the disconnect switch.

(7)

Class C air conditioning contractor means any person whose business is limited to the servicing of air conditioning, heating, or refrigeration systems, including duct alterations in connection with those systems they are servicing. No examination, registration or certification is required under this division for the sales, service, or installation of package heating or air conditioning units with no ducts or remote controls (maximum of three tons, 36,000 Btu's in capacity).

(8)

Sheet metal contractor means a contractor whose services are unlimited in the sheet metal trade and who has the experience, knowledge and skill necessary for the manufacture, fabrication, assembling, handling, erection, installation, dismantling, conditioning, adjustment, insulation, alteration, repair, servicing and design, when not prohibited by law, of ferrous or nonferrous metal work of U.S. no. 10 gauge or its equivalent or lighter gauge and other materials including, but not limited to, fiberglass, used in lieu thereof; and air-handling systems including the setting of air-handling equipment and reinforcement of same and including the balancing of air-handling systems.

(9)

Electrical contractor means a person who conducts business in the electrical trade field and who has the experience, knowledge, and skill to install, repair, alter, add to, or design, in compliance with law, electrical wiring, fixtures, appliances, apparatus, raceways, conduit, or any part thereof, which generates, transmits, transforms, or utilizes electrical energy in any form, including the electrical installations and systems within plants and substations, all in compliance with applicable plans, specifications, codes, laws, and regulations. The term means any person, firm, or corporation that engages in the business of electrical contracting under an express or implied contract; or that undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to engage in the business of electrical contracting; or that does itself or by or through others engage in the business of electrical contracting.

(10)

Plumbing contractor means a contractor whose contracting business consists of the execution of contracts requiring the experience, financial means, knowledge, and skill to install, maintain, repair, alter, extend, or, when not prohibited by law, design plumbing. A plumbing contractor may install, maintain, repair, alter, extend or, when not prohibited by law, design the following: Sanitary drainage or storm drainage facilities; venting systems; public or private water supply systems; septic tanks; drainage and supply wells; swimming pool piping; irrigation systems, or solar heating water systems and all appurtenances, apparatus, or equipment used in connection therewith, including boilers and pressure process piping and including the installation of water, natural gas (excluding liquid petroleum gases), and storm and sanitary sewer lines; and water and sewer plans and substations. The scope of work of the plumbing contractor also includes the design, when not prohibited by law, and installation, maintenance, repair, alteration, or extension of air-piping, vacuum line piping, oxygen line piping, nitrous oxide piping, and all related medical gas systems; fire line standpipes and fire sprinklers to the extent authorized by law; ink and chemical lines; fuel oil and gasoline piping and tank and pump installation, except bulk storage plants; and pneumatic control piping systems, all in such a manner as to comply with all plans, specifications, codes, laws, and regulations applicable. The scope of work of the plumbing contractor shall apply to private property and public property, shall include any excavation work incidental thereto, and shall include the work of the specialty plumbing contractor. Such contractor shall subcontract, with a qualified contractor in the field concerned, all other work incidental to the work but which is specified herein as being the work of a trade other than that of a plumbing contractor. Nothing in this definition shall be construed to limit the scope of work of any specialty contractor certified pursuant to F.S. § 489.113(6). Nothing in this definition shall be construed to require certification or registration under this division of any authorized employee of a public natural gas utility or a private natural gas utility regulated by the public service commission, when disconnecting and reconnecting water lines in the servicing or replacement of an existing water heater.

(11)

Aluminum contractor means any person whose services are unlimited in the aluminum construction trade and who has the experience, knowledge and skill necessary for the manufacture, fabrication, assembling, handling, erection, installation, dismantling, adjustment, alteration, repair, servicing, and design, when not prohibited by law, of aluminum metal work. The scope of such work shall include, but not be limited to, screen porches, screen enclosures, siding, soffit and fascia, self-contained aluminum structures, and any other types of construction consisting primarily of aluminum and such masonry concrete which is incidental to the aluminum work.

(12)

Veneer specialty contractor means a contractor who specializes in and is limited to the installation, repair, replacement, alteration, and maintenance of aluminum or vinyl gutters, siding, soffit and fascia.

(13)

Roofing contractor means a contractor whose services are unlimited in the roofing trade and who has the experience, knowledge, and skill to install, maintain, repair, alter, extend, or design, when not prohibited by law, and use materials and items used in the installation, maintenance, extension, and alteration of all kinds of roofing, waterproofing, and coating, except when coating is not represented to protect, repair, waterproof, stop leaks, or extend the life of the roof.

(14)

Commercial pool/spa contractor means a contractor whose scope of work involves, but is not limited to, the construction, repair, water treatment, and servicing of any swimming pool, hot tub or spa, whether public, private, or otherwise, regardless of use. The scope of such work includes layout, excavation, operation of construction pumps for dewatering purposes, steelwork, installation of light niches, pouring of floors, guniting, fiberglassing, installation of tile and coping, installation of all perimeter and filter piping, installation of all filter equipment and chemical feeders of any type, plastering of the interior, pouring of decks, construction of equipment rooms or housing for pool equipment, and installation of package pool heaters. However, the scope of such work does not include direct connection to a sanitary sewer system or to potable waterlines.

(15)

Residential pool/spa contractor means a contractor whose scope of work involves, but is not limited to, the construction, repair, water treatment, and servicing of any residential swimming pool, hot tub or spa, regardless of use. The scope of such work includes layout, excavation, operation of construction pumps for dewatering purposes, steelwork, installation of light niches, pouring of floors, guniting, fiberglassing, installation of tile and coping, installation of all perimeter and filter piping, installation of all filter equipment and chemical feeders of any type, plastering of the interior, pouring of decks, installation of housing for pool equipment, and installation of package pool heaters. However, the scope of such work does not include direct connections to a sanitary sewer system or to potable waterlines.

(16)

Swimming pool/spa servicing contractor means a contractor whose scope of work involves the servicing, repair, water treatment, including, but not limited to, the direct infusion of chlorine gas, and maintenance of any swimming pool, hot tub or spa, whether public or private. The scope of such work may include any necessary piping and repairs, replacement and repair of existing equipment, or installation of new additional equipment as necessary. The scope of such work includes the reinstallation of tile and coping, repair and replacement of all piping, filter equipment, and chemical feeders of any type, replastering, repouring of decks, and reinstallation or addition of pool heaters.

(17)

Underground utility contractor means a specialty contractor whose services are limited to work of $5,000.00 or more in the construction, installation and repair on public or private property of main sanitary sewer collection systems, main water distribution systems, storm sewer collection systems and the continuation of the utility lines from the main systems to a point of termination as follows:

a.

The water service line from the main water distribution system up to and including the meter location for the individual occupancy. Master site meters shall not constitute the utility contractor's point of work termination. In this instance, the utility contractor's work will terminate at the secondary meter, but in no case closer than five feet to a building.

b.

Sanitary sewer collection system:

1.

At the property line on residential or single-occupancy commercial properties.

2.

On multioccupancy properties at manhole or wye lateral extended to an invert elevation as engineered to accommodate future building sewers.

c.

Storm sewer collection systems at storm sewer structures. The continuation of utility lines from the mains are to be considered a part of the main sewer collection and main water distribution systems in mobile home parks.

An underground utility contractor shall not install any piping that is an integral part of a fire protection system, as defined in F.S. § 633.021(7), beginning at the point where piping is used exclusively for such system.

(18)

Tile and marble specialty contractor means a contractor whose work is limited to the hard tile and marble and has the experience, knowledge, and skill to install, repair, alter, extend, or design, when not prohibited by law, the base and hard tile and marble in both residential and commercial applications. Shower pans and plumbing fixtures must be installed by plumbing contractors.

(19)

Irrigation system specialty contractor means a contractor whose work is limited to irrigation systems and who has the experience, knowledge, and skill to install, repair, alter, extend, or design, when not prohibited by law, all piping and sprinkler heads for the irrigation of lawns, including connections to a water pump.

(20)

Carpentry specialty contractor means a contractor whose work is limited to wood construction and [who] has the knowledge, experience, and skill to install rough framing, structural and nonstructural members, trusses, sheathing, and may install and finish floors, doors, and windows.

(21)

Natural gas specialty contractor means a contractor whose practice and scope of work are limited to natural gas systems, and [who] has the knowledge, experience, and skill to install, alter, extend, or repair natural gas piping, appliances, gas mains, lines, laterals, tanks, and other appurtenances.

(22)

Painting specialty contractor means a contractor who is qualified to use spraying equipment and hand tools to perform both exterior and interior painting work. A painting contractor may do paperhanging, sandblasting, caulking, waterproofing (excluding waterproofing of roofs), and may clean and paint roofs.

(23)

Marine specialty contractor means a contractor whose services are limited to construct, maintain, alter, or

repair seawalls, bulkheads, revetments, docks, piers, wharves, groins, and other marine structures, to include piledriving.

(24)

Flatwork masonry specialty contractor means a contractor whose services are limited to forming, placing, and finishing of nonstructural concrete on grade.

(25)

Masonry specialty contractor means a contractor whose services are limited to batching and mixing of aggregates, cement, and water to specifications, to laying block, laying brick, and construction of fireplaces and chimneys, to mixing mortar, to constructing forms and framework for the casting and shaping of concrete, to the placing and erection of reinforcing steel and miscellaneous embedded steel, and to the pouring, placement, and finishing of concrete.

(26)

Gypsum drywall specialty contractor means a contractor whose scope of work is limited to the installation of all necessary and incidental metal accessories, including metal studs, runners, hangers, channels, drywall metal suspension accessories and prefabricated ceiling materials, and the preparation of the surface over which drywall or other cementitious board product is to be applied. This includes the application of base and finish coats specifically designed for the gypsum drywall products of their own erection. This category shall not include plastering, block, or wood partitions. Nothing in this definition shall be deemed to restrict or limit in any manner the scope of work authorized by law of other contractor classifications.

(27)

Specialty contractor means a contractor whose scope of work and responsibility is limited to a particular phase of construction or home improvement.

(b)

Journeyman includes:

(1)

Air conditioning journeyman means a person who performs the manual work of installing the service authorized and under the direction of a class A, B, or C air conditioning contractor.

(2)

Sheet metal journeyman means a person who performs the manual work of installing sheet metal under the direction of a sheet metal contractor.

(3)

Journeyman electrician means a person who performs the work of installing electrical wiring under the direction of an electrical contractor.

(4)

Journeyman plumber means a person who performs the manual work of installing plumbing under the direction of a plumbing contractor.

(c)

Contracting means, except as herein exempted, engaging in business as a contractor.

(d)

Board means the Pinellas County Construction Licensing Board created hereby, unless the context otherwise requires.

(e)

Certificate means a certificate of competency issued by the board as provided herein.

(f)

Registration means registration with the board as provided herein.

(g)

Certification means the act of obtaining or holding a certificate of competency from the board as provided herein.

(h)

Register means the act of obtaining evidence of registration with the board as provided herein.

(i)

Registrant means a person who has registered with the board.

(j)

Fire marshal means that person designated by any municipality, fire control district, or the county, as the administrative head of the agency, bureau, division, or department responsible for the administration and enforcement of life safety and fire codes within its respective jurisdiction.

(Laws of Fla. ch. 75-489, § 11; Laws of Fla. ch. 89-504, § 1; Laws of Fla. ch. 93-387, § 1)

Cross reference— Definitions generally, § 1-2.

Sec. 26-92. - Construction and home improvement business declared matter affecting public interest.

It is hereby declared to be the public policy of the state that, in order to safeguard the life, health, property and public welfare of the citizens of Pinellas County, the business of construction and home improvement is a matter affecting the public interest, and any person desiring to engage in the business as herein defined on a countywide basis without the necessity of meeting the competency requirements of each municipality in Pinellas County and the requirements of Pinellas County may establish his competency and qualification to be certified as herein provided.

The legislature recognizes that the construction and home improvement industries may pose a danger of significant harm to the public when incompetent or dishonest contractors provide unsafe, unstable, or short-lived products or services. Therefore, it is necessary in the interest of the public health, safety, and welfare to regulate the construction industry in Pinellas County.

(Laws of Fla. ch. 75-489, § 10; Laws of Fla. ch. 89-504, § 1)

Sec. 26-93. - Application of division.

(a)

Nothing in this division limits the power of a municipality, city or the county to regulate the quality and character of work performed by contractors through a system of permits, fees, and inspections that are designed to secure compliance with and aid in the implementation of state and local building laws or to enforce other local laws for the protection of the public health and safety.

(b)

Nothing in this division limits the power of a municipality, city or county to collect occupational license and inspection fees for engaging in contracting, or examination fees from persons who are registered with the board pursuant to local examination requirements.

(c)

Nothing in this division limits the power of municipalities, cities or counties to adopt any system of permits requiring submission to and approval by the municipality, city or county of drawings and specifications for work to be performed by contractors before commencement of the work.

(d)

Nothing in this division shall be construed to waive any requirements of any existing local ordinance or resolution of the board of county commissioners regulating the type of work required to be performed by a specialty contractor.

(e)

Any official authorized to issue building or other related permits shall ascertain that the applicant contractor is duly registered in the area where the construction is to take place or certified before issuing the permit. The evidence shall consist only of the exhibition to him of current evidence of certification of registration.

(f)

Municipalities or cities may continue to provide examinations for their territorial area, provided that:

(1)

To engage in contracting in the territorial area, an applicant must also be registered with the board.

(2)

All local contractors' licensing boards or agencies shall transmit annually during August to the board the

names of all local licensees, the status of the license, and a report of any disciplinary action taken against the licensee.

(3)

A certificate has not been issued by the board.

(g)

The rights to create local boards in the future by any municipality, city or the county is preserved.

(h)

Notwithstanding any provisions to the contrary in F.S. § 235.31 about prequalification of bidders, any person holding a certificate shall be deemed qualified to participate in any project contemplated by this section.

(i)

This division applies to any contractor performing work for the state, county or any municipality. They are required to determine compliance with this division before giving a commencement order on any of its contracts for construction, improvement, remodeling or repair.

(j)

If an incomplete contract exists at the time of death of a contractor, the contract may be completed by any person even though not certified or registered. The person shall notify the board within 30 days after the death of the contractor of his name and address. For purposes of this subsection, an incomplete contract is one which has been awarded to, or entered into by, the contractor before his death or on which he was the low bidder and the contract is subsequently awarded to him regardless of whether any actual work has commenced under the contract before his death.

(Laws of Fla. ch. 75-489, § 25; Laws of Fla. ch. 89-504, § 1)

Sec. 26-94. - Exemptions from division.

This division does not apply to:

(1)

Contractors who work exclusively on bridges, roads, streets, highways, railroads, or utilities and services incidental thereto.

(2)

Any employee of a certificate holder or registrant who is a subordinate of such certificate holder or registrant if the employee does not hold himself out for hire or engage in contracting except as an employee.

(3)

An authorized employee of the United States, Florida, or any municipality, city, or county, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this state as long as the

employee does not hold himself out for hire or otherwise engage in contracting except in accordance with his employment.

(4)

An officer appointed by a court when he is acting within the scope of his office as defined by law or court order. When construction projects that were not underway at the time of appointment of the officer by the court are undertaken, he shall employ or contract with a registrant or certificate holder.

(5)

Public utilities on construction, maintenance, and development work performed by their forces and incidental to their business.

(6)

The sale or installation of any finished products, materials, or articles or merchandise which are not actually fabricated into and do not become a permanent fixed part of the structure, except for spas or in-ground swimming pools with a capacity in excess of 200 gallons, and for aboveground swimming pools with a capacity in excess of 200 gallons that involve excavation, plumbing, chemicals, or wiring of any appliance without a factory-installed electrical cord and plug. This subsection shall not be construed to limit the exemptions provided in subsection (7) below.

(7)

Owners of property building or improving one- or two-family residences thereon for the occupancy of such owners and not offered for sale. In all actions brought under this division, proof of the sale or offering for sale of more than one such structure by the owner-builder within one year after completion of the same is prima facie evidence that such structure was undertaken for purposes of sale. This subsection does not exempt any person who is engaged by such owner or any person other than the owner who acts in the capacity of a contractor.

(8)

Any construction, alteration, improvement, or repair carried on within the limits of any site the title to which is in the United States, or to any construction, alteration, improvement, or repair on any project where federal law supersedes this division.

(9)

Any work or operation of a casual, minor, or inconsequential nature in which the aggregate contract price for labor, materials, and all other items is less than $500.00, but this exemption does not apply:

a.

If the construction, repair, remodeling, or improvement is a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made in contracts of amounts less than $500.00 for the purpose of evading this division or otherwise.

b.

To a person who advertises as a contractor or otherwise represents or exhibits by any manner or device that he is qualified to engage in contracting.

(10)

c.
Any construction or operation incidental to the construction or repair of irrigation and drainage ditches;

d.

Regularly constituted irrigation districts, reclamation districts; or

e.

Clearing or other work on the land in rural districts for fire prevention purposes or otherwise except when performed by a certificate holder or registrant under this division.

(11)

A registered architect or engineer, acting in his professional capacity.

(12)

Any person who only furnishes material or supplies without fabricating them into or consuming them in the performance of the work of the contractor.

(13)

Any person as defined and licensed under F.S. ch. 527, when such person is performing the work authorized by such license.

(14)

Any person who is certified under F.S. ch. 489, except the provisions of sections 26-121 and 26-122(c), regarding registration shall apply.

(Laws of Fla. ch. 75-489, § 26; Laws of Fla. ch. 89-504, § 1)

Secs. 26-95—26-105. - Reserved.
Subdivision II. - Pinellas County Construction Licensing Board[5]

Footnotes:
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Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 26-106. - Created; composition; organization; meetings; and powers.

(a)

The Pinellas County Construction Licensing Board is created within the County of Pinellas, consisting of 21 members, two of whom are primarily engaged in business as general contractors; two of whom are primarily engaged in business as building contractors, two of whom are primarily engaged in business as residential contractors, one who is a Florida registered architect doing business in Pinellas County, one who is an electrical contractor, one who is a plumbing contractor, one who is a mechanical contractor, one who is a roofing or sheet metal contractor, one who is a swimming pool, aluminum or veneer specialty contractor, two fire marshals, the three building directors of the following: City of St. Petersburg, City of Clearwater and County of Pinellas, one North county building director from one of the following municipalities: Tarpon Springs, Dunedin, Oldsmar, Safety Harbor, Belleair, Belleair Bluffs, or Largo, one South county building director from one of the following municipalities: South Pasadena, Gulfport, Seminole, Kenneth City, or Pinellas Park, one Beach Community building director from one of the following: the Town of Belleair Beach, the Town of Belleair Shores, the City of Redington Beach, the City of North Redington Beach, the City of Madeira Beach, the City of Indian Rocks Beach, the Town of Indian Shores, the Town of Redington Shores, the City of Treasure Island, and the City of St. Pete Beach, and one consumer member who is a resident and citizen of Pinellas County and who is not and never has been a member or practitioner of any of the trades or professions regulated by the board or a member or practitioner of any closely related trade or profession. All members of the board shall be residents of Pinellas County and appointed by the chairman of the board of county commissioners.

(b)

(1)

To be eligible for appointment to the first board, each member, other than the building directors, the architect, and the consumer member, shall personally hold an unexpired certified license issued by the City of St. Petersburg or the City of Clearwater or the County of Pinellas or the State of Florida at the time of appointment; be actively engaged in their respective businesses and have been so engaged for a period of at least five consecutive years before the date of appointment; and be a citizen and resident of the county.

(2)

Each member of the board, other than the building directors, the architect and the consumer member, succeeding the original appointees shall possess the qualifications prescribed in subsection (b)(1).

(c)

Members of the board shall be selected as follows: The three building directors of the City of Clearwater, City of St. Petersburg and the County of Pinellas; one north county building director and one south county building director selected by the chairman of the board of county commissioners from the municipalities listed in subsection (a); one Beach Community building director appointed from a list of three nominees submitted by The Barrier Island Governmental Council; a Florida Registered Architect appointed from a list of three recommended architects submitted by the American Institute of Architects Florida Central Chapter, St. Petersburg and Clearwater Sections; two of whom are primarily engaged in business as general contractors from a list of five submitted by the Associated General Contractors of Mid-Florida, Inc.; two of whom are primarily engaged in business as building contractors from a list of five submitted by the Contractors and Builders Association of Pinellas County; two of whom are primarily engaged in the business as residential building contractors from a list of five submitted by the Contractors and Builders Association of Pinellas County; one who is an electrical contractor from a list of five supplied by the Electrical Council of Florida, Pinellas County Chapter; one who is a plumbing contractor from a list of five supplied by the

Pinellas Association of Plumbing-Heating-Cooling Contractors, Inc.; two of whom are fire marshals, who shall be active members of the Tampa Bay Area Fire Marshals Association, from a list of five supplied by said association, one of whom shall serve an initial term of three years, the other to serve an initial term of two years, with successors to serve for a term of two years thereafter; one who is a mechanical or Class A air conditioning contractor from a list of five, supplied by the Refrigeration and Air Conditioning Contractors' Association ("RACCA"); one roofing or sheet metal contractor and one swimming pool, aluminum or veneer specialty contractor selected by the chairman of the board of county commissioners; one consumer member to be appointed by the chairman of the board of county commissioners in accordance with subsection (b)(1). The building director members from the City of Clearwater, from the City of St. Petersburg and Pinellas County, shall be permanent members of the board. All other members shall serve terms of two years. The following members shall commence their terms in even-numbered years: the Florida registered architect, one general contractor, one building contractor or, one residential building contractor, one electrical contractor, one fire marshal, the north county, south county, and Beach Community building directors. The following members shall commence their terms in odd-numbered years: One general contractor, one building contractor, one residential building contractor, one mechanical contractor, one plumbing contractor, one fire marshal, one roofing or sheet metal contractor, one swimming pool, aluminum or veneer specialty contractor, and one consumer member. As the terms of members expire, the Chairman of the Board of County Commissioners of Pinellas County shall appoint a member to fill the vacancy for a term of two years in the same manner as that membership was originally filled. The architect, contractor, electrical, plumbing and mechanical members shall be selected from the county at large. The board shall elect one of its members to serve as chairman and one of its members to serve as vice-chairman, for a term to be set by the board. All terms of office expire on September 30 of the last year of the term. Vacancies in the membership occurring prior to the end of a member's term for any cause shall be filled by appointment in the same manner as that membership was originally filled.

(d)

The board shall meet regularly as needed. Special meetings of the board may be held as the board provides in its rules and regulations. A majority of the members of the board constitutes a quorum.

(e)

The board is authorized to adopt rules and regulations in accordance with F.S. § 162.08 to carry out the provisions of this division.

(f)

Any member of the board or duly appointed hearing officer designated by the board may administer oaths and take testimony about all matters within the jurisdiction of the board, issue subpoenas which shall be supported by affidavit, serve subpoenas and other process, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence. F.S. ch. 120 will govern hearings conducted by or on behalf of the board. The board is designated an "agency" as defined in F.S. § 120.52(1)(c) for purposes of utilizing the division of administrative hearings of the department of administration.

(g)

The board is authorized to employ personnel and incur expense as necessary to perform its duties and enforce this division and shall sue and be sued in its official name.

(h)

The board shall adopt a seal for its use containing the words "Pinellas County Construction Licensing Board."

(i)

The board is authorized to waive any examination requirements for certification or registration of a contractor or journeyman, except that all required insurance coverages shall not be waived.

(j)

The board shall be empowered to issue cease and desist orders in accordance with F.S. § 489.113 to prohibit any person from engaging in the business of contracting who does not hold the required certification or registration for the type of work being performed under this division.

(j)

The board shall be empowered to employ investigators or inspectors to enforce the provisions of this division and to issue citations in accordance with F.S. § 489.127(3) for violations of this division.

(k)

The board is authorized, for good cause shown, to establish such other reasonable classifications of contractors or journeymen in the construction industry as are required or requested by any city or county building department in addition to those specifically enumerated herein, including, but not limited to: aluminum contractors, swimming pool contractors, gas contractors, roofing contractors and carpentry contractors. Certification and registration of such contractors or journeymen shall be on a countywide basis in accordance with the procedures governing other contractors as set forth in this division.

(l)

The board is authorized, for good couse shown, to establish such other reasonable classifications of contractors or journeymen in the construction industry as are required or requested by any city of county building department in addition to those specifically enumerated herein, including, but not limited to: aluminum contractor, swimming pool contractors. Gas contractors, roofing contractors and carpentry contractors. Certification and registration of such contractors or journeymen shall be on a countywide basis in accordance with the procedures governing other contractors as set forth in this division.

(Laws of Fla. ch. 75-489, § 12; Laws of Fla. ch. 89-504, § 1; Laws of Fla. ch. 93-387, § 2; Laws of Fla. Ch. 2003-319, § 1)

Sec. 26-107. - Disposition of fees; expenses; compensation.

All moneys collected by the board shall be received, deposited, expended and accounted for pursuant to law. The expenses of the board and its officers and of the examinations held by the board, and other matters in connection with this division shall be paid from the money collected under this division. Members of the board shall receive per diem and mileage as provided by law.

(Laws of Fla. ch. 75-489, § 13; Laws of Fla. ch. 89-504, § 1)

Sec. 26-108. - Jurisdiction and duties.

(a)

Except as herein provided, the board shall have concurrent jurisdiction with municipal examining boards.

(b)

The board shall have the duty to promulgate rules and regulations governing the registration and certification of those engaging in countywide contracting and shall provide for the examination of those so engaged.

(c)

The board shall have the duty to promulgate rules and regulations governing the countywide certification of journeymen and shall provide for the examination of those so engaged.

(d)

The board shall have the authority to employ persons to enforce the provisions of section 26-128(a).

(e)

The board shall have the duty to promulgate rules and regulations for the administration of a citation program and training to investigators in accordance with F.S. § 489.127(3)(j).

(Laws of Fla. ch. 75-489, § 14; Laws of Fla. ch. 89-504, § 1)

Sec. 26-109. - Examination committees.

(a)

The board shall establish four examination committees to establish the examinations required for certification under this division. One committee shall consist of the board itself to establish and administer the qualifications for certification and the examination for the general contractors, building contractors, residential building contractors, and specialty contractors; one committee shall consist of the chief mechanical inspector from either the City of St. Petersburg, City of Clearwater or the County of Pinellas and two mechanical contractors residing and engaged in business within the county, all of whom shall be appointed by the board to establish and administer, subject to approval by the board, the qualifications for certification and the examination for mechanical contractors; one committee shall consist of the chief electrical inspector from either the City of St. Petersburg, City of Clearwater or the County of Pinellas and two electrical contractors residing and engaged in business within the county, all of whom shall be appointed by the board to establish and administer, subject to approval by the board, the qualifications for certification and the examination for electrical contractors; one committee shall consist of the chief plumbing inspector from either the City of St. Petersburg, City of Clearwater or the County of Pinellas and two plumbing contractors residing and engaged in business within the county, all of whom shall be appointed by the board to establish and administer, subject to approval by the board, the qualifications for certification and the examination for plumbing contractors.

(b)

The examination committees for electrical contractors, plumbing contractors and mechanical contractors shall

also give examinations for certificates of competency for journeymen in the electrical, plumbing and mechanical trades, respectively. For purposes of this division, "journeyman" shall mean a person who is the holder of a valid certificate of competency issued by the board after passing the required examination as provided in this division and who is thereby entitled to perform the manual work of installing plumbing, mechanical or electrical installations under the general direction of a contractor in the trade. Each examination committee shall determine the matter to be covered by the examination. The examination shall be of a practical and elementary character sufficiently strict to test the qualifications of the applicant.

(c)

The board shall have jurisdiction over all the examinations and regulations pursuant to this division.

(Laws of Fla. ch. 75-489, § 15; Laws of Fla. ch. 89-504, § 1; Ord. No. 98-81, § 1, 9-29-98)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Secs. 26-110—26-120. - Reserved.
Subdivision III. - Registration and Certification

Sec. 26-121. - Registration.

(a) (1) On or before November 1, 1975, all persons presently contracting in the county shall register with the board in the proper classification unless they are certified by the state or registered with the board created by Laws of Fla. ch. 73-595 [now repealed]. Persons later entering the business of contracting as defined herein shall register with the board before engaging in the contracting business. To be registered the applicant shall file evidence of holding a current state or county occupational license and/or a current competency license issued by the state, county or any municipality in the county for the type of work for which registration is desired, on a form prescribed by the board, with evidence of successful compliance with the local examination and licensing requirements, if any, in the area for which registration is desired, accompanied by the registration fee fixed by this division. As a prerequisite to registration, the board may require the applicant to submit satisfactory evidence that he has obtained public liability and property damage insurance for the safety and welfare of the public in amounts to be determined by the board and a code compliance bond not to exceed $5,000.00 in accordance with F.S. § 489.131(3)(e). No examination shall be required by the board for registration.

(2)

Registration permits the registrant to engage in contracting only in the area and for the type of work covered by the registration unless state and local licenses are issued for other areas and types of work or unless board certification is obtained.

(b)

The board may receive an application on prescribed forms with supporting data; and upon finding of fact supporting the need or justification, the board may grant a limited and restricted registration to a contractor not domiciled in the county for one project. Renewal application or registration cannot be granted. During such registration the board shall have complete authority to require compliance with this division and other statutes of the state and county.

(Laws of Fla. ch. 75-489, § 16; Laws of Fla. ch. 89-504, § 1; Ord. No. 98-81, § 2, 9-29-98)

Sec. 26-122. - Certification.

(a)

To obtain a certificate, an applicant shall submit an application in writing to the board containing the statement that the applicant desires the issuance of a certificate and the class of certificate desired on a form containing the information prescribed by the board and shall be accompanied by the prescribed fee.

(b) (1) Examinations shall be held at times and places within the county as the board determines, but there shall be at least three examinations a year. Each applicant shall take an objective written examination about his fitness for a certificate in the category for which application is made. There shall be a type of examination for all contractor categories that shall apply to the type of work covered by the certificate applied for. The examination shall cover knowledge of basic principles of contracting and construction applicable to the category for which a certificate is requested. It shall be an open-book examination consisting of multiple choice, fill-in, true-false, or short answer questions, and may include or consist of diagrams, plans, or sketches in connection with which the applicant is required to demonstrate his knowledge of construction by answering questions keyed to the diagrams, plans or sketches or make a drawing if required by a certificate of competency examination. All examinations shall be prepared by an independent testing agency, subject to approval of the board.

(2)

A passing grade on the examination is 70 percent.

(3)

Persons desiring to engage in specialty building trades with the county, not covered by this division, that require a municipal or county examination for licensing or certification shall be required to take and pass only one such examination that shall then be recognized in all other municipalities and the county without the necessity for an additional examination.

(c)

Examinations for journeymen certificates of competency shall be conducted by an independent testing agency and shall be held at the times, conducted in the manner, require the passing grade and shall be otherwise similar to those prescribed in subsection (b) of this section.

(d)

Upon receipt of the fee and application, the board shall investigate the financial responsibility and credit, business reputation of the applicant and of any business organization on behalf of which he proposes to engage in contracting, the education and experience of the applicant. Within 30 days from the date of the examination, the board shall tell the applicant in writing whether he has qualified or not and, if the applicant has qualified, that it is ready to issue a certificate in the category for which application was made, subject to compliance with the requirements of subsection (e) of this section.

(e)

As a prerequisite to issuance of a contractor's certificate, the board shall require the applicant to submit satisfactory evidence that he has obtained public liability and property damage insurance for the safety and

welfare of the public in amounts to be determined by the board and a code compliance bond not to exceed $5,000.00 in accordance with F.S. § 489.131(3)(e). Thereupon, the certificate shall be issued forthwith, but this subsection does not apply to inactive certificates.

(f)

If an applicant for an original certificate, after having been notified to do so, does not appear for examination within one year from the date of filing his application, the fee paid by him shall be credited to the board as an earned fee. A new application for a certificate shall be accompanied by another application fee. Forfeiture of a fee may be waived by the board for good cause.

(g)

When a certificate holder desires to engage in contracting in any area of the county including municipalities, as a prerequisite therefor, he shall only be required to exhibit to the local official evidence of holding a current certificate issued by the board accompanied by the fee for the occupational license and building permit required of other persons. He shall not be required to take a municipal examination to prove his competency to obtain a municipal license.

(h)

When a state certificate holder desires to engage in contracting in any area of the county, including municipalities, as a prerequisite therefor, he shall be required to exhibit to the local building official, tax collector, or other person in charge of the issuance of licenses and building permits in the area evidence of holding a current state certificate accompanied by the fee for the occupational license and the building permit required of other persons. State certificate holders must register with the board to provide proof of current general liability insurance in amounts determined by the construction industry licensing board pursuant to F.S. ch. 489, and provide a code compliance bond not to exceed $5,000.00 in accordance with F.S. § 489.131(3)(e). He shall not be required to take an examination to prove his competency for the county or municipality, to obtain a county or municipal license.

(i)

The certificate shall not be transferable.

(j)

Persons not desiring to engage in contracting on a countywide basis may take any required examination of any municipality within which he wishes to limit his business, except that he must register with the board in addition thereto.

(k)

A municipality may require persons desiring to engage in the business of contracting within its boundaries to comply with the examination requirements provided in this division rather than requiring its own examination, but it shall not require both.

(Laws of Fla. ch. 75-489, § 17; Laws of Fla. ch. 89-504, § 1)

Sec. 26-123. - Business organizations.

(a)

When a natural person proposes to do business in his own name, registration or certification, when granted, shall be issued only to that individual.

(b) (1) If the applicant proposing to engage in contracting is a partnership, corporation, business trust, or other legal entity, the application shall state the name of the partnership and of its partners, or the name of the corporation and of its officers and directors, or the name of the business trust and its trustees, or the name of such other legal entity and its members, and furnish evidence of statutory compliance if a fictitious name is used. The application shall also show that the person applying for the examination is legally qualified to act for the business organization in all matters connected with its contracting business; and that he has authority to supervise construction undertaken by the business organization. The registration or certification shall be in the name of the qualifying individual. If a natural person so qualified on behalf of the business organization ceases to be affiliated with the business organization, he shall inform the board as provided in this division. In addition, if the natural person is the only qualified natural person affiliated with the business organization, the business organization shall notify the board of this termination and shall have a period of 60 days from the termination of his affiliation with the business organization in which to qualify another natural person under the provisions of this division, failing which, the certification of the business organization shall be subject to revocation by the board.

(2)

The natural person shall also inform the board in writing when he proposes to engage in contracting in his own name or in affiliation with another business organization; and he or the new business organization shall supply the same information to the board as required for applicants under this division.

(3)

After an investigation of the financial responsibility, credit, and business reputation of the natural person, or the new business organization, and upon a favorable determination, the board shall forthwith issue without charge or examination a new certificate on the natural person's name.

(b)

When a business organization makes application for an occupational license in any municipality, the application shall be made with the tax collector in the name of the business organization; and the license, when issued, shall be issued to the business organization upon payment of the appropriate licensing fee and exhibition to the tax collector of a valid certificate issued by the board. The business organization's certified representative shall not be required, upon exhibition of this evidence, to take a municipal examination to prove competency to obtain a municipal license.

(Laws of Fla. ch. 75-489, § 18; Laws of Fla. ch. 89-504, § 1)

Sec. 26-124. - Reciprocal registration and certification.

The board shall have the authority to grant registration or certification to any person who holds a certificate or is registered or otherwise similarly licensed by any other city or county in the state.

(Laws of Fla. ch. 75-489, § 19; Laws of Fla. ch. 89-504, § 1)

Sec. 26-125. - Renewal and restoration of certificate of registration.

(a)

Certificates and registration shall expire annually at midnight on September 30.

(b)

Failure to renew the certificate or registration during September shall cause the certificate or registration to become inoperative, and it is unlawful thereafter for any person to engage or offer to engage or hold himself out as engaging in contracting under the certificate or registration unless the certificate or registration is restored or reissued.

(c)

A certificate or registration that is inoperative because of failure to renew shall be restored on payment of the proper renewal fee, if the application for restoration is made by September 30 of the subsequent year. If the application for restoration is not made within the one-year period, the fee for restoration shall be equal to the original application fee, and in addition, the board may require reexamination of the applicant.

(d)

A person who is registered or holds a valid certificate from the board may go on inactive status during which time he shall not engage in contracting but may retain his certificate or registration on an inactive basis on payment of an annual renewal fee during the inactive period.

(Laws of Fla. ch. 75-489, § 20; Laws of Fla. ch. 89-504, § 1; Laws of Fla. ch. 93-387, § 3)

Sec. 26-126. - Fees.

(a)

The board is authorized to establish reasonable fees for certification, registration, examination, board of adjustment and appeals hearings, annual renewal fees, and such other fees deemed necessary to accomplish the purpose of this division.

(b)

Any funds received by the board from fees which remain uncommitted and unexpended at the end of each biennium shall be paid into the county general revenue fund.

(Laws of Fla. ch. 75-489, § 21; Laws of Fla. ch. 89-504, § 1)

Sec. 26-127. - Records.

(a)

All information required by the board of any applicant or certificate or registration or journeymen shall be a public record, except financial information and examination grades are confidential and shall not be discussed with anyone except members of the board and its staff, but the applicant is entitled to see his examination papers and grades. An applicant may waive in writing the confidentiality of his examination for

the purpose of discussion at meetings of the board.

(b)

If a certificate holder or registrant changes his name style, address or employment from that appearing on his current certificate or registration, he shall notify the board of the change within 30 days after it occurs.

(c)

All examinations shall be retained for a period of two years from the date of the examination.

(Laws of Fla. ch. 75-489, § 22; Laws of Fla. ch. 89-504, § 1)

Sec. 26-128. - Prohibitions; penalties.

(a)

No person shall:

(1)

Falsely hold himself out as a certificate holder or registrant;

(2)

Falsely impersonate a certificate holder or registrant;

(3)

Present as his own the certificate or registration of another;

(4)

Give false or forged evidence to the board or a member thereof for the purpose of obtaining a certificate or registration;

(5)

Use or attempt to use a certificate or registration which has been suspended or revoked;

(6)

Engage in the business or act in the capacity of a contractor or advertise himself as available to engage in the business or act in the capacity of a contractor without being duly registered or certified; or

(7)

Operate a business organization engaged in contracting after 60 days following the termination of its only qualifying agent without designating another qualifying agent.

(b)

Any person who violates any of the provisions of subsection (a) is guilty of a misdemeanor of the first degree, punishable as provided in F.S. § 775.082 or 775.083.

(Laws of Fla. ch. 75-489, § 23; Laws of Fla. ch. 89-504, § 1)

Sec. 26-129. - Revocation or suspension of certificate or registration; additional penalties and disciplinary action.

(a)

On its own motion or the verified written complaint of any person, the board may investigate the action of any contractor certified or registered under this division and hold hearings pursuant to law. When any complaint involves a contractor certified or registered under this division for acts or omissions occurring in any area of the county that has a local board, the board shall forward the complaint to the local board where the alleged violation occurred for its action. Where no local board exists, or when such local board waives its jurisdiction, the board shall take jurisdiction. The board may take appropriate disciplinary action if the contractor is found to be guilty of or has committed any one of the acts or omissions constituting cause for disciplinary action set out herein or adopted as rules or regulations by the board.

(b)

The following acts constitute cause for disciplinary action:

(1)

Obtaining a certificate or registration by fraud or misrepresentation;

(2)

Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of contracting or the ability to practice contracting;

(3)

Violation of F.S. ch. 455;

(4)

Willfully or deliberately disregarding and violating the applicable building codes or laws of the state, this board, or of any municipality or county of this state;

(5)

Performing any act which assists a person or entity in engaging in the prohibited uncertified and unregistered practice of contracting, if the certificate holder or registrant knows or has reasonable grounds to know that the person or entity was uncertified and unregistered;

(6)

Knowingly combining or conspiring with an uncertified or unregistered person by allowing his certificate or registration to be used by the uncertified or unregistered person with the intent to evade the provisions of this

division. When a certificate holder or registrant allows his certificate or registration to be used by one or more business organizations without having any active participation in the operations, management, or control of such business organizations, such act constitutes prima facie evidence of an intent to evade the provisions of this division.

(7)

Acting in the capacity of a contractor under any certificate or registration issued hereunder except in the name of the certificate holder or registrant as set forth on the issued certificate or registration, or in accordance with the personnel of the certificate holder or registrant as set forth in the application for the certificate or registration, or as later changed as provided in this division.

(8)

Committing mismanagement or misconduct in the practice of contracting that causes financial harm to a customer. Financial mismanagement or misconduct occurs when:

a.

Valid liens have been recorded against the property of a contractor's customer for supplies or services ordered by the contractor for the customer's job; the contractor has received funds from the customer to pay for the supplies or services; and the contractor has not had the liens removed from the property, by payment or by bond, within 30 days after the date of such liens.

b.

The contractor has abandoned a customer's job and the percentage of completion is less than the percentage of the total contract price paid to the contractor as of the time of abandonment, unless the contractor is entitled to retain such funds under the terms of the contract or refunds the excess funds within 30 days after the date the job is abandoned.

c.

The contractor's job has been completed, and it is shown that the customer has had to pay more for the contracted job than the original contract price, as adjusted for subsequent change orders, unless such increase in cost was the result of circumstances beyond the control of the contractor, was the result of circumstances caused by the customer, or was otherwise permitted by the terms of the contract between the contractor and the customer.

(9)

Being disciplined by any municipality or county for an act or violation of this division, which discipline shall be reviewed by the board before the board takes any disciplinary action of its own.

(10)

Failing in any material respect to comply with the provisions of this division.

(11)

Abandoning a construction project in which the contractor is engaged or under contract as a contractor. A

project is to be considered abandoned after 90 days if the contractor terminates the project without notification to the prospective owner and without just cause.

(12)

Signing a statement with respect to a project or contract falsely indicating that the work is bonded; falsely indicating that payment has been made for all subcontracted work, labor, and materials which results in a financial loss to the owner; purchaser, or contractor; or falsely indicating that workers' compensation and public liability insurance are provided.

(13)

Being found guilty of fraud or deceit or of gross negligence, incompetency, or misconduct in the practice of contracting.

(14)

Proceeding on any job without obtaining applicable local building department permits and inspections.

(c)

If a contractor disciplined under subsection (b)(12) is a qualifying agent for a business organization and the violation was performed in connection with a construction project undertaken by that business organization, the board may impose an additional administrative fine not to exceed $1,000.00 against the business organization or against any partner, officer, director, trustee, or member if such person participated in the violation or knew or should have known of the violation and failed to take reasonable corrective action.

(d)

The board may specify by rule the acts or omissions which constitute violations of this section.

(e)

The board is authorized to take the following disciplinary action:

(1)

Suspend the certificate holder or registrant from all operations as a contractor during the period fixed by the board, but the board may permit the certificate holder or registrant to complete any contracts then uncompleted.

(2)

Revoke a certificate or registration.

(3)

Impose an administrative fine or penalty not to exceed $1,000.00 (which shall be recoverable by the board only in an action at law).

(4)

Require restitution and impose reasonable investigative and legal costs.

(f)

After suspension of the certificate or registration on any grounds set forth in this section, the board may remove the suspension on proof of compliance by the contractor with all conditions prescribed by the board for removal of suspension, or, in the absence of the conditions, as in the sound discretion of the board.

(g)

After revocation of a certificate or registration, the certificate or registration shall not be renewed or reissued for at least one year after revocation and then only on a showing of rehabilitation of the contractor. The lapse or suspension of a certificate or registration by operation of law or by order of the board or a court, or its voluntary surrender by a certificate holder or registrant, does not deprive the board of jurisdiction to investigate or act in disciplinary proceedings against the certificate holder or registrant.

(h)

The board may restrain any violation of this division by action in a court of competent jurisdiction.

(Laws of Fla. ch. 75-489, § 24; Laws of Fla. ch. 89-504, § 1; Laws of Fla. ch. 93-387, § 4)

Secs. 26-130—26-150. - Reserved.
ARTICLE IV. - RESERVED

Secs. 26-151—26-175. - Reserved.
ARTICLE V. - COMMERCIAL EXPLOITATION OF NUDITY[6]

Footnotes:
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Cross reference— Female nudity in alcoholic beverage establishments, § 6-2; adult uses, § 42-51 et seq.; offenses involving public morals, § 86-101 et seq.

Sec. 26-176. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business means and includes every kind of commercial establishment, occupation, calling, or operation of institutions where members of the public are served food, drink or alcoholic beverages.

(Ord. No. 77-6, § 3, 3-15-77)

Cross reference— Definitions generally, § 1-2.

Sec. 26-177. - Penalty for violation of article.

Violations of this article are punishable as provided in section 1-8.

Sec. 26-178. - Area embraced.

All territory within the legal boundaries of the county, including all incorporated and unincorporated areas, shall be embraced by the provisions of this article.

(Ord. No. 77-6, § 7, 3-15-77; Ord. No. 77-29, § 6, 11-1-77)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 26-179. - Intent of article.

The board of county commissioners does hereby find that there exists in the unincorporated area of the county an increasing trend toward nudity by owners and employees of businesses serving food, drink, and alcoholic beverages to the public, and that such activities and such competitive commercial exploitation of nudity is adverse to the public health, peace, morals and good order, and that it is in the best interest of the public health, safety and convenience to restrict such nudity, and the commercial promotion and exploitation thereof, as set forth in this article.

(Ord. No. 77-6, § 1, 3-15-77)

Sec. 26-180. - Purpose.

The purpose of this article is to proscribe conduct and activities which encourage competitive commercial exploitation of nudity, where such conduct and activity is not related to any live act, demonstration, exhibition, performance, or entertainment which may be protected by the United States and state constitutional provisions guaranteeing freedom of expression.

(Ord. No. 77-6, § 2, 3-15-77)

Sec. 26-181. - Conduct prohibited.

(a)

It shall be unlawful for any person maintaining, owning or operating a business as defined in this article to suffer, permit, require or otherwise direct any person, while serving food, drink or alcoholic beverages to any customer, or while seating or directing customers to seats within any business as defined in this article, to expose such person's genitals, pubic hair, pubic hair region, or buttocks or any portion of the female breast below the top of the areola, where the areola and nipple are not covered by a fully opaque covering.

(b)

It shall be unlawful for any person while serving food, drink or alcoholic beverages, or while seating or directing customers to seats within any business as defined in this article, to expose such person's genitals, pubic hair, pubic hair region, or buttocks or any portion of the female breast below the top of the areola, where the areola and nipple are not covered by a fully opaque covering.

(c)

It shall be unlawful for any person maintaining, owning, or operating a business as defined in this article to suffer, permit, require or otherwise direct any other person, while such person is mingling, coming in contact with, or likely to come in contact with, or in close proximity to, customers of such business, within areas

where food, drink or alcoholic beverages are served, to expose such person's genitals, pubic hair, pubic hair region, or buttocks or any portion of the female breast below the top of the areola, where the areola and nipple are not covered by a fully opaque covering.

(d)

It shall be unlawful for any person while mingling, coming in contact with, or likely to come in contact with, or in close proximity to, customers of such business within areas where food, drink or alcoholic beverages are served to expose such person's genitals, pubic hair, pubic hair region, or buttocks or any portion of the female breast below the top of the areola, where the areola and nipple are not covered by a fully opaque covering.

(e)

It shall be unlawful for any person who is a customer in a business as defined in this article, wherein food, drink or alcoholic beverages are served, to touch or come in contact with the genitals, pubic hair, pubic hair region, buttocks, or any portion of the female breast below the top of the areola of any person who is an employee, agent or servant of any person who maintains, owns or operates a business as defined in this article.

(Ord. No. 77-6, § 4, 3-15-77; Ord. No. 77-29, §§ 1—3, 11-1-77; Ord. No. 98-39, § 6, 3-10-98)

Secs. 26-182—26-200. - Reserved.

ARTICLE VI. - PAWNBROKERS, PRECIOUS METAL DEALERS AND SECONDHAND DEALERS[7]

Footnotes:
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State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g); secondhand dealers and secondary metals recyclers, F.S. ch. 538; local regulation of secondhand dealers, F.S. § 538.17.

Sec. 26-201. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Pawnbroker means any person whose business is to take or receive by way of pledge, pawn or exchange, any goods, wares or merchandise, or article of personal property of any kind as security for money loaned thereon, to include any sale with an option to repurchase the item at a later date, for the purpose of this article, is hereby declared a pawnbroker.

Precious metal means any item made of or containing gold, silver or platinum, excluding:

(1)

Medical or dental materials, electrical, electronic, photographic, automotive equipment or items bought or sold at numismatic or antique shows.

(2)

Any coin with an intrinsic value less than its numismatic value.

(3)

Any gold or silver bullion coin.

(4)

Any gold, silver or platinum bullion that has been assayed and is properly marked as to its weight and fineness.

Precious metal dealer means any person who normally or regularly engages in the business of buying used precious metal for resale.

Secondhand dealer means any person engaged in the business of purchasing used goods of any kind that would be identifiable by serial number or other markings. This section shall exclude used automobiles and automobile parts dealers.

(Ord. No. 84-17, § 3, 5-22-84)

Cross reference— Definitions generally, § 1-2.

Sec. 26-202. - Penalty for violation of article.

Violations of this article are punishable as provided in section 1-8.

(Ord. No. 84-17, § 6, 5-22-84)

Sec. 26-203. - Territory embraced.

All territory within the legal boundaries of the county, including all unincorporated and incorporated areas, shall be embraced by the provisions of this article.

(Ord. No. 84-17, § 7, 5-22-84)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 26-204. - Purpose and intent.

The board of county commissioners finds and declares that in order to protect and safeguard the safety, health and welfare of the people of the county, it is necessary that procedures for regulation of pawnbrokers, precious metal dealers and secondhand dealers be adopted by the county.

(Ord. No. 84-17, § 1, 5-22-84)

Sec. 26-205. - Exemptions from article.

This article shall not apply to items obtained or received in purchases from estate sales in the county, bank sales, public bid sales, out-of-business sales, or sales by governmental bodies or charitable organizations or sales of firearms as defined in F.S. § 790.001.

(Ord. No. 84-17, § 2, 5-22-84; Ord. No. 11-35, § 3, 9-27-11)

Sec. 26-206. - Recordkeeping requirements.

(a)

Any person engaged in business as a pawnbroker, precious metal dealer or secondhand dealer shall keep a register as required in this article in connection with his business. At the time of each transaction, such person shall enter or cause to be entered upon the register an accurate description of the person from whom any article of personal property is purchased or received, or to whom any loan is made on personal property, and shall include in the description the name, age, sex, race, and place of residence of the person. The register shall also contain an accurate description of any article of personal property so purchased or received or upon which a loan is made, which description shall contain any mark, brand, monogram, word or letters blown, stamped, etched or otherwise permanently marked upon the article. In the event of a purchase of more than one item from the same person, such purchase may be described as a lot on a single form; and such lot shall be kept together for the holding period if the holding period applies to such purchase. Individual articles need not be described in detail if part of a lot, except in the event of an item with serial number; then the serial number shall be listed. Such register shall be made on forms provided by the county sheriff's department or the chief of police of the municipalities having jurisdiction.

(b)

Subsection (a) of this section shall not apply to:

(1)

Transfers between dealers or pawnbrokers licensed in the county or holding state sales tax numbers;

(2)

The trade-in of used items in conjunction with the purchase of new goods unless the used item is a firearm, as defined by F.S. § 790.001;

(3)

Any purchase for $10.00 or less. A "purchase" shall be defined as the cumulative total of all property purchased from one individual in any one day.

Any item excluded from the definition of precious metals in section 26-201 of this article shall not be required to be included on the register form provided by the sheriff's department or municipal police authority but shall be listed separately on any form which contains proof of the identity of the seller or pawnor, as provided in section 26-207(a)(2) of this article, and an accurate description of the property purchased. This documentation shall be made available for inspection by any law enforcement officer employed in the county and certified by the state and shall be retained for one year.

(Ord. No. 84-17, § 2(a), (b), 5-22-84)

State Law reference— Recordkeeping requirements of secondhand dealers, F.S. § 538.04(1).

Sec. 26-207. - Identification documentation.

(a)

Any person engaged in business as a pawnbroker, precious metal dealer or secondhand dealer is hereby required to obtain and record identification documentation and a signature identifying any and all persons from whom any article of personal property is purchased or received. In compiling and maintaining the register required in section 26-206(a), the dealer or pawnbroker shall take the following precautions to ensure the accuracy of the personal identification required and recorded:

(1)

The dealer or pawnbroker shall require the seller or pawnor of all property not exempt in this article, as a condition of purchase or pawn, to sign his name and imprint his thumbprint upon identification forms provided by the county sheriff or chief of police of the municipality having jurisdiction.

(2)

The dealer or pawnbroker shall require proof of the identity of a pawnor or seller delivering property to the dealer or pawnbroker. The proof of identity of such pawnor or seller shall include the display of a currently valid driver's license, voter's identification card, credit cards, passports, V.A. card, military I.D., or government issued identification document containing the pawnor or seller's photograph, date of birth, address and physical description. Social security identification cards shall not be accepted as proof of identity under this section.

(b)

It shall be unlawful for any seller or pawnor to give or display false identification to the person completing the registration certificate or to sign a false name.

(Ord. No. 84-17, § 2(c), (d), 5-22-84; Ord. No. 90-91, § 2, 12-4-90; Ord. No. 11-35, § 4, 9-27-11)

State Law reference— Required identification, F.S. § 538.04(2), (4).

Sec. 26-208. - Holding period for purchases.

Any property obtained by purchase by any of the businesses covered by this article shall be retained in its original condition for a minimum of 15 calendar days, in the possession of the purchaser, provided that nothing in this section shall prevent the sale of such property as long as possession is retained for the 15-day period. This holding period shall not apply to:

(1)

A repurchase or redemption by the original seller or pawnor.

(2)

Transfers between dealers or pawnbrokers licensed in the county or holding state sales tax numbers.

(3)

Those items excluded from the definition of precious metals in section 26-201 of this article.

(Ord. No. 84-17, § 2(e), 5-22-84; Ord. No. 90-91, §§ 3, 4, 12-4-90)

State Law reference— Holding period, F.S. § 538.06.

Sec. 26-209. - Inspection of registers.

All pawnbrokers, precious metal dealers or secondhand dealers shall, upon demand, furnish to the county sheriff or the chief of police of the municipality having jurisdiction, or their agents, the register forms provided for this purpose, and each form is to be full and complete. All registers are to be open for inspection by any law enforcement officer employed in the county and certified by the state until furnished to the applicable local law enforcement agency.

(Ord. No. 84-17, § 2(f), 5-22-84)

Sec. 26-210. - Dealing with minors prohibited.

It shall be unlawful for any pawnbroker, precious metal dealers or secondhand dealers to buy, take or receive by way of pledge, pawn or exchange, any goods, wares or merchandise or article of personal property of any kind from any person under the age of 18 years.

(Ord. No. 84-17, § 2(g), 5-22-84)

Secs. 26-211—26-230. - Reserved.

ARTICLE VII. - TRADERS IN PRECIOUS METALS[8]

Footnotes:
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State Law reference— Secondhand dealers, F.S. § 538.03 et seq.; local regulation of secondhand dealers, F.S. § 538.17.

Sec. 26-231. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Precious metal means any item made of or containing gold, silver or platinum, excluding:

(1)

Medical or dental materials, electrical, electronic, photographic, automobile equipment or items bought or sold at numismatic or antique shows.

(2)

Any coin with an intrinsic value less than its numismatic value.

(3)

Any gold or silver bullion coin.

(4)

Any gold, silver or platinum bullion that has been assayed and is properly marked as to its weight and fineness.

Precious metal trader means any person whose business is to buy, purchase or exchange any precious metals, as defined by this article. A precious metal trader for the purpose of this article is one with no established place of business in the county. An established place of business shall be one at which business is conducted at least five days per week for four consecutive weeks. An individual, firm or corporation who does not and does not intend to advertise to the public by newspaper, radio, television, placard or sign shall not be covered by this article.

(Ord. No. 84-19, § 3, 6-5-84)

Cross reference— Definitions generally, § 1-2.

Sec. 26-232. - Penalty for violation of article.

Violations of this article are punishable as provided in section 1-8.

Sec. 26-233. - Territory embraced.

All territory within the legal boundaries of the county, including all unincorporated and incorporated areas, shall be embraced by the provisions of this article.

(Ord. No. 84-19, § 7, 6-5-84)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 26-234. - Purpose and intent.

The board of county commissioners finds and declares that in order to protect the consumers in the county from misleading advertising practices by temporary precious metal traders, and to prevent temporary business operations in districts not in conformance with local zoning regulations, it is necessary that procedures for the regulation of precious metal traders, as defined by this article, be adopted by the county.

(Ord. No. 84-19, § 1, 6-5-84)

Sec. 26-235. - Permit requirement.

Any precious metal trader, as defined by this article, shall be required to obtain a permit from the county administrator. Such permit shall be issued by the county administrator upon presentation of an application containing the information required in this article. The application shall contain the name and permanent address of the applicant, the local county address at which business is proposed to be transacted, the number of days or duration of the business to be transacted, the mediums that will be used for advertising the transaction of business, and a verification that a county occupational license has been obtained. This application shall be submitted to the county administrator at least ten days prior to the first day of transaction of business. The permit requirement is informational only, and the applicant is entitled to a permit upon presentation of the information required in this article. However, nothing in this article shall be construed to prohibit or excuse regulation of the applicant by any other applicable regulation, including, but not limited to, zoning, misleading advertising, and the requirement that the applicant possess an occupational license.

(Ord. No. 84-19, § 2, 6-5-84)

Sec. 26-236. - Posting requirements.

All precious metals traders, as defined by this article, shall conspicuously post upon their business premises the price per ounce of gold as listed in the Wall Street Journal for that business day. The numerals in such posted price shall be at least 16-point type in size.

(Ord. No. 84-19, § 4, 6-5-84)

Secs. 26-237—26-240. - Reserved.

ARTICLE VIII. - FORTUNETELLERS, CLAIRVOYANTS AND SIMILAR OCCUPATIONS[9]

Footnotes:

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Editor's note—Ord. No. 00-71, §§ 1—29, adopted Sept. 12, 2000, repealed the former § 26-251 and enacted new provisions intended for use as §§ 26-251—26-279. Inasmuch as there were already provisions designated as §§ 26-271—26-275, the provisions of Ord. No. 00-71 have been set out herein as §§ 26-241—26-269 at the discretion of the editor.

DIVISION 1. - GENERALLY

Sec. 26-241. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Astrologer means any person who studies the positions and aspects of celestial bodies in the belief that they have an influence on the course of natural earthly occurrences and human affairs.

Clairvoyant means any person who claims to possess the power to see what cannot be perceived by the senses.

Code enforcement officers means those employees of the department of justice and consumer services designated as code enforcement officers pursuant to F.S. § 125.69.

Conviction means a determination of guilt resulting from plea or trial in connection with any federal, state, or local ordinance, act, or law regulating theft, fraud, misrepresentation, or fortunetelling.

County shall include the board, department or division of the Pinellas County government designated by resolution of the board of county commissioners to administer or enforce this article, which may include the county sheriff.

Department means the departments or divisions of county government, including development review services, or consumer protection, including the respective director, employees, officers and agents thereof.

Director means the Director of the Pinellas County Department of Justice and Consumer Services.

False information means information provided by the applicant which, if false, would result in denial of a permit pursuant to section 26-264.

Fortuneteller means any person who practices fortunetelling.

Fortunetelling includes persons who are astrologers, clairvoyants, fortunetellers, palmists, psychics, and tarot card readers and those who profess to predict future events.

Hearing means a proceeding regarding the denial of a permit application, the suspension of a permit, or the revocation of a permit under this article.

Law enforcement officer means any person who is elected, appointed, or employed by the federal government, the state or any political subdivision thereof, and:

(1)

Who is vested with authority to bear arms and make arrests and whose primary responsibility is the prevention and detection of crime or the enforcement of the criminal, traffic, highway, marine, and fish, game and wildlife laws of the state; or

(2)

Whose responsibility includes supervision, protection, care, custody, or control of inmates within a correctional institution.

Palmist means any person who practices the art of telling fortunes from the lines, marks, and patterns on the palms of the hands.

Person means any individual, organization, trust, foundation, group, association, entity, partnership, corporation, sponsor, or society, and the agent(s), employee(s) or officer(s) of any such person.

Psychic means any person who claims to be responsive to influences of forces of a non-physical or supernatural nature.

Remuneration means any fee or other form of recompense which is required to be paid or provided in order to receive services subject to this article.

Specified criminal act means crimes of dishonesty, theft, fraud, misrepresentation, or violations of any fortunetelling ordinance including convictions for violation of division 4 of this article.

Tarot card reader means any person who uses tarot cards in fortunetelling.

Unfair or deceptive practices shall be defined as oral misrepresentations which fail to disclose relevant and material facts.

Violation means that a person has committed a prohibited act under this article, or any federal, state or local ordinance, act, or law governing theft, fraud, misrepresentation or fortunetelling.

(Ord. No. 00-71, § 1, 9-12-00; Ord. No. 01-23, § 1, 5-1-01; Ord. No. 03-86, § 1, 11-4-03)

Sec. 26-242. - Authority.

This article is enacted pursuant to F.S. § 125.69, and under the home rule powers of the county in the interest of the health, peace, safety, and general welfare of the people of the county.

(Ord. No. 00-71, § 2, 9-12-00)

Sec. 26-243. - Penalty for violation of article.

Violations of this article are punishable with a civil fine as provided in section 1-8 of this Code.

(Ord. No. 00-71, § 3, 9-12-00)

Sec. 26-244. - Territory embraced.

All territory within the legal boundaries of the county, including all incorporated and unincorporated areas, shall be embraced by the provisions of this article.

(Ord. No. 00-71, § 4, 9-12-00)

Sec. 26-245. - Purpose and intent.

The intent of the board of county commissioners in adopting this article is to require registration and full public disclosure by persons who are astrologers, clairvoyants, fortunetellers, palmists, psychics, or tarot card readers, and who charge a fee or other form of remuneration for performing these services for the public within the legal boundaries of the county. It is further the intent of the board of county commissioners that the information required under this article be made available to the public in order to prevent deception, fraud, or misrepresentation in the portrayal of such services.

(Ord. No. 00-71, § 5, 9-12-00)

Sec. 26-246. - Construction of article.

This article shall be liberally construed to accomplish its purpose. Unless otherwise indicated, all provisions of this article shall apply equally to fortunetellers, psychics, astrologers, clairvoyants, palmists, and tarot card readers.

(Ord. No. 00-71, § 6, 9-12-00)

Sec. 26-247. - Powers and responsibilities of the board of county commissioners, department, departments, and sheriff.

(a)

Ultimate responsibility for the administration and enforcement of this article is vested in the board of county commissioners.

(b)

The department is responsible for granting, denying, revoking, renewing, and suspending fortunetelling permits. The office of the sheriff and the department are responsible for all enforcement actions brought under division 4 of this article.

(c)

Upon complaint of any person, or upon his own initiation, if probable cause exists to suspect a violation of

this article, the code enforcement officer may investigate any person to determine whether such person has violated any provision of this article.

(d)

The director of the department shall promulgate the forms deemed necessary to carry out his or her responsibilities.

(e)

The code enforcement officer may request, for purposes of inspection and investigation, all financial records of any person which pertain to the payments received from fortunetelling services.

(f)

The code enforcement officer may cite, in accordance with F.S. § 125.69, any person whom he determines is violating this article or is engaging in a prohibited act under this article.

(g)

Any law enforcement officer or code enforcement officer who is authorized by the head of that department shall, at any reasonable hour, have access to and shall have the right to inspect the premises of all permit holders under this article for compliance with any or all of the applicable codes, statutes, ordinances, and regulations in effect in the county. Reports of violations shall be reported to the department.

(Ord. No. 00-71, § 7, 9-12-00)

Sec. 26-248. - Review of decisions by the director, department, board of county commissioners, or its departments.

Any decision of the director, department, the board of county commissioners or its departments made pursuant to this article may be immediately reviewed as a matter of right by petition to any court of competent jurisdiction upon the filing of an appropriate pleading by an aggrieved party.

(Ord. No. 00-71, § 8, 9-12-00)

Sec. 26-249. - Service of notice; public records.

(a)

Any notice required under this article shall be in writing and sent by certified mail or hand delivery to the mailing address set forth on the application for the permit. This mailing address shall be considered the correct mailing address unless the department has been otherwise notified in writing.

(b)

Any information contained in a permit application under division 2 of this article is subject to the public records law, F.S. ch. 119.

(Ord. No. 00-71, § 9, 9-12-00)

Sec. 26-250. - Immunity from prosecution.

The county shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon a fortunetelling establishment while acting within the scope of its authority under this article.

(Ord. No. 00-71, § 10, 9-12-00)

Sec. 26-251. - Responsibility for compliance with article.

It is the responsibility of the permit holder, his agent, employee or officer to ensure compliance with this article, notwithstanding the issuance of an occupational license or any other governmental permit.

(Ord. No. 00-71, § 11, 9-12-00)

DIVISION 2. - APPLICATION AND PERMIT

Sec. 26-252. - Required.

No person who by definition of this article is an astrologer, clairvoyant, fortuneteller, palmist, psychic, or tarot card reader, and who charges a fee or receives other remuneration for providing these services, shall be permitted to operate without first registering and having been issued a fortunetelling permit by the department under this article.

(Ord. No. 00-71, § 12, 9-12-00)

Sec. 26-253. - Contents of; fee; incomplete application.

(a)

Application required. Any person desiring to engage in the occupation of fortunetelling shall file with the department a sworn permit application on a standard application form supplied by the department.

(b)

Contents of application. The completed application required by this section shall contain the following information and shall be accompanied by the following documents:

(1)

If the applicant is:

a.

An individual, the individual shall state his legal name and any aliases and submit proof that he is at least 18 years of age;

b.

A group, the group shall state its legal identity;

c.

A partnership, the partnership shall state its complete name and any fictitious name, and the names of all partners having either direct, managerial, supervisory or advisory responsibilities for the day-to-day operations of the fortunetelling establishment, and whether the partnership is general or limited; or

d.

A corporation, the corporation shall state its complete name and any fictitious name, the date of its incorporation, evidence that the corporation is in good standing, the names and capacity of all officers, directors, and stockholders having either direct, managerial, supervisory, or advisory responsibilities for the day-to-day operations of the fortunetelling establishment and, if applicable, the name of the registered agent and the legal street address of the registered office for service of process.

(2)

If the applicant intends to conduct the establishment under a name other than that of the applicant, the establishment's fictitious name and a certified copy of the applicant's registration with the Division of Corporations of the Department of State under F.S. § 865.09 (1999).

(3)

Whether the applicant or any other individual listed pursuant to subsection (b)(1) of this section has, within the ten-year period immediately preceding the date of the application for registration, been convicted of a specified criminal act and, if so, the specified criminal act involved, the date of conviction, and the place of the conviction, and whether there exist any charges of a specified criminal act pending at the time of the application and, if so, the specified criminal act involved and the name and location of the court in which charges are pending.

(4)

Whether the applicant or any other individual listed pursuant to subsection (b)(1) of this section has had a previous permit under this article suspended or revoked, or has been required by court order to cease operation, including the name and location of the establishment for which the permit was suspended or revoked, as well as the date of the suspension or revocation, and whether the applicant or any other individuals listed pursuant to subsection (b)(1) of this section has been a partner in a partnership or an officer, director or principal stockholder of a corporation whose permit under this article or any other ordinance regulating fortunetellers has previously been suspended or revoked, including the name and location of the establishment for which the permit was suspended or revoked, as well as the date of the suspension or revocation.

(5)

The location of the proposed establishment, including a legal description of the property site, and a legal address.

(6)

The date of birth, mailing address, physical street address, telephone number and either the driver's license number and the state of issue or the federally issued identification number of the individuals listed pursuant to subsection (b)(1) of this section.

(7)

A photograph depicting the current appearance of the applicant at the time of application pursuant to subsection (b)(1) of this section.

(8)

A complete set of fingerprints obtained from the sheriff's office for each individual listed pursuant to subsection (b)(1) of this section.

(9)

A sworn statement attesting to the veracity and accuracy of the information provided in the application.

(c)

Application fee. Each application for a fortunetelling permit shall be accompanied by a nonrefundable fee which shall be set by resolution of the board of county commissioners. The resolution shall include a late fee for applications filed after the date of the expiration of a permit.

(d)

Incomplete application.

(1)

In the event the department determines that the applicant has not properly completed the application for fortunetelling pursuant to the requirements of this section, the code enforcement officer shall notify the applicant of such fact. The applicant then has 15 days from the date of such notice to properly complete the application. Failure to respond within 15 days to a request for information necessary to complete the application shall result in a denial of the application.

(2)

If the applicant denies that the application is incomplete with respect to subsections (b)(1) through (b)(9) of this section, the department shall treat the application as abandoned and deny the application pursuant to subsection (d)(2) of this section.

(Ord. No. 00-71, § 13, 9-12-00)

Sec. 26-254. - Grant; denial.

(a)

Time period for granting or denying permit.

(1)

The code enforcement officer shall grant a new or renewal fortunetelling permit within 60 days from the date of its proper filing.

(2)

The code enforcement officer shall mail a notice of intent to deny to the applicant within 60 days from the date of its proper filing.

(3)

The director shall send a notice of denial on any of the grounds set forth in subsection (c) of this section, or for failure to correct within 15 days any of the deficiencies contained in the notice of intent to deny as set forth in subsection (a)(2) of this section.

(b)

Granting of permit. If there is no basis for denial of a fortunetelling permit pursuant to subsection (c) of this section, the code enforcement officer shall grant the permit, notify the applicant, and issue the permit to the registrant upon payment of the appropriate annual fee.

(c)

Denial of permit. The director shall deny a fortunetelling permit on the basis of any one of the following grounds:

(1)

The application contains false information, or information material to the decision was omitted. Failure to list an individual required to be listed, pursuant to section 26-263, is presumed to be false information for purposes of denial of the application; the certification that the permit holder owns, possesses, operates and exercises control over the proposed or existing fortunetelling establishment is a material representation for purposes of this section.

(2)

The granting of the application would violate a statute, ordinance, or an order from a court of law.

(3)

An applicant or any of the other individuals listed pursuant to section 26-263 has been convicted of a specified criminal act:

a.

For which:

1.

Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; or

2.

Less than five years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense; or

3.

Less than five years have elapsed since the date of the last conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

b.

The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

c.

An applicant who has been convicted of a specified criminal act may qualify for a fortunetelling permit only when the time period required for in subsection (c)(3) of this section has elapsed.

(4)

If the department denies the application, it shall notify the applicant of the denial and state the reason(s) for the denial.

(Ord. No. 00-71, § 14, 9-12-00)

Sec. 26-255. - Contents of permit; term; renewals; expiration.

(a)

Contents. A fortunetelling permit shall state on its face:

(1)

The name of the permit holder:

(2)

The legal mailing address of the permit holder;

(3)

The principal place of business;

(4)

The date of issuance; and

(5)

The date of expiration.

(b)

Term. All permits issued under this article shall be valid for 12 months from the date of issuance.

(c)

Renewals. Subject to the other provisions of this article, a permit holder may renew the fortunetelling permit by submitting a renewal application under oath and paying the appropriate fee. No fortunetelling permit shall be renewed if a permit holder fails to comply with the reporting requirements of this article.

(d)

Expiration. A permit that is not renewed under this article shall expire one year from the date of issuance.

(Ord. No. 00-71, § 15, 9-12-00)

Sec. 26-256. - Reporting requirements; consent.

(a)

Reporting requirements. Whenever the information required by or provided under this division has changed, the permit holder shall, within 15 days of the change, provide the code enforcement officer in writing with the changed information.

(b)

Consent. By holding a permit under this article, the permit holder shall be deemed to have consented to the provisions of this article and to the exercise by the department, the sheriff, and the departments administering this article of their respective responsibilities under this article.

(Ord. No. 00-71, § 16, 9-12-00)

Sec. 26-257. - Suspension or revocation of permit.

(a)

The permit holder shall immediately surrender the permit to the director upon suspension or revocation of the permit by the director.

(b)

One incurable violation of a specified criminal act or one incurable violation of this article shall constitute grounds for a suspension. A suspension shall be for a period of one year, beginning on the date the director notifies the permit holder of the suspension.

(c)

Subsequent conviction of an incurable violation within a three-year time frame shall constitute grounds for a revocation. Any revocation of a permit issued under this article shall be for a minimum period of three years, and shall require a new application for reinstatement.

(d)

During the suspension or revocation of a fortunetelling permit, the permit holder shall not conduct fortunetelling services.

(e)

If the violation is a curable offense, the permit holder shall have 15 days to correct the violation. If the violation is not remedied within the time period, a suspension shall result.

(Ord. No. 00-71, § 17, 9-12-00)

DIVISION 3. - OPERATIONAL PROVISIONS

Sec. 26-258. - Fortunetelling permits.

(a)

No fortunetelling establishment shall be allowed to commence or continue to operate without first obtaining a valid fortunetelling permit.

(b)

Any business entity or person desiring to locate, operate or continue the operation of fortunetelling shall be required to obtain a fortunetelling permit from the director of the department before the establishment or commencement of business as a fortuneteller.

(c)

Fortunetelling establishments which have been established or have commenced business at their existing locations prior to the effective date of the ordinance from which this article derives shall be required to obtain a fortunetelling permit from the director of the department within three months of the adoption of such ordinance.

(Ord. No. 00-71, § 18, 9-12-00)

Sec. 26-259. - Suspension or revocation of permit; hearing.

(a)

Any permit holder whose permit is suspended or revoked may request a hearing before the director of the department of justice and consumer services, which hearing shall be held within 30 days of the issuance of the notice of suspension or revocation and the director shall decide whether to maintain the notice of suspension or revocation within 15 days after conclusion of the hearing.

(b)

The director shall hold a hearing and, at the hearing, the code enforcement officer shall present substantial evidence to support the decision to suspend or revoke the permit. The evidence presented shall be based on the information available to the code enforcement officer at the time of his or her decision.

(c)

Any decision of the director may be appealed pursuant to section 26-248 of this Code.

(Ord. No. 00-71, § 19, 9-12-00; Ord. No. 03-86, § 2, 11-4-03)

DIVISION 4. - PROHIBITED ACTS

Sec. 26-260. - Fortunetelling without a valid permit.

It shall be a violation of this article for any person, business entity or permit holder to operate where the person, business entity or permit holder knows or should know that:

(1)

The establishment does not have a fortunetelling permit;

(2)

The fortunetelling permit has been suspended or revoked;

(3)

The fortunetelling permit has expired; or

(4)

The person or organization has not complied with the application requirements of this article.

(Ord. No. 00-71, § 20, 9-12-00)

Sec. 26-261. - False statement or false information in application for permit.

It shall be a violation of this article for any person to make a false statement or to provide false information in the application for a fortunetelling permit.

(Ord. No. 00-71, § 21, 9-12-00)

Sec. 26-262. - Implying county endorsement.

It shall be a violation of this article for any person to use or exploit the fact that a fortunetelling permit has been issued so as to lead the public to believe that such permit constitutes an endorsement or approval by the county.

(Ord. No. 00-71, § 22, 9-12-00)

Sec. 26-263. - Noncompliance with application requirements.

It shall be a violation of this article for any person to fail to satisfy all of the requirements of division 2 of this article.

(Ord. No. 00-71, § 23, 9-12-00)

Sec. 26-264. - Transfer or assignment of permit.

It shall be a violation of this article for any permit holder to transfer or assign the fortunetelling permit.

(Ord. No. 00-71, § 24, 9-12-00)

Sec. 26-265. - Failure to possess and exhibit permit and authorization.

It shall be a violation of this article for any person to fail to exhibit the permit and authorizations required under this article upon command by any law enforcement officer, the code enforcement officer, or to the person for whom the fortuneteller is providing service.

(Ord. No. 00-71, § 25, 9-12-00)

Sec. 26-266. - Noncompliance with reporting requirements.

It shall be a violation of this article to fail to comply with the reporting requirements of this article.

(Ord. No. 00-71, § 26, 9-12-00)

Sec. 26-267. - Surrender of permit.

It shall be a violation of this article to fail to immediately surrender a fortunetelling permit to the director upon suspension or revocation of the permit.

(Ord. No. 00-71, § 27, 9-12-00)

Sec. 26-268. - Prohibiting entrance to fortunetelling premises.

It shall be a violation of this article to fail to allow entrance of any code enforcement officer or law enforcement officer into the fortunetelling establishment during normal business hours.

(Ord. No. 00-71, § 28, 9-12-00)

Sec. 26-269. - Deceptive acts in the conduct of fortunetelling.

It shall be a violation of this article to engage in unfair or deceptive practices during the conduct of any fortunetelling activity.

(Ord. No. 00-71, § 29, 9-12-00)

Sec. 26-270. - Enforcement suspension.

(a)

Enforcement of sections 26-245, 26-247, 26-248, 26-249 and, 26-251—26-268, of the Pinellas County Code is hereby suspended for a period of two years upon filing with the department of state.

(b)

The provisions of subsection 26-270(a) shall remain in effect unless the board of county commissioners determines otherwise.

(Ord. No. 07-10, § 1, 2-20-07)

ARTICLE IX. - LOBBYISTS[10]

Footnotes:

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Editor's note—Ord. No. 13-06, § 1, adopted Feb. 26, 2013, amended Art. IX in its entirety to read as herein set out. Former Art. IX, §§ 26-271—26-275, pertained to similar subject matter and derived from Ord. No. 97-19, §§ 1—5; Ord. No. 02-97, § 2, adopted Dec. 3, 2002; Ord. No. 06-01, § 1, adopted Jan. 10, 2006.

Sec. 26-271. - Findings and intent.

The intent of the board of county commissioners in adopting an ordinance relating to lobbying is to protect rights guaranteed by the First Amendment to the United States Constitution to speak, publish and petition governmental officials, while at the same time protecting the citizens' rights to open government as guaranteed by sec. 24, Art. I, Florida Constitution. To that end, the board finds it necessary to impose reasonable regulations prohibiting lobbying in only certain limited circumstances, while otherwise allowing open access to government officials. In balancing the important yet competing rights of its citizens protected by the federal and state constitutions and to promote transparency and integrity in the decision making process, the board finds it necessary to require disclosure of certain activities related to lobbying as more fully set forth herein.

(Ord. No. 13-06, § 1, 2-26-13)

Sec. 26-272. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Clerk means the board records section of the Pinellas County Clerk of the Circuit Court.

Compensation means any payment received or to be received by a lobbyist for the performance of lobbying activities. The compensation is a fee, salary, retainer, forbearance, forgiveness or any combination thereof.

Expenditure means a payment, distribution, loan, advance, reimbursement, deposit or anything of value made by a lobbyist or a principal for the purpose of lobbying.

Lobbying means communicating, directly or indirectly, outside a duly noticed public meeting or hearing on the record with a member of the board of county commissioners, for the purpose of encouraging the passage, defeat or modification of any item pending before the county commission. Lobbying shall include all forms of communication, whether oral, written, or electronic.

Lobbyist means a person who for compensation engages in lobbying as defined in this article.

Principal means the person, firm, corporation or other entity which has retained or employed a lobbyist.

(Ord. No. 13-06, § 1, 2-26-13)

Sec. 26-273. - Registration of lobbyists.

All lobbyists shall register and re-register, as applicable, prior to January 1 of each year. Registration forms shall be in the manner designated by the county administrator. The lobbyist shall provide his or her name, business address, the name and business address of each principal represented, the general and specific areas of legislative interest, and the nature and extent of any direct business association or partnership with any

current member of the board.

(Ord. No. 13-06, § 1, 2-26-13)

Sec. 26-274. - Prohibition of lobbying in certain procurement matters.

Lobbying shall be prohibited on all county competitive selection processes and contract awards as set forth in section 2-189, Pinellas County Code.

(Ord. No. 13-06, § 1, 2-26-13)

Sec. 26-275. - Record of lobbying contacts.

All lobbyists shall sign the visitor logs, maintained and available online and in the office reception areas of the county commission, prior to meeting with a county commissioner. The lobbyist shall state his or her name; the name of each principal, if applicable, represented in the course of the particular contact; and the topic of the contact. Notice of any such meeting shall be transmitted to each county commissioner. The visitor logs shall be maintained by the clerk and shall be available for public inspection. In the event that a lobbyist or principal engages in lobbying which is initiated outside of county offices, the lobbyist or principal shall provide the information required above to the clerk within 48 hours of such lobbying contact.

(Ord. No. 13-06, § 1, 2-26-13)

Sec. 26-276. - Statement of lobbying expenditures.

A lobbyist shall annually on or before January 1 of each year submit to the clerk's office a signed statement under oath listing all lobbying expenditures for the preceding calendar year, the sources of the funds, and an itemization as to the amount expended for each member of the board of county commissioners by each registered lobbyist. The statement shall be made in the manner designated by the county administrator.

The clerk of the board of county commissioners shall maintain the expenditure statements in a manner which shall be open for public inspection. On January 1 of each year, the clerk shall notify any registered lobbyist who has failed to file the required report. Any lobbyist who has further failed to file by February 1, in addition to any other penalty provided for herein, shall not be permitted to reregister as a lobbyist or to engage in any further lobbying activities.

(Ord. No. 13-06, § 1, 2-26-13)

Sec. 26-277. - Exceptions.

(a)

The following persons shall not be required to register:

(1)

An elected official or government employee acting in his official capacity or in connection with his job responsibilities.

(2)

A person who appears at the specific request or under compulsion of the commission, board or staff member.

(3)

Expert witnesses or other persons who give testimony about a particular matter or measure but do not advocate passage or defeat of the matter or measure or any amendment thereto.

(4)

Any person who appears at a public hearing or administrative proceeding or quasi-judicial proceeding before the county commission, any board or staff member and has no other communication on the matter or subject of the public hearing, administrative hearing or quasi-judicial proceeding.

(5)

Any person in contractual privity with the county who appears only in his or her official capacity.

(b)

This article shall not apply to discussion or negotiations on matters in litigation or in matters in anticipation of litigation.

(Ord. No. 13-06, § 1, 2-26-13)

Sec. 26-278. - Violations; penalties.

(a)

The penalties for violations of this article shall be as provided in section 1-8 of the County Code.

(b)

Any person who violates the provisions of this article more than once during a 12-month period shall be prohibited from lobbying as follows: A second violation shall result in a prohibition of one year; a third violation shall result in a prohibition of two years.

(c)

The validity of any action or determination of the commission, board or staff shall not be affected by the failure of any person to comply with the provisions of this article.

(Ord. No. 13-06, § 1, 2-26-13)

Chapter 30 - CABLE COMMUNICATIONS[1]
Footnotes:
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Charter reference— General powers of county, § 2.01.

Cross reference— Public access advisory council, § 2-476 et seq.; businesses, ch. 26.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g); authority to

regulate businesses, F.S. § 125.01(1)(h); cable television franchises, F.S. § 166.046; theft of cable services, F.S. § 812.14 et seq.

ARTICLE I. - IN GENERAL

Sec. 30-1. - Intent.

(a)

Authority. Federal and state law authorizes the county to grant one or more nonexclusive franchises to construct, operate, maintain and reconstruct cable systems within the unincorporated limits.

(b)

Findings and intent.

(1)

Benefits and impact of cable systems. The board finds that the development of cable systems has the potential of having great benefit and impact upon the residents of the county. Because of the complex and rapidly changing technology associated with Cable Systems, the board further finds that the public convenience, safety and general welfare can best be served by establishing regulatory powers which should be vested in the county or such persons as the county may designate.

(2)

Providing the means to attain franchise. It is the intent of this chapter to provide for and specify the means to attain the best possible cable service to the public and any franchises issued pursuant to this chapter shall be deemed to include this as an integral finding thereof.

(3)

Preservation of full range of authority. It is the further intent of this chapter to establish regulatory provisions that permit the county to regulate cable system franchises to the extent permitted by federal and state law, including but not limited to the Communications Act of 1934, the Federal Cable Communications Policy Act of 1984, the Federal Cable Television Consumer Protection and Competition Act of 1992 and the Federal Telecommunications Act of 1996, applicable Federal Communications Commission ("FCC") regulations and applicable Florida law all as they presently exist or are hereinafter amended.

(4)

Maintenance of regulatory control. It is the intent of this chapter to effectively regulate cable system franchise(s) in the county's areas of concerns by assuring compliance with the terms and conditions of this chapter and any franchise agreement granted hereunder.

(5)

Effect of competition. The county desires competition in cable services and believes competition will benefit the residents of the county. Further, the county believes that competition can develop without substantial injury to a grantee or a grantee's ability to perform on its obligations in any franchise agreement. In order to

further support competition, certain obligations of a grantee under this chapter or any franchise agreement granted hereunder may be waived during periods of effective competition in the belief that market forces attendant to effective competition will most effectively regulate for the benefit of the consuming public. In the event that the grantor's judgment in this regard proves to be misplaced, the grantor reserves the right to selectively rescind an effective competition waiver, but only to the extent deemed necessary to support the public welfare.

(Ord. No. 99-46, § 2, 5-11-99)

Sec. 30-2. - Short title.

This chapter shall constitute the "Cable System Regulatory Ordinance" of the County of Pinellas and may be referred to as such, as the "Cable Enabling Ordinance" or herein generally as "this chapter".

(Ord. No. 99-46, § 2, 5-11-99)

Sec. 30-3. - Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein, except where the context clearly indicates a different meaning: Words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. Words not defined shall be given their common and ordinary meaning.

(1)

Board means the Board of County Commissioners of Pinellas County.

(2)

Cable service means the following:

a.

The one-way transmission to subscribers of video programming or other programming service; and

b.

Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

c.

Unless otherwise provided by law, two-way or one-way access to computer based online services including but not limited to Internet access. This subparagraph is added for purposes of governing grantee(s) pending dispositive resolution of the issue by congress, the FCC or a court of law, and not for purposes of evading the preemptive federal jurisdiction.

(3)

Cable system or system means a facility consisting of a set of closed transmission paths and associated signal

generation, reception, and control equipment, that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:

a.

A facility that serves to transmit television signals of one (1) or more television broadcast stations; or

b.

A facility that serves only subscribers without using any rights-of-way; or

c.

A facility of a common carrier which is subject in whole or in part to the provisions of Title II of the Communications Act of 1934, as amended, except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers unless the extent of such use is solely to provide interactive on-demand services; or

d.

An open video system that complies with Section 653 of the Communications Act of 1934, as amended.

e.

Any facilities of any electric utility used solely for operating its electric utility system.

(4)

Cable channel means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel as defined by the Federal Communications Commission.

(5)

Effective competition for purposes of this chapter only exists if more than one franchise is granted under this chapter for the service area as defined in this chapter.

(6)

Franchise means an initial authorization, or renewal thereof, issued by the board, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction and operation of a cable system.

(7)

Franchise agreement means a franchise grant ordinance or a contractual agreement, containing the specific provisions of the franchise granted, including references, specifications, requirements and other related matters.

(8)

Franchise fee means any fee or assessment of any kind imposed by the county on a grantee as compensation for a grantee's use of the rights-of-way. The term "franchise fee" does not include:

a.

Any tax, fee or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and cable operators or their services, but not including a tax, fee or assessment which is unduly discriminatory against cable operators or cable subscribers);

b.

Capital costs which are required by the franchise to be incurred by a grantee for public, educational, or governmental access facilities;

c.

Requirements or charges incidental to the awarding or enforcing of the franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or

d.

Any fee imposed under Title 17, United States Code.

(9)

Grantee means any "person" receiving a franchise pursuant to this chapter and under the granting franchise agreement, and its lawful successor, transferee or assignee.

(10)

Grantor or county means the County of Pinellas as represented by the board or any delegate, acting within the scope of its jurisdiction.

(11)

Gross revenues from cable service or gross revenues means the annual gross revenues received by a grantee from the operation of the cable system to provide cable service within the unincorporated areas of the county. Ancillary revenues from the operation of the cable system to provide cable service, including, by way of illustration and not limitation, advertising revenues, home shopping channel type commissions. Internet access services to the extent considered cable service under applicable law, and leased access revenues shall be included in gross revenues. All ancillary revenues included within this definition shall be included regardless of where the revenues are received or paid. Unless federal law determines to the contrary, revenues collected as franchise fees from subscribers shall be included in gross revenues. Gross revenues shall not include:

a.

To the extent consistent with generally accepted accounting principles, actual bad debt write-offs, provided, however, that all or part of any such actual bad debt that is written off but subsequently collected shall be included in gross revenues in the period collected; or

b.

Any taxes on services furnished by the grantee which are imposed directly on any subscriber or user by the federal, state, county, or other governmental unit and which are collected by the grantee on behalf of said governmental units.

c.

Refundable deposits, rebates or credits, sales of capital assets or sales of surplus equipment.

(12)

Installation means the connection of the cable system to subscribers' terminals, and the provision of service.

(13)

Ordinance of general applicability means any ordinance which applies to any similarly situated persons but not just to operators of cable systems.

(14)

Other programming service means information that a cable operator makes available to all subscribers generally.

(15)

Person means an individual, partnership, association, joint stock company, trust, corporation or governmental entity.

(16)

Public, educational or governmental access facilities or PEG means the total of the following:

a.

Cable channel capacity designated for noncommercial PEG use; and

b.

Facilities and equipment for the use of such cable channel capacity.

(17)

Rights-of-way or right-of-way means the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkway, waterway, easement, or similar public property within the county which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining the cable system.

(18)

Section means any section, subsection or, provision of this chapter.

(19)

Service area or franchise area means the entire unincorporated area within the county as it is now constituted or may in the future be constituted, unless otherwise defined in a franchise agreement.

(20)

State means the State of Florida.

(21)

Subscriber or consumer means any person who or which elects to subscribe to a cable service provided by the grantee by means of or in connection with the cable system, and who pays the charges therefor.

(22)

Video programming means programming generally considered comparable to programming provided by a television broadcast station.

(Ord. No. 99-46, § 2, 5-11-99; Ord. No. 00-65, §§ 1—3, 8-15-00)

Secs. 30-4—30-25. - Reserved.

ARTICLE II. - FRANCHISES[2]

Footnotes:

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Cross reference— Table of franchises, App. A.

Sec. 30-26. - Franchise characteristics.

(a)

Franchise purposes. A franchise granted by the county under the provisions of this chapter shall encompass the following purposes:

(1)

Provide cable service. To engage in the business of providing cable service, and such other services as may be permitted by law, which a grantee chooses to provide to subscribers within the designated service area.

(2)

Utilization of rights-of-way. Conditioned upon receipt of a proper permit, to erect, install, construct, repair, rebuild, reconstruct, replace, maintain, and retain, cable lines, related electronic equipment, supporting structures, appurtenances, and other property in connection with the operation of the cable system in, on, over, under, upon, along and across rights-of-way or other public places within the designated service area.

(3)

Future cable services franchised. To maintain and operate said franchise properties for the origination, reception, transmission, amplification, distribution and delivery of cable services, and such other cable services as may hereinafter be permitted by law.

(4)

Establish obligations. To set forth the general obligations of a grantee under the franchise.

(b)

Franchise required. It shall be unlawful for any person to construct, install, repair, maintain, or operate a cable system in the unincorporated Pinellas County area within any rights-of-way without a properly granted franchise awarded pursuant to the provisions of this chapter.

(1)

Anticipatory construction. The county reserves the right to grant a right-of-way utilization permit to a cable franchise applicant to install conduit and/or cable in anticipation of the granting of a franchise. Such installations shall be at the applicant's risk, with no recourse against the county in the event the pending franchise application is not granted in which case the county may further require that the franchise applicant comply with the provisions of section 30-50 as if the property was abandoned and to secure such compliance with a performance bond. The county may require an applicant to provide a separate trench for its conduit and/or cable, at the applicant's cost.

(2)

Extended operation and continuity of services. Upon denial of renewal or revocation of the franchise, the grantor shall have the discretion to permit a grantee to continue to operate the cable system for an extended period of time. A grantee shall continue to operate the cable system under the terms and conditions of this chapter and the franchise agreement and to provide the regular subscriber service and any and all of the services that may be provided at that time. It shall be the right of all subscribers to continue to receive all available services provided that financial and other obligations to a grantee are honored. The grantee shall use reasonable efforts to provide continuous, uninterrupted service to its subscribers, including operation of the cable system during transition periods following franchise denial of renewal or termination.

(c)

Term of the franchise. A franchise granted hereunder shall be for a term of years or portion thereof established in the franchise agreement, commencing on the county's adoption of an ordinance, resolution, or contractual agreement authorizing the franchise.

(d)

Areas embraced and geographic coverage.

(1)

Areas embraced. Any franchise granted hereunder shall be valid within the service area as defined in this chapter.

(2)

Geographic coverage. Unless otherwise established in the franchise agreement:

a.

Passing dwelling units. Provided that the grantee is able to secure all necessary rights-of-way and private easements on reasonable terms and conditions, a grantee shall design, construct and maintain the cable system to have the capability to pass every dwelling unit in the unincorporated county, subject to any line extension or overbuild requirements of the franchise agreement.

b.

Provision of service. After service has been established by activating trunk and/or distribution cables for any service area, a grantee shall provide service to any requesting subscriber within that service area within 30 days from the date of request, provided that the grantee is able to secure all rights-of-way and private easement necessary to extend service to such subscriber within such 30-day period on reasonable terms and conditions.

c.

Change of county limits through annexation or contraction. The franchise area is subject to reduction by annexation and that a grantee has no vested right in the franchise area, that the franchise area is subject to expansion or contraction and that the obligations of a grantee extend to an expanded unincorporated area, and that any franchise is awarded subject to the provisions of general or special laws of Florida now extant or hereinafter enacted.

d.

Additional mandatory extension. Extension for the cable system into any areas not specifically treated in the plan required in section 30-44(a) shall nonetheless be required if the terms of any of the following conditions are met:

1.

Mandatory extension rule. A grantee shall extend the cable system upon request to any area not designated for extension in the construction plan attached as part of its franchise agreement when potential subscribers can be served by extension of the cable system past dwelling units equivalent to a density of 20 residential dwelling units per street mile of cable contiguous to the activated cable system.

2.

Early extension. In areas not meeting the requirements for mandatory extension of service, a grantee shall provide, upon the request of one or more potential subscribers desiring service, an estimate of the costs required to extend service to said subscribers. A grantee shall then extend service upon request of said potential subscribers according to the rate schedule. A grantee may require advance payment or assurance of payment satisfactory to a grantee. The amount paid by subscribers for early extension shall be nonrefundable and such payments shall be treated as consideration for early extension unless, within a period of two years from the completion of such extension the area reaches the density required for mandatory extension, in which event, the subscribers shall be credited with the amounts paid for early extension.

(3)

Areas not subject to county ownership or rights. It is understood that there are within Pinellas County various streets which the county does not have the unqualified right to authorize a grantee to use, because of reservations in favor of the dedicators or because of other legal impediments; therefore, in making any grant hereunder, the county does not warrant or represent as to any particular street or portion of a street that it has the right to authorize a grantee to install or maintain portions of its cable system therein, and in each case the burden and responsibility for making such determination in advance of the installation shall be upon a grantee. A grantee shall have no obligation to provide cable services to such areas.

(e)

Federal or state jurisdiction. All disputes arising out of this chapter or any franchise agreement granted hereunder may be decided by a court of competent jurisdiction. Venue shall, if in state court, be in the circuit court for the Sixth Judicial Circuit, in and for Pinellas County, Florida, Clearwater Division, or if in federal court, the United States District Court for the Middle District of Florida, Tampa Division.

(f)

No property right being conferred. A franchise does not convey a property right to the grantee or a right to renewal other than as may be required under state or federal law.

(g)

Franchise nontransferable.

(1)

Consent required. A grantee shall not sell, transfer, lease, assign, sublet or dispose of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, contract, consolidation or otherwise, the franchise or any of the rights or privileges therein granted, without the prior consent of the board and then only upon such terms and conditions reasonably related to the technical, legal or financial qualifications of the transferee as may be reasonably prescribed by the board, which consent shall not be unreasonably denied. Any attempt to sell, transfer, lease, assign or otherwise dispose of the franchise without the consent of the board shall be a material violation of this chapter and the franchise agreement. The granting of a security interest in any assets, or any mortgage or other hypothecation, shall not be considered a transfer for the purposes of this section.

(2)

Change in control. The requirements of section 30-26(g)(1) shall apply to any change in control of a grantee. The word "control" as used herein is not limited to major stockholders or partnership interests, but includes actual working control in whatever manner exercised. In the event that a grantee is a corporation, there shall be a rebuttable presumption of a change in control where ownership or control of more than 30 percent of the voting stock of a grantee is acquired by a person or group of persons acting in concert, none of whom own or control the voting stock of the grantee as of the effective date of the franchise, singularly or collectively.

(3)

Exception for subsidiary transfers. Notwithstanding anything in this section to the contrary, if a grantee is a wholly-owned subsidiary of a parent company, transfer of the franchise from a grantee to another wholly-owned subsidiary of the same parent company or to that same parent company shall not require prior

consent of the grantor.

(4)

Notice of transfer required. A grantee shall notice grantor in writing of any foreclosure or any other judicial sale of all or a substantial part of the franchise property of the grantee or upon the termination of any lease or interest covering, all or a substantial part of said franchise property. Such notification shall be considered by grantor as notice that a change in control of ownership of the franchise has taken place and the provisions under this section governing the consent of grantor to such change in control of ownership shall apply.

(5)

Procedure and criteria for approval of a transfer.

a.

Grantor inquiry. For the purpose of determining whether it shall consent to such change, transfer, or acquisition of control, grantor may inquire into the qualifications of the prospective transferee or controlling party, and a grantee shall assist grantor in such inquiry. In seeking grantor's consent to any change of ownership or control, a grantee shall have the responsibility of insuring that the grantee and/or the proposed transferee complete an application in accordance with Federal Communications Commission Form 394 or equivalent. An application shall be submitted to grantor not less than 120 days prior to the proposed date of transfer.

b.

Transferee burden. The transferee shall be required to establish that it possesses the qualifications and financial and technical capability to operate and maintain the cable system and comply with all franchise requirements for the remainder of the term of the franchise.

c.

Grantor consent. If, in the reasonable judgment of the grantor, the legal, financial, character, and technical qualifications of the applicant are satisfactory and if the grantee is then in compliance with all material requirements of the franchise, the grantor may consent to the transfer of the franchise. The consent of the grantor to such transfer shall not be unreasonably denied or delayed.

d.

Consent not a waiver. Approval by the grantor of a transfer of a franchise does not constitute a waiver or release of any of the rights of the grantor under this chapter or the franchise agreeement.

(6)

Foreclosure issues. If any financial institution having a pledge of the grantee or its assets for the advancement of money for the construction and/or operation of the franchise shall take control of and operate the cable system, it shall notify the grantor. Further, said financial institution shall also submit a plan for such operation within 30 days of assuming such control that will insure continued service and compliance with all franchise requirements during the term the financial institution exercises control over the cable system. The financial institution shall not exercise control over the cable system for a period exceeding one year unless extended by

the grantor in its reasonable discretion and during said period of time it shall have the right to petition the grantor to transfer the franchise to another grantee.

(h)

Nonexclusive franchise.

(1)

Nonexclusivity of grant. A grantee's right to use and occupy rights-of-way for the purposes herein set forth shall be nonexclusive, and the county reserves the right to grant the use of rights-of-way, for the same or a different purpose, to any person or persons at any time upon terms and conditions satisfactory to the county and to grant a similar franchise to any person(s) or entities other than a grantee.

(2)

Additional grants subject to equities. Consistent with F.S. § 166.046(3), if the county considers granting an additional franchise on terms more favorable or less burdensome to the subsequent grantee (whether by the grant of greater benefits or the imposition of lesser obligations), or if another party utilizing the rights-of-way offers service competitive with a grantee, then the existing grantee(s) shall have the right to renegotiate their franchise(s) to incorporate the more favorable terms and/or reduce its obligations to achieve competitively neutral and nondiscriminatory treatment prior to or at the same time as the adoption of such additional franchise. Any ultimate renegotiation of the incumbent franchise will be done in such a way that the incumbent(s) is/are not disadvantaged because of the negotiation period and competitive neutrality will be preserved throughout. For purposes of adjusting franchise terms and maintaining a franchise in full force and effect, the initial judgment on whether terms are more favorable or less burdensome or whether treatment is competitively neutral and nondiscriminatory is within the judgment of the board, reasonably exercised. Nothing herein precludes a grantee's right to challenge the legality or reasonableness of the board's decision. All grantees shall be noticed upon filing of an application for an additional franchise.

a.

Multiple franchises. The county may grant any number of franchises subject to applicable state or federal law. The county may limit the number of franchises granted, based upon, but not necessarily limited to, the requirements of applicable law and specific local considerations, such as:

1.

The capacity of the rights-of-way to accommodate multiple cables in addition to the cables, conduits and pipes of the utility systems, such as electrical power, telephone, gas and sewerage.

2.

The benefits that may accrue to cable subscribers as a result of cable system competition, such as lower rates and improved service.

3.

The disadvantages that may result from cable system competition, such as the requirement for multiple pedestals on residents' property, and the disruption arising from numerous excavations of the rights-of-way.

b.

Refusal to award. The county may not unreasonably refuse to award an additional competitive franchise.

(i)

Other business activities. A franchise adopted pursuant to this chapter authorizes only the operation of a cable system as provided for herein, and does not take the place of any other franchise, license, or permit which might be required by the controlling federal, state or local law for the provision of other services or other business activities.

(j)

Emergency use of facilities.

(1)

Override capability. The cable system shall be maintained in such a way as to allow, in an override mode, county use of the distribution capacity of the cable system over all of the channels which the county may lawfully override and to access the emergency alert system. A grantee shall not claim the county's rights hereunder have been preempted by federal or state law. This override capacity shall be made available in amounts and at times deemed reasonably necessary by the board for testing (at least twice per year) and on a continuing basis in the case of emergency, disaster or like circumstances. The cable system shall at all times comply with applicable FCC rules for emergency override and be upgraded consistent with FCC rules.

(2)

Cooperation in emergency communications. All grantees are encouraged to cooperate with surrounding cable companies in the formulation of a county-wide network for the purpose of emergency communications services and the dissemination of information that may be of interest to all citizens of the Tampa Bay Area.

(k)

Interpretation of franchise terms.

(1)

Incorporation and conflicts. This chapter applies to a franchise agreement as if fully set forth in the franchise agreement. Unless expressly provided for to the contrary in a franchise agreement, the express terms of this chapter prevail over conflicting or inconsistent provisions in a franchise agreement.

(2)

Construction. The provisions of this chapter shall be construed in a manner consistent with all applicable federal and state laws, and shall apply to all franchises granted or renewed after the effective date of this chapter to the extent permitted by applicable law. The provisions of a franchise agreement must be liberally construed in order to effectuate the intent of this chapter consistent with the public interest.

(3)

Governing laws. Any franchise agreement granted hereunder shall be construed to have been executed in the

county, and shall, in determining validity, interpretation, effect, construction, application or any other respect, be governed by the applicable laws of the State of Florida and applicable federal law. References to applicable law or applicable requirements refer to applicable law or requirements as the same may be amended from time to time.

(l)

Notices and public hearings.

(1)

Notice generally. All notices required under this chapter or any franchise agreement granted hereunder shall be by certified mail, return receipt requested, and the date of issuance is the postmark date of the transmittal. When any provision of this chapter or any franchise agreement granted hereunder provides for a time period after notice, the time period begins to run from the date of transmittal.

a.

Notice to county. All notices from the grantee to the county pursuant to this chapter or any franchise agreement adopted hereunder shall be to the county administrator with copy to the office of the county attorney or to such other officers as may be designated by the board.

b.

Notice to grantee. A grantee shall maintain with the county, throughout the term of its franchise, an address for service of notices by mail. A grantee shall also maintain within the county, a local office and telephone number for the conduct of matters related to this chapter or any franchise agreement granted hereunder during normal business hours. Unless provided for to the contrary in the franchise agreement, county notices to a grantee shall be to the last address provided to the county by the grantee.

(2)

Public hearings. Public hearings relating to this chapter or any franchise agreement adopted hereunder shall be held in accordance with law.

(Ord. No. 99-46, § 2, 5-11-99)

Sec. 30-27. - Franchise applications; renewal, amendment and transfers.

(a)

Initial franchise applications.

(1)

Filing of applications. Any person desiring an initial franchise for a cable system shall file an application with the county.

(2)

Applications; contents. An application for an initial franchise for a cable system shall contain, where

applicable:

a.

A resume of prior history of applicant, including the expertise of applicant in the cable system field:

b.

A list of the partners, general and limited, of the applicant, if a partnership, or the percentage of stock owned or controlled by each stockholder, if a corporation;

c.

A list of officers, directors and managing employees of applicant, together with a description of the background of each such person;

d.

The names and addresses of any parent or subsidiary of applicant or any other business entity owning or controlling applicant in whole or in part, or owned or controlled in whole or in part by applicant;

e.

A current financial statement of applicant verified by a certified public accountant, certified by an officer of the grantee, or otherwise, in the county's judgment, competently certified, to be true, complete and correct to the reasonable satisfaction of the county;

f.

The service area being applied for;

g.

A proposed construction and service schedule;

h.

Any information deemed relevant to the county's decision making under this section.

i.

Any additional information that the county reasonably deems applicable.

(3)

Consideration of initial applications.

a.

Upon receipt of any application for an initial franchise, the county administrator or a delegate shall prepare a report and make recommendations respecting such application to the board.

b.

A public hearing shall be set prior to any initial franchise grant, at a time and date approved by the board. Within 30 days after the close of the hearing, the board shall make a decision based upon the evidence received at the hearing as to whether or not the franchise(s) should be granted, and, if granted, subject to what conditions. The board may grant one or more franchises, or may decline to grant any franchise.

(b)

Franchise renewal. Franchise renewals shall be in accordance with applicable law. The county and a grantee, by mutual consent, may enter into renewal negotiations at any time during the term of the franchise.

(c)

Franchise agreement amendment. Amendment of existing franchise agreements shall be by reference to the existing franchise agreement and shall incorporate the amendment into the body of or amend a specific section of the franchise agreement.

(d)

Fees.

(1)

Transfers. The county may charge for actual out-of-pocket costs incurred by the county with respect to the consideration of an application for transfer or change in control not to exceed $15,000.00.

(2)

Renewals. Renewals shall be at the expense of the county.

(Ord. No. 99-46, § 2, 5-11-99; Ord. No. 00-65, § 4, 8-15-00)

Secs. 30-28—30-40. - Reserved.

ARTICLE III. - FRANCHISE ADMINISTRATION

Sec. 30-41. - Minimum consumer protection and service standards.

(a)

Customer service obligations. As a minimum, the grantee shall comply with the customer service standards found in Federal Communications Commission regulations, 47 Code of Federal Regulations (C.F.R.) Section 76.309, and any amendments substitutions thereto. Adoption of any franchise agreement under this chapter shall serve as written notice, pursuant to 47 C.F.R. Section 76.309.a, of the county's intent to enforce those customer service standards.

(b)

Noncompetitive customer service obligations. In the event of the loss of effective competition, the following additional consumer protection and service standards shall apply and the grantee(s) shall maintain the necessary facilities, equipment and personnel to maintain:

(1)

Operational standards.

a.

Telephone answering standards.

1.

Sufficient toll-free telephone line capacity during normal business hours to assure that telephone answer time by a customer service representative, including wait time, shall not exceed 30 seconds; and callers needing to be transferred shall not be required to wait more than 30 seconds before being connected to a service representative. Under normal operating conditions, a caller shall receive a busy signal less than three percent of the time.

2.

Emergency toll free telephone line capacity on a 24-hour basis, including weekends and holidays. After normal business hours, the telephone calls may be answered by a service or an automated response system, including an answering machine. Calls received after normal business hours must be responded to by a trained company representative on the next business day. During periods when an answering service or machine is used, grantee shall provide on-call personnel who shall contact the answering service or machine, at a minimum, every four hours to check on requests for service or complaints.

3.

Grantee shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply. The standards of section 30-41(b)(1)a., b above shall be met not less than 90 percent of the time measured on a quarterly basis.

b.

A conveniently located local business and service and/or payment office open during normal business hours where grantee provides adequate staffing to accept subscriber payments and respond to service requests and complaints. Normal business hours shall include some evening hours, at least one night per week, and/or some weekend hours. The grantee may petition the grantor to reduce its business hours if the extended hours are not justified by subscriber demand, and grantor may not unreasonably deny the petition.

c.

The standards of section 30-41(b)(1), (c) below, shall be met not less than 95 percent of the time measured on a quarterly basis.

1.

An emergency system maintenance and repair staff, capable of responding to and repairing major system malfunction on a 24-hour per day basis.

2.

An installation staff, capable of installing service to any subscriber requiring a standard installation within seven days after receipt of a request, in all areas where trunk and feeder cable have been activated. "Standard installations" shall be those that are located up to 125 feet from the existing distribution system, unless otherwise defined in any franchise agreement.

3.

Grantee shall schedule, within a specified four-hour time period during normal business hours, all appointments with subscribers for installation of service, service calls and other activities at the subscriber location. Grantee may schedule installation and service calls outside of normal business hours for the express convenience of the customer. Grantee shall not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. If a grantee representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer shall be contacted and the appointment rescheduled, as necessary, at a time which is convenient for the customer.

(2)

Service standards.

a.

Grantee shall render efficient service, make repairs promptly, an interrupt service only for good cause and for the shortest time possible. Scheduled interruptions insofar as possible, shall be preceded by notice and shall occur during a period of minimum use of the cable system, preferably between midnight and 6:00 a.m. local time.

b.

The grantee shall maintain a repair force of technicians normally capable of responding to subscriber requests for service within the following time frames:

1.

For a system outage: Within two hours, including weekends of receiving subscriber calls or requests for service which by number identify a system outage of sound or picture of one or more channels, affecting at least ten percent of the subscribers of the system.

2.

For an isolated outage: Within 24 hours, including weekends of receiving requests for service identifying an isolated outage of sound or picture for one or more channels that affects five or more subscribers. On weekends an outage affecting fewer than five subscribers shall result in a service call no later than the next business day.

3.

For inferior signal quality: Within two business days of receiving a request for service identifying a problem concerning picture or sound quality.

c.

Grantee shall be deemed to have responded to a request for service under the provisions of this section when a technician arrives at the service location and begins work on the problem. In the case of a subscriber not being home when the technician arrives, the technician shall leave written notification of arrival.

d.

Grantee shall not charge for the repair or replacement of defective or malfunctioning equipment provided by grantee to subscribers, unless the defect was caused by the subscriber, or the equipment owned by the subscriber requires repair or replacement.

e.

Unless excused, grantee shall determine the nature of the problem resulting in a request for service within two business days of beginning work and resolve all cable system related problems within five business days unless technically infeasible.

(3)

Billing and information standards.

a.

Subscriber bills shall be clear, concise and understandable. Bills shall be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills shall also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

b.

In case of a billing dispute, the grantee shall respond to a written complaint from a subscriber within 30 days.

c.

Grantee shall automatically provide credits or refunds to such subscribers whose service has been interrupted for 24 consecutive hours or more. Credits or refunds shall automatically be provided by grantee on a pro rata basis to any subscriber(s) affected by interruption(s) of service for more than two hours due to actions or outages under the control of the grantee, exclusive of scheduled repairs, maintenance or franchise-required construction that grantee has provided advance written notice of to subscribers. In cases where advance written notice is provided to subscribers, the time period detailed in said notice shall not exceed four hours in any 24-hour period. In cases where said notice has been given to subscribers and the service interruption exceeds the period detailed in said notice, the provisions of this section shall apply.

In the event grantee has improperly or inadvertently disconnected cable services to a subscriber, grantee shall provide for restoration without charge to subscriber as soon as possible but no later than within two days of discovery of disconnection. Grantee shall credit or provide refunds to any subscriber improperly or inadvertently disconnected from receiving cable services for the period of time without cable service. All credits or refunds for service shall be issued no later than the customer's next billing cycle following the determination that a credit is warranted. For subscribers terminating service, refunds shall be issued promptly but no later than 30 days after the return of any grantee supplied equipment. Grantee shall provide written information on each of the following areas at the time of the installation of service, at least annually to all subscribers, and at any time upon request:

1.

Products and services offered; and

2.

Prices and options for programming services and conditions of subscription to programming and other services; and

3.

Installation and service maintenance policies; and

4.

Instructions on how to use the cable service; and

5.

Channel positions of programming carried on the system; and

6.

Billing and complaint procedures, including the address and telephone number of the grantee office designated for dealing with cable-related issues.

d.

Subscribers shall be notified of any changes in rates, programming services or channel positions as soon as possible in writing and in accordance with state and federal law. Notice must be given to subscribers a minimum of 30 days in advance of such changes if the change is within the control of the grantee. In addition grantee shall notify subscribers 30 days in advance of any significant changes in the information required in the immediately preceding section 30-41(b)(3), (c) above.

(4)

Verification of compliance with standards.

a.

Upon ten days prior written notice. Grantee shall respond to request for information made by grantor regarding grantee's compliance with any or all of the standards required in this section. Grantee shall provide sufficient documentation to permit grantor to verify grantee's compliance.

b.

In order to determine whether sufficient telephone lines are provided, the grantor may require that a busy study, traffic study or other study be conduced, at grantee's expense, if any, by the local telephone company. Should grantee have its own telephone equipment which can report on telephone line(s) usage the grantee may submit such report from its own system. The grantor, pursuant to this chapter, may require grantee to acquire equipment to determine compliance with the telephone answering standards of this section.

c.

Grantee shall take necessary steps to ensure that adequate telephone lines and/or staffing are available to permit grantee to satisfy its obligations under this chapter and the franchise agreement. Consideration shall be given for periods of promotional activities or outages. The monthly billing period shall be considered as a normal, daily activity for purposes of determining the availability of adequate telephone lines and/or staffing.

(5)

Subscriber complaints and disputes.

a.

Grantee shall establish written procedures for receiving, acting upon and resolving subscriber complaints without intervention by the grantor. The written procedures shall prescribe the manner in which a subscriber may submit a complaint either orally or in writing specifying the subscriber's grounds for dissatisfaction. grantee shall file a copy of these procedures with grantor. The written procedures shall include a requirement that the grantee respond to any written complaint from a subscriber within 30 days of receipt.

b.

Upon prior written request, grantor shall have the right to review grantee's response to any subscriber complaints in order to determine grantee's compliance with the franchise requirements, subject to the subscriber's right to privacy.

c.

Grantee response to subscriber complaints, as well as complaints made by subscribers to grantor and provided by grantor to grantee, shall be initiated within one business day of receipt by grantor. The resolution of subscriber complaints shall be effected by grantee not later than three business days after receipt of the complaint. Should a grantee supervisor not be available when requested by a subscriber, a supervisor shall respond to the subscriber's complaint at the earliest possible time, and in no event later than the end of the next business day. For complaints received by grantor and provided by grantor to grantee, grantee shall notify grantor of grantee's progress in responding to, and resolving, said complaints.

(c)

Additional service obligations. Upon a finding of necessity by the board at a public hearing, the county reserves any lawful right to establish, in consultation with the grantee(s) and the grantee(s) shall comply with, additional reasonable service standards in the future, as permitted by federal and state law, that may be more comprehensive and more stringent than those contained in the existing FCC regulations. When deemed appropriate by the county compliance time lines may be established for achieving any additional service standards.

(d)

Verification of compliance with obligations.

(1)

County monitoring. The county's designated representative shall be responsible for monitoring grantee's

compliance with the terms of this section.

(2)

Grantee demonstration of compliance. Upon 30 days notice, a grantee shall establish its compliance with any or all of the standards required in this section, as applicable. A grantee shall provide such sufficient documentation as is reasonably necessary to permit the county to verify the compliance.

(3)

Material breach. In addition to those material breaches enumerated in this chapter, a repeated and verifiable pattern of noncompliance with the consumer protection standards of this section, as applicable, after a grantee's receipt of 30 days' notice and an opportunity to cure, may be deemed a material breach of this chapter or any franchise agreement adopted hereunder.

(e)

Subscriber complaints and disputes.

(1)

Written procedures. A grantee shall establish written procedures for receiving, acting upon and resolving subscriber complaints without intervention by the county. The written procedures shall prescribe the manner in which a subscriber may submit a complaint either orally or in writing specifying the subscriber's grounds for dissatisfaction. A grantee shall file a copy of these procedures with the county. Said procedures shall include a requirement that a grantee respond to any written complaint from a subscriber within 30 days of receipt.

(2)

Response review. The county shall have the right, upon 30 days' notice, to review a grantee's response to written subscriber complaints and to any unwritten complaints that resulted in a service call or other comparable response. This requirement shall apply only to records maintained in the ordinary course of business.

(3)

Continuity of service after transfer. In the event of a change of control of a grantee, or in the event a new operator acquires the cable system, the original grantee shall cooperate with the county, new grantee or operator in maintaining continuity of service to all subscribers. During such period, a grantee shall be entitled to the revenues for any period during which it operates the cable system less the franchise fee payment and any PEG obligations to the county.

(f)

Other requirements.

(1)

Business office and hours. The grantee shall maintain a business office in the county. The office shall be open during all usual business hours, have a listed telephone, and be so operated that customers may make

payments, order service, and drop off for repair (or pick up) set top boxes. A grantee will also provide a local or toll-free number which customers may call 24 hours a day, 365 days a year, staffed with trained customer service representatives for the purpose of requesting repairs and registering complaints regarding service, equipment, and billing matters.

(2)

Continuous failure to operate system. In the event a grantee fails to operate the cable system to provide cable service for seven consecutive days without prior approval or subsequent excuse by the county, the county may, at its sole option, operate the cable system or designate an operator until such time as a grantee restores service under conditions acceptable to the county or a permanent operator is selected. If the county should fulfill this obligation for the grantee, then during such period as the county or its designee fulfills such obligation, the county shall be entitled to collect all revenues from the cable system, and the grantee shall indemnify the county against any damages the county may suffer as a result of such failure.

(3)

Photo identification of filed personnel. All field personnel of a grantee or its contractors or subcontractors who, in the normal course of work come into contact with members of the public or who require entry onto subscribers' premises shall carry a photo-identification card. A grantee shall account for all identification cards at all times. Every vehicle of the grantee or its major subcontractors shall be clearly identified as working for the grantee.

(Ord. No. 99-46, § 2, 5-11-99)

Sec. 30-42. - Franchise fee and financial requirements.

(a)

Franchise fee.

(1)

Payment. On terms established in the franchise agreement, all grantees shall pay the required franchise fee and report the basis for calculating the fee.

(2)

Records review. Under conditions established in the franchise agreement, the county shall have the right to review records relevant to the basis for any payment.

(3)

Audit.

a.

Right to audit; presumption of correctness. Upon 30 days prior written notice, the county shall have the right to conduct an independent audit of a grantee's records to determine whether a grantee has paid the required franchise fees and PEG obligations or has otherwise fulfilled its financial obligations under this chapter or its franchise agreement. Absent proof to the contrary, the methodology that is employed in computing the

amount of an underpayment is presumed to yield an appropriate computation.

1.

Notice of underpayment. Any additional amount due to the county as a result of the audit shall be paid within 30 days following written notice to the grantee by the county which notice shall include a copy of the audit report.

2.

Cost of the audit. If such audit indicates an average annual combined franchise fee/PEG obligation underpayment of five percent or more over a three-year audit period, the grantee shall assume all reasonable costs of such audit.

3.

Audit frequency. Except within three years of the termination of a franchise term, or in response to a request to transfer the franchise, no audit shall be conducted more frequently than every three years without a finding of necessity by the board.

4.

Scope of the audit. Except in the case of fraud or in the case of new issues that arise that could not have been reasonably anticipated or professionally accommodated by the auditor at the time of a previous audit, no audit of a previously audited period shall subject a grantee to additional obligations.

b.

Interest. If timely paid pursuant to section 30-42, interest will not be imposed for any payment necessary as a result of the audit if the payment to correct for a shortfall does not exceed ten percent of the total payments made during the audit period. In the event such payment exceeds ten percent of the total payments made during the year, the grantee will be liable for interest and late charges for the entire amount due. If not timely paid pursuant to section 30-42, interest shall be paid pursuant to section 30-42 from the due date dating from the year that the underpayment occurs.

(4)

Accord and satisfaction. Except as otherwise provided by law, no acceptance of any payment, renewal or other form of assent to continued service by the county shall be construed as a release or as an accord and satisfaction of any claim the county may have for further or additional sums payable as a franchise fee under this chapter or for the performance of any other obligation of the grantee.

(5)

Nonpayment or late payment of financial obligations fees. In the event that any franchise fee payment or recomputed amount is not made on or before the dates specified in this chapter or the franchise agreement, a grantee shall pay as additional compensation:

a.

Interest on financial obligations. An interest charge, computed from such due date, at an annual rate equal to

the prime lending rate of any national bank selected by the county, plus one percent during the period for which payment was due; and

b.

Delinquency penalty. If a regular payment or a payment required as a result of an audit is late by 45 days or more, a sum of money equal to five percent of the amount due in order to defray those additional expenses and costs incurred by the county by reason of delinquent payment.

c.

Interest in the case of fraud. In the event of fraud, interest shall be calculated daily from the date that the amount fraudulently withheld should have been paid without taking into account any notice from the county.

d.

Protesting audit results.

1.

Right to protest. Upon notice of any underpayment as a result of an audit under section 30-42 and if the audit underpayment amount is paid, under protest, a grantee shall have the right to provide evidence at a hearing before the board or its designee, pursuant to section 30-49, to rebut the presumption of correctness of the audit established under section 30-42.

2.

Notice of protest. A grantee may, within ten days of notice provided under section 30-42, exercise its section 30-42 right to a hearing. Upon receipt of a notice of a request for a hearing either preceded or accompanied by payment of the amount of the underpayment, the board or its designee shall set a hearing date which shall not be held any sooner than 25 days nor any later than 45 days after notice of the underpayment.

3.

Refund. If the board or its designee determines that the presumption of correctness of the audit results has been rebutted, in whole or in part, based on competent substantial evidence, presented at the hearing, a refund of the amount due the grantee shall be issued within 15 days of the decision with interest calculated pursuant to section 30-42.

(6)

Documentation. Franchise fee payments shall, at a minimum, be accompanied by an itemized statement, approved by the county, showing the specific methodology used in calculating the franchise fee. The county may request and a grantee shall provide, to the county's satisfaction, a clarification of that methodology.

(7)

Payment on termination. When a franchise terminates for any reason, the grantee must file with the county within 90 days of the date the franchise operations stop a an audited financial statement or a financial statement certified by a financial officer of the grantee, showing the gross revenues received by the grantee since the end of the previous fiscal year. Adjustments must be made at that time for franchise fees and PEG

obligations due to the date that the grantee's operations ceased.

(b)

Alternate franchise fee formulation.

(1)

County-initiated. To the extent allowed by law, the county may, at any time, amend this chapter to provide an alternate formulation which is revenue neutral in the sense that it will not exceed the federally allowed maximum franchise fee nor exceed the amount provided for in the relevant franchise agreement if less than the federally allowed maximum franchise fee.

(2)

Dispositive decision. Within 90 days of a dispositive determination of the invalidity of the gross revenue percentage as a fair rental charge or inappropriate formulation for a franchise fee, the county may determine an appropriate reformulation pursuant to section 30-42 or such other revenue neutral basis to which the county and a grantee(s) may agree.

(3)

Termination for failure of material provision. Failing an agreement as provided for in the immediately preceding section 30-42 the county may renegotiate pursuant to the provisions of section 30-66.

(4)

Nonpayment of alternate fee. Failure to pay any lawfully imposed franchise fee based on the legal percentage of gross revenue, the reformulated basis pursuant to section 30-42, or agreed upon basis pursuant to section 30-42, shall be deemed a material breach of the franchise agreement.

(5)

County authority removed by state statute. Any state statute which removes the authority of the county to assess franchise fees is not a basis for implementing this section 30-42(b).

(c)

Other taxing authorities. To the extent that taxes or other assessments are imposed by taxing authorities on the use of county property as a result of an operator's use or occupation of the rights-of-way, all grantee(s) under this chapter shall be responsible for payment of their pro rata share of such taxes, payable annually unless otherwise required by the taxing authority. Such payments shall be in addition to any other fees payable pursuant to this chapter.

(d)

Public, educational, and governmental access obligations. Public, educational, and governmental access or PEG obligations including but not limited to channel capacity and support shall be established in the franchise agreement.

(1)

Consistent with the provisions of Section 47 U.S.C. 534, PEG channel programming shall be on the basic tier.

(2)

The board, upon a proper finding under section 30-66 may waive or conditionally waive the basic tier requirement.

(e)

Compromise or settlement. A grantee's liability for financial obligations incurred pursuant this chapter or any franchise agreement adopted hereunder may be settled or compromised by the county upon the grounds of doubt as to liability or doubt as to the collectibility of such obligation.

(Ord. No. 99-46, § 2, 5-11-99; Ord. No. 00-65, § 5, 8-15-00)

Sec. 30-43. - Security provisions.

(a)

Security fund generally. All grantees shall establish a security fund at a time established in the franchise agreement. The following requirements apply to all forms of security:

(1)

Availability of funds. The security fund shall be available to the county as security for:

a.

Faithful performance of all applicable provisions of this chapter and of the franchise agreement adopted under this chapter;

b.

Compliance with all orders, permits, and directions of the county; and

c.

Payment by the grantee of any claims, liens, or taxes due and unpaid to the county, liquidated damages, damages, or costs or expenses that the county is compelled to pay by reason of any act or default of the grantee in connection with a franchise granted under this chapter.

(2)

Failure to maintain security fund. Failure to maintain or to replenish the security fund as required under this section shall be deemed a material breach of the franchise.

(3)

Grantee rights. A grantee(s) shall retain all rights to litigate any of the actions taken by the county in drawing upon the security fund including review pursuant to section 30-49.

(4)

Amount of the security fund.

a.

Initial amount. The initial security fund shall be established in the franchise agreement. No more often than every five years, the board may review the enforcement history of the franchise and may increase or decrease the amount of the security fund to an amount deemed by the board to be reasonably necessary to secure performance.

b.

Replenishment of the instrument. If the security fund is drawn upon by the county in substantial compliance with the procedures established in this chapter, a grantee shall cause the security fund to be replenished to the original amount no later than 30 days after each withdrawal by the county.

(5)

Surety qualifications. Any performance bond, letter of credit or surety bond shall be issued by an institution or surety qualified to do business in Florida and with rating for financial condition and financial performance in Best's Key Rating Guide, Property/Casualty Edition satisfactory to the county's risk manager; shall be in a form approved by the county; and shall contain the an endorsement in substantially the following form, approved by the county attorney:

"This performance bond/surety bond/escrow account/letter of credit may not be canceled, or allowed to lapse, until 60 days after receipt by the county, by certified mail, return receipt requested, of a written notice from the issuer of the performance bond/surety bond/escrow account/letter of credit of intent to cancel or not to renew."

(b)

Forms of security.

(1)

Performance bond. If a performance bond can be obtained that can respond to the requirements of section 30-43 and the applicant is not otherwise disqualified under section 30-43, the security fund may be established in the form of a performance bond.

a.

Disqualifying criteria. Unless the board makes a finding that an applicant for a new or renewal franchise has an established record of failure to comply with notices of noncompliance with other franchise agreements or unless there are outstanding noticed noncompliance issues, an applicant may provide a security fund in the form of a performance bond in an amount and form and under circumstances established in this chapter and the franchise agreement.

b.

Minimal requirements for performance bond. The performance bond must be drafted in such a way and in a

form approved by the county attorney, approval of which will not be unreasonably denied, that substantially complies with the following minimal requirements:

1.

The performance bond must be capable of responding with a cash payment in response to claims for any or all issues outlined in section 30-43; and

2.

Meet the criteria of this section.

c.

Revocation of performance bond as a form of security. Upon a finding by the board, in its judgment, reasonably exercised, that any one of the following contingencies exist, the county may reconsider the right to secure by performance bond in favor of an escrow account, an irrevocable letter of credit or the surety bond requirements in this section.

1.

The franchise is transferred or there is otherwise a change in control to a new grantee the history of which does not qualify for a performance bond under this section; or

2.

The county documents repetitive violations of provisions of this chapter or the franchise agreement or the enabling ordinance with failure on the part of the grantee to cure after notice; or

3.

The county deems it necessary to litigate in order to collect on the security fund and the county is successful in requiring payment, in whole or in substantial part, by the grantee or surety.

d.

Reinstatement of the right to secure by performance bond. No sooner than two years after a revocation of the right to secure by performance bond or two years of operation under an alternate security fund instrument, whichever is later, a grantee may petition the board for reinstatement of the right to secure by performance bond. If the county is not conducting an audit, or negotiating the results of an audit, and there are not outstanding issues to which the security fund would be responsive, reinstatement shall be granted if no incident as outlined in this section have occurred during the preceding two years.

(2)

Alternate security fund instruments. A grantee may provide an alternate security fund, in the form of a surety bond, escrow account, or letter of credit which shall at a minimum, contain, in language approved by the county attorney, the following concepts:

a.

Draws. In the event of a failure of the grantee/principal, or its successors or assigns, to pay the county/obligee upon being billed pursuant to the franchise agreement and the cable system regulatory ordinance, or to maintain this or replacement security acceptable to the county as required by the franchise agreement and the cable TV enabling ordinance, county/obligee shall give the surety/escrow agent/financial institution under the surety bond/escrow account/letter of credit a written statement of such failure by certified or registered mail to surety/escrow agent/financial institution at (mailing address) ("notice"). The mailing of such notice by the county/obligee shall be deemed to be conclusive evidence of such failure by the grantee/principal under this chapter or the franchise agreement for purposes of this bond/escrow account/letter of credit. Within 30 days of receipt of the county/obligee's notice, surety/escrow agent/financial institution shall pay the amount set forth in the county/obligee's notice, without condition or qualification, subject to the penal sum of this surety bond/escrow account/letter of credit.

b.

Failure to pay. Failure to reimburse or pay the county/obligee as herein provided shall cause the surety/escrow agent/financial institution to be additionally liable for any and all reasonable costs and expenses, including attorney's fees and interest at the legal rate, incurred by the county/obligee in enforcing this bond. Such liability shall be in addition to the penal sum of this surety bond/escrow account/letter of credit, but shall not, in any event, be greater than ten percent of the penal sum of the bond.

c.

Nonenforcement by county. Forbearance by the county/obligee in enforcing any conditions of this chapter or the franchise agreement or the cable system regulatory ordinance or this surety bond/escrow account/letter of credit shall not waive or abridge any right of the county/obligee hereunder. Extensions of time granted the grantee/principal, or other changes or modification to the franchise agreement or the cable system regulatory ordinance, shall not change or diminish the obligation of this surety bond/escrow account/letter of credit.

d.

Multiple claims. Multiple claims are permitted on this surety bond/escrow account/letter of credit up to the total penal sum of this surety bond/escrow account/letter of credit in the aggregate over a period of one year, after which a new or renewed surety bond/escrow account/letter of credit shall be established in the full face amount required in the franchise agreement.

e.

Waiver of defenses. Recognizing that this surety bond/escrow account/letter of credit guarantees payment by the grantee/principal to the county/obligee upon billing pursuant to the franchise agreement or the cable system regulatory ordinance, surety/escrow agent/financial institution hereby explicitly waives any defenses that the grantee/principal might assert or raise relating to the franchise agreement or the cable system regulatory ordinance or arising out of the performance or nonperformance of the franchise agreement or cable system regulatory ordinance by either a grantee/principal or county/obligee. Surety/escrow agent/financial institution also covenants that it will not assert or raise any such defenses.

(Ord. No. 99-46, § 2, 5-11-99)

Sec. 30-44. - Construction requirements.

(a)

Construction plan required. A plan for construction shall be a part of any franchise agreement. The plan will address the areas to be served and, where appropriate, shall provide a timetable for completion.

(b)

Construction bond. A construction bond ("bond"), which may be a corporate guarantee, shall be provided in form and substance acceptable to the county attorney shall be maintained at a level appropriate given the construction remaining until the cable system construction required by the franchise agreement is completed, at which time the bond shall be released, provided there are then no outstanding material violations of the construction obligations of a grnatee under the franchise agreement. The bond shall be maintained until all outstanding material violations have been cured by a grantee.

(c)

System construction, repair or maintenance. Except in the case of an emergency in which case the grantee shall comply with the emergency provisions of existing ordinances, the grantee shall not construct, repair or maintain any cable system facilities until the grantee has secured the necessary permits from the county, and other public agencies with jurisdiction over constructing such facilities. A grantee shall comply with all provisions of permitting ordinances as they exist at the time of construction, repair or maintenance. It shall be a material violation to fail to obtain necessary permits or to fail to substantially comply with permit requirements.

(d)

Termination. At the denial of renewal of the term for which the franchise is granted, or upon its revocation or earlier expiration, as provided herein, in any such case without renewal, extension or transfer, the county shall have the right to require a grantee to remove, at its own expense, all above-ground portions of the cable system from all rights-of-way within the county within a reasonable period of time, which shall not be less than 180 days. In the event of a judicial challenge to the denial of renewal or revocation of the franchise, this right in the county and obligation of the grantee shall not ripen until final disposition of the challenge.

(e)

Conflict with ordinances of general applicability. To the extent that issues addressed in this section are specifically addressed by an ordinance of general applicability, the provisions of the ordinance of general applicability shall govern.

(Ord. No. 99-46, § 2, 5-11-99)

Sec. 30-45. - Technical and other standards.

(a)

Applicable technical and other standards. The grantee shall construct, install, operate and maintain its cable system in a manner consistent with all applicable laws, ordinances, construction standards, governmental requirements, FCC technical standards, and any detailed standards set forth in its franchise agreement. In addition, the grantee shall provide to the county, upon request, a written report of the results of the grantee's periodic proof of performance tests conducted pursuant to FCC and franchise standards and guidelines.

(b)

Noncompliance with standards. Repeated failure to maintain specified standards as described in subsection (a) above or to comply with required permits, verified by the county in its judgment reasonably exercised, shall constitute a material breach of the franchise.

(Ord. No. 99-46, § 2, 5-11-99)

Sec. 30-46. - Indemnification and insurance requirements.

(a)

Indemnification.

(1)

Indemnification arising out of granting of the franchise. A grantee shall fully indemnify, defend and hold harmless the county and, if necessary, shall defend in the name of the county, and pay all expenses incurred by the county in defending itself, with regard to all expenses, damages and penalties the county may legally be required to pay (including but not limited to expenses for reasonable legal fees) as a result of any franchise granted to that grantee hereunder. Damages and penalties shall include but not be limited to damages arising out of copyright infringement and all other damages arising out of the construction, installation, operation or maintenance of its cable system, whether or not any such act or omission is authorized, allowed or prohibited by this chapter or the franchise granted hereunder. Expenses shall include all incidental expenses including attorney fees and shall also include a reasonable value of any services rendered by the office of the county attorney. The county shall notify a grantee of any actions, claims, or suits, of any nature whatsoever, arising out of or through or alleged to arise out of or through or in any way connected with the grant of a franchise to a grantee or though the operation of a grantee's business as a cable system communications service for which the indemnification provisions of this chapter are applicable.

(2)

Indemnification for grantee activities. In matters related to any actions or activities of a grantee arising under this chapter or any franchise agreement granted hereunder, the grantee shall, at its sole cost and expense, fully indemnify, defend and hold harmless the county, its officers, boards, commissions, employees, agents, and volunteers against any and all claims, suits, actions proceedings, liabilities and judgments for damages (including but not limited to expenses for reasonable legal fees and disbursements and liabilities assumed by the county in connection therewith) or equitable relief regardless of whether the act or omission complained of is authorized, allowed or prohibited by this chapter or the franchise agreement. The grantee's indemnification of the county shall include, but not be limited to, all claims, suits, actions, proceedings, liabilities and judgments for damages arising from the following:

a.

To persons or property, in any way arising out of or though the acts or omission of the grantee, its officers, agents, employees, servants, contractors, subcontractors, consultants or volunteers or to which the grantee's negligence shall in any way contribute; and

b.

Arising out of any claim for invasion of the right of privacy, for defamation of any person, firm or corporation, or the violation or infringement of any copyright, trademark, trade name, service name or patent,

or of any other right of any person, firm or corporation (excluding claims arising out of or relating to county programming);

c.

Arising out of the grantee's failure to comply with the provisions of any federal. State, or local statute, ordinance, or regulation applicable to the grantee in the conduct of its business under this agreement; and

d.

Arising out of any violation of federal or state anti-trust laws resulting from the granting of a franchise under this chapter; and

e.

Arising out of any "taking" of property for which just compensation is due under the Constitutions of the United States or the State of Florida that results from the grantee's conduct of business pursuant to this agreement; and

f.

Arising out of or undertaken on behalf of the grantee's right to do business.

(3)

County responsibilities. Except for section 30-46(a)(1), above, the county shall be responsible for its own negligence including that of commissioners, officers or employees resulting from activities arising from its sole responsibilities under this chapter or any franchise agreement granted hereunder.

(4)

Duty to defend. A grantee under this chapter shall have a duty to defend the county in any action to which the county is a party which fails to allege specific actions by the county resulting from its activities under this chapter or any franchise agreement granted hereunder whether or not the same claims damages for which the county is immune under federal or state law including but not limited to 47 U.S.C. Section 555a or F.S. § 768.28.

(5)

The county shall give the grantee prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this section. Nothing herein shall be deemed to prevent the county from cooperating with the grantee and participating in the defense of any litigation by its own counsel at its sole cost and expense.

(6)

Nothing herein shall be construed to abrogate any immunity under federal or state law including but not limited to 47 U.S.C. Section 555a or F.S. § 768.28.

(b)

Insurance.

(1)

Required coverages. On or before commencement of franchise operations, the grantee shall procure, pay for and maintain at least the following insurance coverages and limits:

a.

Workers' compensation. In at least the minimum limits required by law; and employer's liability insurance of not less than $100,000 for each claim.

b.

Comprehensive general liability insurance. Including, but not limited to, independent operations, premises operations, contractual, product/premises operations, and personal injury covering the liability assumed under indemnification provisions of this chapter and the franchise agreement, with limits of liability for personal injury and/or bodily injury, including death, of not less than $1 million to any one person for each occurrence, with an aggregate of $3 million for bodily injury or death resulting from anyone accident; and property damage of not less than $500.000 for each occurrence; and the policy shall include broad form property coverage and fire legal liability of not less than $50,000 per occurrence, unless otherwise stated by exception in this chapter or in the franchise agreement.

c.

Comprehensive automobile and truck liability. Covering owned, hired and nonowned vehicles with the minimum limits of $500,000 each occurrence, for bodily injury, including death and property damage of not less than $100,000 each occurrence.

(2)

Maintenance of insurance coverages. The insurance requirements shall remain in effect though the term of the franchise agreement.

(3)

Evidence of insurance. Such insurance shall be evidenced by delivery to the county of:

a.

Certificates of insurance executed by the insurers listing coverages, limits, expiration dates and all endorsements upon request, whether or not required by the county; and

b.

Listing all carriers issuing said policies; and

c.

A certified copy of each policy, including all endorsements need not be delivered but shall be available for review by the county.

(4)

Required endorsements. Each insurance policy shall include the following conditions by endorsement to the policy in language approved by the county attorney, approval of which will not be unreasonably denied:

a.

Notice. Each policy shall require 30 days prior to expiration, cancellation, non-renewal or any material changing coverages or limits, a notice thereof shall be given to the county attorney's office by mail at the Office of the County Attorney, 315 Court Street, Clearwater. FL 33756 and a duplicate copy sent to Pinellas County Risk Management, 400 S. Ft. Harrison, Clearwater, FL 33756.

b.

Payment of premiums. Companies issuing the insurance policy or policies should have no recourse against the county for payment of premiums or assessments for any deductibles which are all the sole responsibility and risk of the grantee.

c.

Meaning of term "county". The term "county", or "Pinellas County", shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of the county and individual members, employees thereof in their official capacities and/or while acting on behalf of Pinellas County.

d.

Additional insured. Pinellas County, Board of County Commissioners shall be endorsed on the comprehensive general liability insurance policy as an additional insured.

e.

Other insurance clause. The policy clause "other insurance" shall not apply to any insurance coverage currently held by the county to any such future coverage, or to the county's self-insured retention fund of whatever nature.

(5)

Subrogation. The grantee hereby waives subrogation rights for loss or damage against the county.

(6)

Additional notice from grantee. The grantee shall within 24 hours after receipt of any notices of expiration, cancellation, nonrenewal, or material change in coverage received by said grantee from the insurer provide the notice referenced in subsection (b)(4)a and nothing contained herein, shall absolve the grantee of this requirement to provide notice.

(7)

Nonpayment of premiums. In the event a grantee fails to maintain any of the insurance requirements in full force and effect, the county shall, upon 48 hours notice to that grantee, have the right to procure the required insurance and recover the cost thereof from the grantee. The county shall also have the right to suspend the

franchise during any period that grantee fails to maintain said policies in full force and effect.

(8)

Failure to maintain insurance. Failure to maintain specified insurance or to comply with the hold harmless provisions of this section, verified by the county in its judgment reasonably exercised, shall constitute a material breach of the franchise.

(9)

Increases in coverage limits. In order to account for increases in consumer prices, no more than once during any five-year period, without an emergency finding by the board, the county shall have the right to order a grantee to increase the amounts of the insurance provided in the franchise agreement. Increases in insurance coverage shall be based upon current prudent business practices of like enterprises involving the same or similar risks.

(Ord. No. 99-46, § 2, 5-11-99)

Sec. 30-47. - Records and reports.

(a)

Records required.

(1)

Records maintenance. A grantee shall at all times maintain:

a.

Service calls. With respect to cable service to active subscribers, a record of all service calls and interruptions or degradation of service experienced for the preceding one year, provided that such complaints result in or require a service call, subject to the subscriber's right of privacy.

b.

Monthly service calls. If requested by the county, a summary of service calls with respect to cable service, identifying the number, general nature and disposition of such calls, on a monthly basis. A summary of such service calls shall be submitted to the county within 30 days following any county request, in a form reasonably acceptable to the county.

(2)

Additional information. The county may impose reasonable requests for additional information, records and documents from time to time, provided they reasonably relate to the scope of the county's rights under or ascertaining a grantee's compliance with this chapter or the grantee's franchise agreement.

(3)

County examinations. Upon reasonable notice, and during normal business hours, and under circumstances where the county has some reasonable indication of noncompliance, a grantee shall permit reasonable

examination by any authorized representative of the county of all franchise property and facilities, together with any appurtenant property and facilities of a grantee situated within or without the county, and all records relating to the franchise, provided they are necessary to enable the county to ascertain a grantee's compliance with this chapter and to carry out its proprietary, auditing, and regulatory responsibilities under this chapter or the franchise agreement. A grantee shall have the right to be present at any such examination.

(b)

Annual reports.

(1)

Report required. Unless otherwise provided in the franchise agreement, within 120 days after the end of the calendar year, and upon written request by the county, a grantee shall submit a written annual report to the county, with respect to the preceding calendar year in a form approved by the county, including, but not limited to, the following information:

a.

Annual activity summary. A summary of the previous year's (or in the case of the initial reporting year, the initial year's) activities in development of the cable system, including but not limited to, services begun or discontinued during the reporting year;

b.

Principals. A list of a grantee's officers, members of its board of directors and other principals of a grantee;

c.

Voting interests. A list of stockholders or other equity investors holding five percent or more of the voting interest in a grantee;

d.

Franchise area noncoverage. An indication of any residences in a grantee's service area where a grantee's cable service is not available, and a schedule for providing service;

e.

Status. Information as to the number of homes passed, subscribers, and the number of basic and pay subscribers.

f.

Certification of construction records compliance. A certification that a grantee is in substantial compliance with all permits for work in the rights-of-way and if not, documentation of any deficiencies.

g.

Other records. Any other information required under this chapter, the franchise agreement, or other information relevant to franchise regulation which the county shall reasonably request, and which is relevant

to ascertaining a grantee's compliance with this chapter or the franchise agreement.

(2)

Other relevant documentation. Upon written request, a grantee shall make available to the county all pleadings, applications and reports submitted by a grantee to, as well as copies of all decisions, correspondence and actions by, any federal, state or local court, regulatory agency, or other governmental body which may, in the judgment of the county, materially affect the grantee's cable system operations within the franchise area. If the materials are, within the reasonable judgment of the county, as readily available for review by the county as to a grantee, the grantee will provide the information on availability rather than the information itself. The county may review all such documents and shall be provided copies of such documents by the grantee, at the county's expense, and within 48 hours of the county's request for such copies. Requests for extension of time will not be unreasonably refused.

(3)

Corporate annual reports. If a grantee is publicly held, a copy of each grantee's annual and other periodic reports and those of its parent, shall be submitted to the county within 45 days of a written request by the county.

(4)

Public records.

a.

Law applies. Subject to the provisions of F.S., ch. 119, all reports required to be provided to the county under this chapter or the franchise agreement and retention of same shall be available for public inspection in the county's offices during normal business hours.

b.

Trade secrets. To the extent that requested information is claimed to represent trade secrets, the county, at the time of such claim, or before, will, to the extent allowed under F.S. § 119, accommodate the grantee's concerns in a manner that minimizes the release of such information in a manner that chills competition. To the extent possible, if the county requests copies that contain bona fide trade secrets, a grantee will provide the county with summaries of any required documents or copies thereof with trade secrets deleted therefrom. The burden of proof shall be on a grantee to establish the nature of any information requested to be submitted as a bona fide trade secret, to the reasonable satisfaction of the county. The county shall be held harmless by the grantee with respect to the release of any information released pursuant to a public records request. The county shall not object to the grantee's intervention in any proceeding involving a request for public records related to the grantee that the grantee reasonably believes are either not public records or excepted under F.S., ch. 119.

(5)

Payment for records. All reports and records related to compliance issues that are required under this chapter shall be furnished at the sole expense of the grantee, except as otherwise provided in this chapter or the franchise agreement.

(6)

Noncompliance.

a.

Noncompliance. The willful refusal, failure, or neglect of a grantee to file any of the reports required as and when due under this chapter, may be deemed a material breach of the franchise if such reports are not provided to the county within 30 days after written request therefor, and may subject the grantee to all remedies, legal or equitable, which are available to the county under this chapter or the franchise agreement.

b.

Misrepresentation. Any materially false or misleading statement or representation made knowingly and willfully by the grantee in any report required under this chapter or under the franchise agreement may be deemed a material breach of the franchise and may subject the grantee to all remedies, legal or equitable, which are available to the county.

(c)

Opinion survey. Not more than once annually, the county may prepare a subscriber satisfaction survey pertaining to quality of cable service, which shall be transmitted to subscribers in a grantee's invoice for cable services. The results of such survey shall be provided to the county on a timely basis. The additional cost of such survey shall be borne by the county.

(Ord. No. 99-46, § 2, 5-11-99)

Sec. 30-48. - Review of system performance.

(a)

Triennial review.

(1)

Review. Notwithstanding FCC Emergency Alert System Certification, at a frequency established in the franchise agreement, but no more frequently than every three years throughout the term of the franchise, if effective competition is not present and if requested by the county, the county and a grantee shall meet to review cable system performance and quality of cable service. The various reports required pursuant to this chapter, results of technical performance tests, the record of subscriber complaints and a grantee's response to complaints, and the information acquired in any subscriber surveys, shall be utilized as the basis for review. In addition, any subscriber may submit comments or complaints during the review meetings, either orally or in writing, and these shall be considered. Within 30 days after the conclusion of a cable system performance review meeting, the county may issue findings with respect to the cable system's franchise compliance and quality of service. Notice of the reviews shall be published and, in the discretion of the board, may be the subject of a public hearing and the county administrator may determine the issues that the grantee must address in the hearings.

(2)

Noncompliance. If the county determines that a grantee is not in compliance with the material requirements

of this chapter or the grantee's franchise agreement, the county may direct the grantee's to correct the areas of noncompliance within 30 days. Failure of a grantee, after due notice, to correct the areas of noncompliance within the period specified therefor or to commence compliance within such period and diligently achieve compliance thereafter, shall be considered a material breach of the franchise, and the county may exercise any remedy within the scope of this chapter and the franchise agreement.

(b)

Special review. When there have been complaints made or where there exists other evidence which, in the reasonable judgment of the county, casts reasonable doubt on the reliability or quality of cable service to the effect that the grantee is not in substantial compliance with the requirements of this chapter or its franchise, the county shall have the right to compel the grantee to test, analyze and report on the performance of the cable system in order to protect the public against substandard cable service. The county may not compel a grantee to provide such tests or reports unless and until the county has provided a grantee with at least 30 days' notice of its intention to exercise its rights under this section and has provided the grantee with an opportunity to be heard prior to its exercise of such rights. Such test or tests shall be made and the report shall be delivered to the county no later than 30 days after the county notifies the grantee that it is exercising such right. Such tests shall be made at the grantee's sole cost. Such report shall include the following information: The nature of the complaints which precipitated the special tests, what cable system component was tested, the equipment used and procedures employed in said testing, the results of such tests, and the method by which such complaints were resolved. Any other information pertinent to the special test shall be recorded.

(Ord. No. 99-46, § 2, 5-11-99)

Sec. 30-49. - Franchise violations.

(a)

Remedies for violations. If a grantee fails to perform in a timely manner any material obligation required by this chapter or a franchise agreement granted hereunder, following notice from the county and an opportunity to cure such nonperformance in accordance with the provisions of this section of this chapter, the county may at its option and in its sole discretion:

(1)

Cure. Cure the violation and recover the actual cost thereof from the security fund or performance or construction bond established herein if such violation is not cured within 30 days after written notice to the grantee of the county's intention to cure and draw upon the security fund; and/or

(2)

Liquidated damages.

a.

Procedures. Subject to the procedures set forth in this section, the county may assess against a grantee liquidated damages in an amount set forth below for any such violations(s) if such violation is not cured, or if a grantee has not commenced a cure, on a schedule acceptable to the county, within 30 days after written notice to the grantee of the county's intention to assess liquidated damages. Such damages may be withdrawn from the security fund, and shall not constitute a waiver by the county of any right or remedy it may have

under this chapter or the franchise agreement or applicable law.

b.

Categories of liquidated damages. For the violation of any of the following provisions of this chapter or any franchise granted hereunder, liquidated damages shall be recoverable from the security fund as follows:

1.

Construction. For failure to complete cable system construction in accordance with a cable system construction schedule established in the franchise agreement unless the board specifically approves the delay by motion or resolution, due to the occurrence of conditions beyond a grantee's control, the grantee shall pay to the county or the county may draw from the security fund, up to $1,500.00 per day for each day, or part thereof, the deficiency continues.

2.

All other violations. For any other violation of the requirements and obligations under this chapter or the franchise agreement granted hereunder, a grantee shall pay to the county or the county may draw from the security fund up to $75.00 per day for each day that each violation occurs or continues.

3.

Collection contingent upon county compliance. The liquidated damages described in this section shall not be recoverable against a grantee unless the county has furnished the grantee with written notice of the proposed collection of liquidated damages and the grantee has failed to cure the asserted violation of this chapter within 30 days of notice or such time designated in the notice issued pursuant to this section, whichever is longer.

(3)

Local ordinance violation process. In addition to all remedies otherwise provided for in this chapter or in the franchise agreement, violations of this chapter may be pursued as provided for in F.S., ch. 125 and section 1-8 of the Pinellas County Code.

(4)

Other remedies. Pursue its other available remedies at law or in equity.

(b)

Procedure for remedying franchise violations. Supplemental to and running concurrent with any notice requirements otherwise provided for in this chapter, prior to pursuing any remedy or other damages against a grantee specified in this section, the county shall give a grantee notice and opportunity to be heard on the matter, in accordance with the following procedures:

(1)

Notice. The county shall first notice a grantee of a violation and demand correction within a reasonable time, which shall not be less than ten days in the case of the failure of the grantee to pay any sum or other amount due the county under this chapter or the grantee's franchise agreement and 30 days in all other cases.

(2)

Failure to cure. It shall be deemed a failure to cure if:

a.

A grantee fails to correct the violation within the time prescribed, or

b.

A grantee fails to commence correction of the violation within the time prescribed and diligently remedy such violation thereafter, or

c.

A grantee fails to present to the county an acceptable timetable for correction of the violation and adhere to the timetable or any agreed extensions thereof.

(3)

Notice of violation or failure to cure. The county's staff shall give notice of the county's staff's initial determination of a grantee's failure to cure. Said notice shall specify the violations alleged to have occurred and of its initial determination of the chosen remedy. One notice shall suffice for more than one day of the violation and for subsequent days of a violation that continues beyond the notice but prior to the hearing.

(4)

Hearing. A grantee may, within ten days of said notice, exercise its right to a hearing. Upon receipt of a request for a hearing the board or its designee shall set a hearing date which shall not be held any sooner than 25 days after notice.

(5)

Board determination. The board or its designee shall hear and consider the issue(s) and shall hear any person interested therein, and shall determine in its discretion, and based on competent substantial evidence presented at the hearing, whether or not any material violation by the grantee has occurred and if so, if the proposed remedy is appropriate under the circumstances of the case.

(6)

Decision. Subsequent to the hearing, the board or its designee shall consider all relevant evidence, and thereafter render its decision.

(7)

No violation found. In the event the board or its designee finds that the grantee has corrected the violation or has diligently commenced correction of such violation after notice thereof from the county and is diligently proceeding to fully remedy such violation, or that no material violation has occurred, the proceedings shall terminate and no liquidated damages shall be recovered under subsection (a) of this section.

(8)

Violation found. In the event the board or its designee finds that material violations exist, or that grantee has not corrected the same in a satisfactory manner or has not diligently commenced correction of such violation after notice thereof from the county and is not diligently proceeding to fully remedy such violation, the board or its designee may pursue one or more of the remedies provided in this chapter as it, in its discretion, deems appropriate under the circumstances. Nothing herein prevents the board's or its designee's conditioning any remedies in order to satisfy itself that the remedy is appropriate under the circumstances.

(9)

Noncurable violations. Violations that are not considered curable by the board or its designee, in their reasonable judgment, need not require any cure period or evidence of cure.

(10)

Review of decisions. Challenges to decisions made by the county under this section shall be brought in the Pinellas County Circuit Court or if in federal court, the United States District Court for the Middle District of Florida, Tampa Division.

(11)

Liquidated damages. In the event that staff or the board or its designee elects to require the payment of liquidated damages, the grantee shall be noticed with a bill for the liquidated damages. After a grantee's failure to pay within ten days of the noticed bill, absent an appeal which stays the decision, the county may assess the security fund.

(Ord. No. 99-46, § 2, 5-11-99; Ord. No. 00-65, § 6, 8-15-00)

Sec. 30-50. - Force majeure; grantee's inability to perform.

In the event a grantee's performance of any of the terms, conditions or obligations required by this chapter or any franchise agreement granted hereunder is prevented by a cause or event not within a grantee's control, such inability to perform shall be deemed excused and no penalties or sanctions shall be imposed as a result thereof; provided, however, that such inability to perform shall not relieve a grantee from any obligations pertaining to refunds and credits for interruptions in service. For the purpose of this section, causes or events not within the control of a grantee shall include without limitation acts of God, strikes, sabotage, riots or civil disturbances, restraints imposed by order of a governmental agency or court, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides, and fires, but shall not include financial inability of the grantee to perform or failure of the grantee to obtain any necessary permits or licenses from other governmental agencies or the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of a grantee, or the failure of the grantee to secure supplies, services or equipment necessary for the installation, operation, maintenance or repair of the cable system where the grantee has failed to exercise reasonable diligence to secure such supplies, services or equipment.

(Ord. No. 99-46, § 2, 5-11-99)

Sec. 30-51. - Termination of franchise by grantor.

(a)

Right to terminate reserved. In addition to all other rights and powers pertaining to the grantor by virtue of

granting a franchise under this chapter or otherwise, the grantor reserves the right, as defined in federal or state legislation and this chapter, to terminate and cancel any franchise and all rights and privileges of a grantee under this chapter or the franchise agreement in the event that a grantee:

(1)

Violation of grant. Violates any material provision of this chapter or its franchise agreement or any rule, order, or determination of the grantor made pursuant to this chapter or its franchise agreement, except where such violation, other than of subsection (a)(2) below, is without fault or through excusable neglect.

(2)

Performance of material obligations. If a grantee shall default in the performance of its material obligations under this chapter or the franchise agreement and shall continue such default after receipt of due notice and reasonable opportunity to cure the default;

(3)

Insurance; security. If a grantee shall fail to provide or maintain in full force and effect the insurance coverage, performance bond, or security fund as required in this chapter or the franchise agreement;

(4)

Concurrent jurisdictional agencies. If a grantee shall violate any material order or ruling of any regulatory body having jurisdiction over the grantee relative to the grantee's franchise, unless such order or ruling is being contested by a grantee by appropriate proceedings conducted in good faith;

(5)

Financial security. If a grantee becomes insolvent, unable or unwilling to pay its debts, or is adjudged a bankrupt.

(6)

Interruption of service. Failure to restore service after 96 consecutive hours of interrupted service; except when approval of such interruption is obtained from the county.

(7)

Unauthorized disposition. Attempts to dispose of its cable system in all or a part of the franchise area as defined in the franchise agreement in a manner other than as provided in this chapter or the franchise agreement to prevent the grantor from purchasing same.

(8)

Evasion, fraud or deceit. Evades any of the provisions of this chapter or its franchise agreement or practices any fraud or deceit upon the grantor.

(9)

Other material breaches. For all purposes under this chapter or any franchise agreement adopted hereunder,

enumeration of what constitutes a material breach does not limit the board's discretion in deciding if an alleged breach is material.

(10)

Excuses. The foregoing shall not constitute a major breach if the violation occurs but it is without fault of the grantee or occurs as a result of circumstances beyond its control. A grantee shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers or employees.

(b)

Other remedies available. The termination and forfeiture of the grantee's franchise shall in no way affect any right of grantor to pursue any remedy under this chapter or the franchise agreement or any provision of law.

(1)

Unauthorized transfer ineffective. In addition to the provisions for termination provided for in subsection (a) upon 60 days' notice to the grantee, grantor shall have the right to declare ineffective, null and void, any actual change in, transfer of, or acquisition by any other party of, control of a grantee or a grantee's franchise, unauthorized by the grantor, for which notice to the grantor would be required under the grantee's franchise agreement or this chapter. Any declaration by the board under this section means that the grantee remains liable for all obligations under the franchise until the transfer is approved by the grantor.

(2)

Objection to unauthorized transfer. In the event a grantee provides a notice of an unauthorized transfer, grantor shall have 60 days from receipt of a grantee's notice of transfer to provide its notice of intent to terminate pursuant to this section. If grantor does not provide such notice of intent within 60 days of receipt of a grantee's notice of transfer, grantor shall have been deemed to have waived its right under this section and grantor will not exercise its right to declare ineffective, null and void under this section without a finding by the board that the change in control would result in a substantive detrimental change in a grantee's legal, technical, or financial ability to honor its obligations under this chapter or the franchise agreement. Nothing in this section prohibits or waives the right of the board to review, consent or deny proposed transfers under subsection 30-26(g).

(c)

Termination procedure. Any termination and cancellation shall be by ordinance duly adopted after 60 days' notice to a grantee, and shall in no way affect any of the grantor's rights under this chapter or the franchise agreement or any provision of law. Before a franchise agreement granted pursuant to this chapter may be terminated and canceled under this section, a grantee shall be provided with an opportunity to be heard before the board.

(Ord. No. 99-46, § 2, 5-11-99)

Sec. 30-52. - Termination of franchise by grantee.

(a)

Grantee termination allowed. A grantee may terminate a franchise agreement adopted pursuant to this chapter

and all of its obligations under this chapter and the franchise agreement under the following circumstances:

(1)

FCC/court order. At any time following 60 days' prior written notice to the grantor (or such shorter prior written notice as may be required under an applicable final order by the FCC or a federal court order) if, pursuant to an applicable final order by the FCC or a federal court.

(2)

Open video option. At any time, if a grantee determines in the good faith exercise of its business judgment that developments in applicable law or technology indicate that video consumers in the county can be better served by a grantee and/or its affiliate, through a mode of operation other than a cable system, and submits to the grantor:

a.

Certification, approved by the Federal Communications Commission (FCC) pursuant to the authority granted by Section 653 of the Telecommunications Act of 1996, of the operation of this cable system as an open video system; and

b.

An agreement with the grantor containing provisions substantially similar to the provisions contained in this chapter or its franchise agreement, to the extent that such provisions are applicable to a grantee as a video program provider utilizing an open video system and/or are required under Section 653 of the Telecommunications Act of 1996; and

c.

Its affiliate's adoption of provisions substantially similar to the provisions contained in this chapter or its franchise agreement, to the extent that any such provision is applicable to such affiliate, is in compliance with any applicable common carrier requirements, and also remains applicable to operation of an open video system under Section 653 of the Telecommunications Act of 1996. Submissions pursuant to this section shall be reviewed and approved or denied by the board within 90 days of their delivery by a grantee.

(b)

Other authorized uses of the cable system. Nothing in this section or any other section of this chapter or a franchise agreement adopted pursuant to this chapter shall be construed to preclude an affiliated entity from being entitled to acquire or use this cable system for all lawful purposes related to that affiliates telecommunications business in accordance with that entity's then existing authority or any subsequent authority granted from grantor, as it may be created in the future or amended or renewed from time to time.

(Ord. No. 99-46, § 2, 5-11-99)

Sec. 30-53. - Termination of subscriber service; abandonment.

(a)

Removal of facilities upon request by subscriber. Upon termination of service to any subscriber, a grantee

shall promptly, and without charge, remove its facilities and equipment, not including inside wiring, from the premises of such subscriber upon and to the extent of his/her written request.

(b)

Receivership and foreclosure.

(1)

Termination. A franchise granted hereunder shall, at the option of grantor, cease and terminate 120 days after appointment of a receiver or receivers, or trustee or trustees, to take over and conduct the business of a grantee, whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said 120 days, or unless: (1) such receivers or trustees shall have, within 120 days after their election or appointment, fully complied with all the terms and provisions of this chapter and the franchise granted pursuant hereto, and the receivership or trustees within said 120 days shall have remedied all the faults under the franchise or provided a plan for the remedy of such faults which is satisfactory to the grantor; and (2) such receivers or trustees shall, within said 120 days, execute an agreement duly approved by the court having jurisdiction in the premises whereby such receivers or trustees assume and agree to be bound by each and every term, provision and limitation of the franchise granted.

(2)

Notice required. In the case of a foreclosure or other judicial sale of the franchise property, or any material part thereof, grantor may serve notice of termination upon a grantee and the successful bidder at such sale, in which event the franchise granted and all rights and privileges of the grantee hereunder shall cease and terminate 30 days after service of such notice, unless: (1) grantor shall have approved the transfer of the franchise, as and in the manner that this chapter provides; and (2) such successful bidder shall have covenanted and agreed with grantor to assume and be bound by all terms and conditions of the franchise.

(Ord. No. 99-46, § 2, 5-11-99)

Secs. 30-54—30-65. - Reserved.

ARTICLE IV. - PROTECTION OF RIGHTS

Sec. 30-66. - County rights.

(a)

Reservation of county rights. In addition to any rights specifically reserved to the county by this chapter, the county reserves to itself every right and power which is required to be reserved by a provision of any statute, ordinance, case law or under the franchise. In addition to any rights generally reserved in the foregoing general reservation:

(1)

Franchise agreement subject to other laws. This chapter and any franchise agreement adopted hereunder is subject to and shall be governed by all applicable provisions of federal, state, county and local law.

(2)

Franchise agreement subject to exercise of police powers. All rights and privileges granted in any franchise agreement granted hereunder are subject to the police powers of the county and its rights under applicable laws and regulations to exercise its governmental powers to their full extent.

(3)

Amendment of this chapter. The county reserves the right to amend this chapter provided such amendment does not materially or adversely affect the rights of the grantee under this chapter or its franchise agreement.

(4)

Right to renegotiate.

a.

Loss of effective competition.

1.

Upon a finding by the board that there has been a loss of effective competition for any franchise negotiated under competitive conditions, and to the extent that the board reasonably determines that the existing grantee has failed to voluntarily make the county whole, or a loss or substantial diminution of franchise fees pursuant to subsection 30-42(b), PEG access support or security [as hereinafter described], the county reserves the right to require good faith negotiation of new franchise terms. For purposes of these negotiations:

2.

In the event of a loss of effective competition, if grantee fails to negotiate in good faith or if the negotiations fail, in the judgment of the grantor, reasonably exercised, the grantor may reduce the term to the remaining term or three years, whichever is shorter and require negotiations for a new franchise agreement. Also in the event of a loss of effective competition, all terms of the franchise agreement shall remain unchanged except for the ability of the grantor to negotiate issues that the board determines were both actively influenced by the competitive environment at the time of the negotiations and that were inadequate under the franchise agreement to meet the needs of the grantor.

b.

Loss of PEG access support or security. In the event of a loss, other than by operation of general law, of PEG access support or security from a particular grantee, all terms of the franchise agreement for such particular grantee shall remain unchanged except for the ability to negotiate the issue that was lost or substantially diminished. Loss of security refers to the loss of the right of the grantor to require security, pursuant to section 30-43, for the performance by the grantee of its obligations.

(b)

Waiver. Any grantee may petition and the county shall have the right to waive any provision of this chapter or the franchise agreement granted hereunder, except those required by federal or state regulation, if the county, in its judgment reasonably exercised, determines:

(1)

Public interest. That the waiver is in the public interest; and

(2)

Undue hardship. That the enforcement of such provision will impose an undue hardship on the grantee or the subscribers.

(3)

No special privilege. That granting the waiver does not confer on the grantee any special privilege that is denied by this chapter or other franchise agreement to other similar grantees.

(4)

Material alterations. That the enforcement of such provision will materially alter the rights and obligations of the grantee under this chapter or its franchise agreement.

(5)

Effective competition. Special consideration may be made where the provisions that are the subject of a waiver request are, in the judgment of the board, being accommodated through competition.

(c)

Conditions of waiver. Any waiver may be conditioned as deemed appropriate by the county. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the county. Waiver of any provision in one instance shall not be deemed a waiver of such provision subsequent to such instance nor be deemed a waiver of any other provision of the franchise unless the statement so recites.

(Ord. No. 99-46, § 2, 5-11-99; Ord. No. 00-65, §§ 7, 8, 8-15-00)

Sec. 30-67. - Rights of grantee.

In addition to any rights specifically reserved to the grantee by this chapter, and by the foregoing general reservation, the county specifically recognizes:

(1)

Protection of vested rights. Nothing in this chapter is intended to preclude any grantee's or the county's claim and protection of any rights vested pursuant to Florida law.

(2)

Unauthorized reception. It is a violation of this chapter for a person to intercept or use any video, voice, or data signal transmissions over a cable system, unless the interception or use is authorized by the grantee or other person having the lawful right to authorize the reception or use.

(Ord. No. 99-46, § 2, 5-11-99)

Sec. 30-68. - Rights of individuals.

(a)

Denial of access. A grantee shall not deny service, deny access, or otherwise discriminate against subscribers or cable channel users to any group of potential residential cable subscribers or cable channel users because of the income of the residents of the local area in which such group resides.

(b)

Equal employment opportunities. A grantee shall adhere to the applicable equal employment opportunity requirements of federal, state and local regulations, as now written or as amended from time to time.

(c)

Cable tapping. Neither a grantee, nor any person, agency, or entity shall, without the subscriber's consent, tap, or arrange for the tapping, of any cable, line, signal input device, or subscriber outlet or receiver for any purpose except routine maintenance of the cable system, detection of unauthorized service, polling with audience participation, or audience viewing surveys to support advertising research regarding viewers where individual viewing behavior cannot be identified.

(d)

Right of privacy. In the conduct of providing its services or in pursuit of any collateral commercial enterprise resulting therefrom, a grantee shall take reasonable steps to prevent the invasion of a subscriber's right of privacy or other personal rights through the use of the cable system as such rights are delineated or defined by applicable law. A grantee shall not without lawful court order or other applicable valid legal authority utilize the cable system's interactive two-way equipment or capability for unauthorized personal surveillance of any subscriber.

(e)

Use of and respect for easements. If a subscriber requests service, permission to install upon subscriber's property shall be presumed. No cable line, wire amplifier, converter, or other piece of equipment owned by a grantee shall be installed by a grantee in the subscriber's premises or the premises of others, other than in appropriate easements, without first securing any required consent. In the use of easements which have been dedicated for compatible uses the cable operator shall ensure:

(1)

That the safety, functioning, and appearance of the property and the convenience and safety of other persons not be adversely affected by the installation or construction of facilities necessary for a cable system; and

(2)

That the cost of the installation, construction, operation, or removal of such facilities be borne by the cable operator or subscriber, or a combination of both; and

(3)

That the owner of the property be justly compensated by the cable operator for any damages caused by the installation, construction, operation, or removal of such facilities by the cable operator.

(f)

Subscriber lists. The grantee, or any of its agents or employees, shall not sell, or otherwise make available to any party without consent of the subscriber pursuant to state and federal privacy laws, any list which identifies the viewing habits of individual subscribers, without the prior written consent of such subscribers. This does not prohibit the grantee from providing composite ratings of subscriber viewing to any party.

(g)

Continuity of service. It shall be the right of all subscribers to continue receiving service insofar as their financial and other obligations to the grantee are honored. In the event that the grantee elects to rebuild, modify, or sell the cable system, or the county gives notice of intent to terminate or not to renew the franchise, the grantee shall act so as to ensure that all subscribers receive service so long as the franchise remains in force.

(Ord. No. 99-46, § 2, 5-11-99)

Chapter 34 - CIVIL EMERGENCIES[1]
Footnotes:
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Charter reference— General powers of county, § 2.01.

Cross reference— Emergency services, ch. 54.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g); emergency management, F.S. ch. 252; emergency management powers of counties, F.S. § 252.38.

ARTICLE I. - IN GENERAL

Secs. 34-1—34-25. - Reserved.
ARTICLE II. - STATES OF EMERGENCY AND EMERGENCY RESTRICTIONS[2]
Footnotes:
--- (**2**) ---

State Law reference— Declaration of states of emergency by county sheriff, F.S. § 870.041 et seq.

DIVISION 1. - GENERALLY

Sec. 34-26. - Definitions.

Unless the context otherwise requires, the following terms used herein shall have the meanings ascribed to them.

Board means the board of county commissioners of Pinellas County, Florida.

Emergency means any occurrence, or threat thereof, whether accidental, natural, or caused by man, in war or peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

Official authority means the chairman or vice-chairman, the county administrator or assistant county administrator, or other designated county officer, official, or employee as provided herein.

Policy group means the policy group of the emergency operations center described in Pinellas County Emergency Plans.

(Ord. No. 95-36, § 2, 5-9-95; Ord. No. 13-17, § 1, 7-9-13)

Sec. 34-27. - Designation of official authority.

When a quorum of the board is unable to meet, the chairman of the board or, in the absence of the chairman, the vice-chairman, or, in the absence of both the chairman and the vice-chairman, the county administrator, or, in the absence of the county administrator, the next available assistant county administrator, or the next available county officer, official or employee who has been identified in the order of succession as provided herein is hereby designated and empowered as the official authority to declare a local state of emergency whenever the official authority determines that natural or manmade disaster or emergency has occurred or that the occurrence or threat of one is imminent and requires immediate and expeditious action. The county administrator shall identify the specific order of succession and shall advise the board of county commissioners of this succession on an annual basis and whenever any changes are made to the order of succession.

(Ord. No. 95-36, § 3, 5-9-95; Ord. No. 06-02, § 1, 1-10-06; Ord. No. 13-17, § 2, 7-9-13)

Sec. 34-28. - Declaration of state of emergency.

(a)

A state of emergency shall be declared by proclamation of an official authority. The duration of a state of emergency shall be limited to seven days; however, it may be extended, as necessary, in seven-day increments. Upon finding that the threat no longer exists, the board, or, if a quorum of the board is unable to meet, an official authority, may, by proclamation, terminate the state of emergency.

Nothing in this section shall be construed to limit the authority of the board to declare or terminate a state of emergency and take any action authorized by law when sitting in regular or special session.

(b)

A proclamation declaring a state of emergency shall activate the disaster emergency plans applicable to the county and shall be the authority for use or distribution of any supplies, equipment, materials, facilities assembled or arranged to be made available pursuant to such plans.

(c)

Upon the declaration of a state of emergency pursuant to this section, an official authority may impose by executive order any or all of the following restrictions:

(1)

Prohibit or regulate the purchase, sale, transfer, or possession of explosives, combustibles, firearms, dangerous weapons of any kind, or alcoholic beverages;

(2)

Prohibit or regulate any demonstration, parade, march, vigil, or participation therein from taking place on any public right-of-way or upon any public property;

(3)

Prohibit or regulate the sale or use of gasoline, kerosene, naphtha, or any other explosive or flammable fluids or substances altogether, except by delivery into a tank properly affixed to an operable vehicle;

(4)

Prohibit or regulate the participation in or carrying on of any business activity and prohibit or regulate the keeping open of places of business, places of entertainment, and any other places of public assembly;

(5)

Prohibit or regulate travel upon any public street, highway, or upon any other public property. Persons in search of medical assistance, food, or other commodity or service necessary to sustain the well-being of themselves or their families, or some member thereof, may be exempted/excepted from such prohibition or regulation;

(6)

Impose a curfew upon all or any portion of the county, thereby prohibiting persons from being on public streets, highways, parks, or other public places during the hours the curfew is in effect;

(7)

Prohibit state and/or local business licensees, vendors, merchants, and any other person operating a retail business from charging more than the normal average retail price for any goods, materials, or services sold during a declared state of local emergency, except when the wholesale price or the cost of obtaining the merchandise is increased as a result of the local emergency. The average retail price, as used herein, is defined to be that price which is the average of any two prices for similar goods, material, or services sold during the 12 months immediately preceding the declared state of emergency; and

(8)

Prohibit any person, firm, or corporation from using the fresh water supplied by the county for any purpose other than cooking, drinking, or bathing.

The executive orders of an official authority may exempt, from all or part of any restrictions, physicians, nurses, and ambulance operators performing medical services; on-duty employees of hospitals and other medical facilities; on-duty military personnel; bona fide members of the news media; personnel of public utilities maintaining essential public services; county authorized and requested firefighters, law enforcement officers and personnel; and such other classes of persons as may be essential to the preservation of public order or necessary to serve safety, health, and welfare needs of the people within the county.

Pursuant to F.S. § 252.46(2), all executive orders and emergency rules imposed and enacted by an official authority pursuant to this article shall be reduced to writing as soon as possible, filed with the office of the clerk to the board of county commissioners, and concurrently posted prominently upon the premises then

serving as the headquarters of county governmental operations. Further, copies of all such executive orders and emergency rules shall be delivered, as soon as possible to representatives of the print and electronic news media and all appropriate law enforcement officers and other appropriate government administration officials.

Content of orders and rules. All executive orders and emergency rules issued under this section shall indicate the nature of the emergency, the threatened area or areas of the county, and the conditions creating the disaster or threat. The content of such orders shall be promptly disseminated to the general public and to the governing bodies of the applicable municipalities within Pinellas County and contiguous counties.

(Ord. No. 95-36, §§ 4—6, 5-9-95; Ord. No. 99-69, § 1, 7-27-99)

Sec. 34-29. - Chief law enforcement officer.

The sheriff shall have the sole and exclusive authority to regulate the ingress and egress of persons and vehicles, including those zones which may be required to be evacuated during a declaration of a state of local emergency, and to designate the terms and conditions of entry and reentry into said areas upon official declaration that such areas are safe and secure for entry and reentry. Local governments and governmental agencies, including but not limited to, law enforcement agencies, governing boards or council or their representatives, are prohibited from issuing written or verbal orders or directives contrary to the orders or directives of the sheriff with respect to ingress and egress. The sheriff may delegate to any local law enforcement agency the authority herein granted relative to their respective jurisdictions upon his determination that such delegation of authority is necessary and proper.

Notwithstanding anything herein to the contrary, if, in the determination of an official authority, it is in the best interest of public health, safety and welfare, the official authority may designate the sheriff as the chief law enforcement officer for the county, with the responsibility for coordinating the various local law enforcement agencies.

In the exercise of such authority, the sheriff shall seek the consensus of the policy group and all affected local governments.

Sec. 34-30. - Violations, penalties.

Any person, firm or corporation who refuses to comply with or violates the provisions of this article, or the emergency measures which may be made effective pursuant to this article, shall be punished according to law and upon conviction for such offense, shall be punished by a fine not to exceed $500.00 or by imprisonment not to exceed 60 days in the county jail, or both. Each day of continued noncompliance or violation shall constitute a separate offense. In addition to the foregoing, any licensee of the county found guilty of violating any provision of this article, or the emergency measure which may be made effective pursuant to this article, may have his license suspended or revoked by the board.

Nothing herein contained shall prevent the county from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article, directive of the sheriff or the emergency measure which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages.

(Ord. No. 95-36, § 8, 5-9-95)

Secs. 34-31—34-35. - Reserved.

DIVISION 2. - EMERGENCY HOUSING

Sec. 34-36. - Housing emergency declaration.

(a)

Purpose. The purpose of this division is to provide reasonable flexibility in land development regulations to afford temporary housing options to otherwise displaced residents during the aftermath of a disaster that rendered existing housing stock uninhabitable.

(b)

Activation. Upon declaration of a state of emergency pursuant to division 1 of this article, and during the pendency thereof, the board of county commissioners, as a part of the original declaration or at any time during the duration of a declared state of emergency, may declare a state of housing emergency for all or any part of the incorporated and/or unincorporated areas of Pinellas County.

(c)

Areas embraced.

(1)

A housing emergency declaration must define the boundaries of all areas subject to the provisions of this section 34-36 and section 34-37. The areas embraced may include the entire unincorporated and incorporated areas of Pinellas County or any part thereof.

(2)

On its own initiative or upon petition by the governing body of a municipality, and based on findings regarding the status of housing stock in the areas being considered, the board of county commissioners or an official authority may amend the housing emergency declaration resolution to expand or contract the areas embraced.

(d)

Termination.

(1)

A housing emergency declaration survives the termination of the article ii, division 1 emergency declaration and may only terminate, in whole or in part, by formal action of the board of county commissioners or an official authority to amend or terminate the areas embraced by the housing emergency declaration.

(2)

The status of the housing emergency declaration shall be evaluated 90 days after its declaration and every 90 days thereafter as long as the housing emergency declaration is in effect to determine if formal action by the board of county commissioners or an official authority is warranted to amend or terminate the declaration.

(e)

Effect of a housing emergency declaration. Upon the activation of a housing emergency declaration, the provisions of section 34-37, below, become applicable in all the areas embraced by the housing emergency declaration. If there is a disaster housing plan adopted as a part of the county's comprehensive emergency management plan, the disaster housing plan shall be compatible with section 34-37, below.

(Ord. No. 14-46, § 1, 11-18-14)

Sec. 34-37. - Regulatory provisions.

(a)

Definitions. [The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:]

Community sites means sites where three or more temporary housing units are provided. These sites can include, but are not limited to, existing mobile home parks and mobile home subdivisions, and areas where extensive construction and building of an entire community is involved, which may include such things as building roads; laying water, sewer, electrical, and telecommunications lines; and arranging for public transportation, police, fire, and emergency medical services.

Essential services means services necessary to a basic standard of living and the general welfare of society. Services may include, but are not limited to, the following: electrical services, gas services, and water and wastewater treatment services.

Manufactured home means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes plumbing, heating, air conditioning and electrical systems contained therein; except that such term shall include any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary (U.S. Department of Housing and Urban Development) and complies with the standards established under this title. For mobile homes built prior to June 15, 1976, a label certifying compliance to the Standards for Mobile Homes, National Fire Protection Association (NFPA) 501, is required. For the purposes of these provisions, a mobile home shall be considered a manufactured home.

Modular dwelling unit means any residential unit, constructed to the standards promulgated by the Florida Building Commission, away from the installation site, and which bears a department of economic opportunity insignia.

Nonresidential means, on applicable future land use maps and zoning maps, future land use designations and zoning categories where residential uses are normally not permitted.

Owner-builder means owners of property when acting as their own contractor and providing direct, on-site supervision themselves when building or improving single-family or two-family residences on such property for the occupancy or use of such owners and not offered for sale or lease.

Recreational vehicle means a vehicle built on a single chassis, 400 square feet or less, designed to be

self-propelled or permanently towable by a light duty truck, and designed as temporary living quarters for recreational, camping, travel, or seasonal use.

Temporary housing means temporary accommodations for individuals or families whose homes are made uninhabitable by an emergency or a major disaster that meets the physical accessibility needs of the household and includes essential utilities, access to areas for food preparation, and bath facilities in a context that allows a family to live together with a reasonable amount of privacy for a period generally from 12 to 18 months.

Temporary housing unit means manufactured home, recreational vehicle, or modular dwelling unit.

Wrap-around services means the delivery of infrastructure and additional essential services to address disaster-related needs of affected residents living in community sites. These services go beyond the physical need for housing and typically include basic social services and access to utilities, transportation, grocery stores, medical facilities, and employment opportunities.

(b)

Single-family or two-family residential parcels. Upon the activation of a housing emergency declaration and subject to the conditions contained in this subsection, temporary housing may be provided by placing temporary housing units on parcels of land where the existing primary residence is declared uninhabitable due to damage from a disaster. The damaged primary residence must be located on a parcel designated by the applicable future land use map and/or by the applicable zoning map for use as a detached, single-family residence or a two-family (duplex) residence.

(1)

A permit for a temporary housing unit must be obtained through the Pinellas County Planning and Development Services Department or the applicable municipal department or official.

(2)

The permit for a temporary housing unit shall be issued for no more than 12 months. A temporary housing unit shall be removed no later than 12 months after the date of the issuance of the temporary housing building permit, or the temporary housing unit shall be removed upon the issuance of the certificate of occupancy following the repair or replacement of the damaged on-site residence, whichever occurs first, unless an appropriate extension of the temporary housing permit has been granted by the applicable department or official, provided that repair or replacement of the damaged primary residence has commenced within the validity period of the temporary housing permit and continues in good faith.

(3)

A maximum of one temporary housing unit (or two (2) in the case of a two-family residence) will be allowed on a parcel containing an existing home site provided:

a.

The home located on the parcel has been declared uninhabitable by the Pinellas County Planning and Development Services Department or designee or the applicable municipal department or official.

b.

The water service and wastewater service must be properly connected to a functioning water service and sanitary sewer system or septic system in accordance with codes in effect at the time. However, if connection to a functioning service is not feasible, other temporary water and wastewater services may be utilized subject to Pinellas County Health Department approval.

c.

Setback requirements will be waived during the duration that the temporary housing unit is permitted. However, the temporary housing unit cannot extend into any public right-of-way, conservation/drainage easement, floodway, preservation area, or onto any adjacent property that is not owned by the household who will be residing in the temporary housing unit unless an applicable permit is obtained from the appropriate jurisdiction allowing the temporary housing unit to extend into the public right-of-way or there is written authorization from the adjacent property owner allowing the temporary housing unit to extend into the adjacent property.

d.

An adequate, functional electrical service with proper connection for temporary housing units shall be utilized, if feasible, and approved by the Pinellas County Planning and Development Services Department or applicable municipal department or official.

e.

Only a state or locally licensed contractor or an owner-builder will be allowed to apply for a permit and perform any work related to the connection of plumbing, electrical and mechanical service systems at the site. Contractors must be registered with the Pinellas County Construction Licensing Board.

(4)

In the case where a manufactured housing unit or a modular dwelling unit is permitted by the applicable zoning district or future land use designation as a permanent housing structure, and if said structure is intended to become permanent, all applicable setback and other land development regulations shall be met at the time when the housing unit becomes permanent.

(c)

Multifamily residential parcels and nonresidential parcels. Upon the activation of a housing emergency declaration, up to two temporary housing units may be used as temporary housing on a parcel in any zoning district that permits multifamily residential use or nonresidential use, with the exception of parcels designated as preservation, conservation, or comparable designation for environmentally sensitive lands on the applicable future land use map and parcels covered under subsection (b) of this section, subject to the following conditions:

(1)

Temporary housing units shall not be permitted in the preservation, conservation, preservation-resource management and similar applicable zoning districts that designate environmentally-sensitive land. Temporary housing units shall not be permitted on environmental lands that are owned or managed by Pinellas County,

in special flood hazard areas (velocity zone or 100-year floodplain), in the coastal high hazard area as defined in the local government comprehensive plan (or coastal storm area, if adopted by the local government), or in any area in the federal, state, county, or municipal resource-based park or open space system that is determined by that agency to be of critical environmental significance.

(2)

To further economic development policies and strategies supporting job creation and retention, which would be particularly imperative in post-disaster situations, properties that have an industrial or employment zoning and/or future land use designation on a jurisdiction's respective zoning or future land use map shall not be considered appropriate locations for temporary emergency housing unless other suitable locations are not available. Properties having an industrial or employment designation shall be considered properties of last resort for locating temporary emergency housing.

(3)

A permit for a temporary housing unit must be obtained through the Pinellas County Planning and Development Services Department or the applicable municipal department or official.

(4)

The permit for a temporary housing unit shall be issued for no more than 12 months. A temporary housing unit shall be removed no later than 12 months after the date of the issuance of the temporary housing building permit, unless an appropriate extension of the temporary housing permit has been granted by the applicable department or official.

(5)

Functioning public water and wastewater services shall be utilized if feasible. However, if connection to functioning public services is not feasible, other water and wastewater services may be utilized subject to Pinellas County Health Department approval.

(6)

An adequate, functional electrical service with proper connection for temporary housing units shall be utilized, if feasible, and approved by the Pinellas County Planning and Development Services Department or applicable municipal department or official.

(7)

Only a state or locally licensed contractor will be allowed to apply for a permit and perform any work related to the connection of plumbing, electrical and mechanical service systems at the site. Contractors must be registered with the Pinellas County Construction Licensing Board.

(8)

Setback requirements will be waived during the duration that the temporary housing unit is permitted. However, the temporary housing unit cannot extend into any public right-of-way, conservation/drainage easement, floodway, preservation area, or onto any adjacent property that is not owned by the household who will be residing in the temporary housing unit unless an applicable permit is obtained from the appropriate

jurisdiction allowing the temporary housing unit to extend into the public right-of-way or there is written authorization from the adjacent property owner allowing the temporary housing unit to extend into the adjacent property.

(9)

In the case where a manufactured housing unit or a modular dwelling unit is permitted by the applicable zoning district or future land use designation as a permanent housing structure, and if said structure is intended to become permanent, all applicable setback and other land development regulations shall apply at the time when the housing unit becomes permanent.

(d)

Community sites. Upon the activation of a housing emergency declaration, temporary housing units may be used as temporary housing in a community site regardless of the property's applicable zoning and/or future land use map designation, with the exception of parcels designated as preservation, conservation, or comparable designation for environmentally sensitive lands on the applicable future land use map, subject to the following conditions:

(1)

Any zoning district except preservation, conservation, preservation-resource management and similar applicable zoning districts that designate environmentally-sensitive lands may be considered for a community site. A community site shall not be permitted on environmental lands that are owned or managed by Pinellas County, in special flood hazard areas (velocity zone or 100-year floodplain), in the coastal high hazard area as defined in the local government comprehensive plan (or coastal storm area, if adopted by the local government), or in any area in the federal, state, county, or municipal resource-based park or open space system that is determined by that agency to be of critical environmental significance.

(2)

The suitability of properties for community sites will be prioritized based on criteria to be established by Pinellas County in cooperation with the municipalities.

(3)

To further economic development policies and strategies supporting job creation and retention, which would be particularly imperative in post-disaster situations, properties that have an industrial or employment zoning and/or future land use designation shall not be considered appropriate locations for temporary emergency housing unless other suitable locations are not available. Properties having an industrial or employment designation shall be considered properties of last resort for locating temporary emergency housing.

(4)

Authorization from the Pinellas County Administrator (for unincorporated areas or county-owned property) or from the respective chief administrative official of a municipality of Pinellas County, or their designee, must be provided before arranging for the establishment of a community site.

(5)

A concept plan for a community site of more than ten temporary housing units shall be approved by the Pinellas County Planning and Development Services Department or the applicable municipal department or official prior to the issuance of permits for locating temporary housing units on the community site.

(6)

Permits must be obtained for the temporary housing units through the Pinellas County Planning and Development Services Department or the applicable municipal department or official.

(7)

The permit for a temporary housing unit shall be issued for no more than 12 months. Permit extensions may be granted by the applicable department or official as appropriate.

(8)

Functioning public water and wastewater services shall be utilized if feasible. If connection to functioning public services is not feasible, other water and wastewater services may be utilized subject to Pinellas County Health Department approval.

(9)

An adequate, functional electrical service with proper connection for temporary housing units shall be utilized, if feasible, and approved by the Pinellas County Planning and Development Services Department or applicable municipal department or official.

(10)

Only a state or locally licensed contractor will be allowed to apply for a permit and perform any work related to the connection of plumbing, electrical and mechanical service systems at the site. Contractors must be registered with the Pinellas County Construction Licensing Board.

(11)

Minimum setbacks shall be in compliance with the host parcel's zoning designation, unless otherwise approved by the respective municipality.

(12)

In the case where a manufactured housing unit or a modular dwelling unit is permitted, by the applicable zoning district or future land use designation as a permanent housing structure, and if said structure is intended to become permanent, all applicable setback and other land development regulations shall apply at the time when the housing unit becomes permanent.

(Ord. No. 14-46, § 1, 11-18-14)

Sec. 34-38. - Implementation through comprehensive plan and countywide plan rule amendment.

The Pinellas County Comprehensive Plan, municipal comprehensive plans, and the countywide rules shall be reviewed and amended as necessary to facilitate the implementation of the requirements of sections 34-36 and 34-37.

(Ord. No. 14-46, § 1, 11-18-14)

Sec. 34-39. - Areas embraced.

Pursuant to section 2.04(k) of the Pinellas County Charter and F.S. ch. 252, this division shall be effective in the incorporated as well as unincorporated areas of the county.

(Ord. No. 14-46, § 1, 11-18-14)

Secs. 34-40—34-60. - Reserved.

ARTICLE III. - HURRICANE EVACUATION PLAN FOR RECREATIONAL VEHICLE PARKS AND TRANSIENT ACCOMMODATIONS[3]

Footnotes:
--- (**3**) ---

Cross reference— Roads and bridges, ch. 98; traffic and vehicles, ch. 122.

Sec. 34-61. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Approving authority means, in the case of the county, the division of emergency management of the department of civil emergency services, and in the case of a municipality, the municipal emergency management agency.

Comprehensive plan means the Pinellas County Comprehensive Plan, duly adopted by the board of county commissioners on August 8, 1989, as approved by the state department of community affairs and effective on August 11, 1989.

Evacuation order means an order issued by the county which mandates the evacuation of populations from identified risk areas.

Evacuation plan means the plan prepared by a transient accommodation facility pursuant to section 34-66 of this article.

Evacuation routes means streets, roads and highways designated by the county in its official hurricane survival guide as exit routes to be used by populations leaving identified risk areas.

Facility means a transient accommodation facility.

Guest means an individual who is renting or leasing accommodations at a transient accommodation facility.

Hurricane season means the annual period of June 1 through November 30 established by the National Hurricane Center as the time during which the continental United States and Caribbean Basin are most vulnerable to the threat of hurricanes.

Shelters means the primary and secondary public hurricane shelters of the American Red Cross in upper and south Pinellas County as listed in the natural disaster planning chapter, coastal management element of the

comprehensive plan.

Transient accommodation facility means any living quarters or accommodations offered for occupancy for a term of less than six months in any hotel, motel, apartment hotel/motel, multiunit apartment complex, roominghouse, mobile home park that provides more than 20 recreational vehicle spaces, recreational vehicle park, campground, or facility that offers timeshare or interval ownership.

(Ord. No. 90-87, § 2, 11-13-90)

Cross reference— Definitions generally, § 1-2.

Sec. 34-62. - Penalty for violation of article.

Violations of this article are punishable as provided in section 1-8.

Sec. 34-63. - Authority.

This article is enacted pursuant to Fla. Const. art. VIII, § 1(g), the Charter of Pinellas County, Florida, F.S. ch. 125, and the Pinellas County Comprehensive Plan.

(Ord. No. 90-87, § 1, 11-13-90)

Sec. 34-64. - Territory embraced.

This article shall be effective in the incorporated as well as the unincorporated areas of the county.

(Ord. No. 90-87, § 6, 11-13-90)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 34-65. - Evacuation plan required.

At the times specified in the immediately succeeding sentence, each transient accommodation facility located in the county shall prepare and submit to the appropriate approving authority an evacuation plan meeting the requirements of section 34-66 of this article. In the case of any facility existing on or prior to February 1, 1991, such facility shall submit an evacuation plan no later than May 1, 1991; in the case of any facility commencing operations after February 1, 1991, such facility shall submit an evacuation plan within 90 days of the issuance of a certificate of occupancy. Upon approval of an evacuation plan by the approving authority, the facility responsible for the plan shall make available to all its guests copies of the evacuation plan. During the hurricane season, the facility shall give to each guest a copy of the evacuation plan at the time of registration with the facility.

(Ord. No. 90-87, § 3, 11-13-90)

Sec. 34-66. - Contents of evacuation plan.

An evacuation plan under this article shall describe methods for informing the staff and guests of the particular facility of the threat of approaching hurricanes and the procedures to be followed during evacuation. Such procedures shall include at a minimum:

(1)

Informing the staff and guests of the advantage of evacuation prior to the evacuation order;

(2)

Providing staff and guests with information about evacuation routes; and

(3)

Providing staff and guests with a list of shelters.

(Ord. No. 90-87, § 4, 11-13-90)

Chapter 38 - COMMUNITY DEVELOPMENT[1]
Footnotes:
--- (**1**) ---

Charter reference— General powers of county, § 2.01.

Cross reference— Buildings and building regulations, ch. 22; social services, ch. 102.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g).

ARTICLE I. - IN GENERAL

Secs. 38-1—38-25. - Reserved.
ARTICLE II. - HOUSING INITIATIVES PROGRAM[2]

Footnotes:
--- (**2**) ---

State Law reference— State Housing Initiatives Partnership Act, F.S. § 420.907 et seq.; local housing initiatives programs, F.S. § 420.9075.

Sec. 38-26. - Definitions.

Unless otherwise set forth herein, all capitalized terms used in this article shall have the meanings assigned thereto in the act and in rule 9I-37.002, Florida Administrative Code. The definitions used in the rules for implementing the SHIP program shall apply to implementing the county's program unless defined by resolution of the board of county commissioners and not in conflict with the intent of the SHIP program.

Act means F.S. ch. 420, pt. VII (F.S. § 420.907 et seq.).

(Ord. No. 93-30, § 1, 3-9-93)

Cross reference— Definitions generally, § 1-2.

State Law reference— State definitions, F.S. § 420.9071.

Sec. 38-27. - Housing assistance trust fund.

(a)

The county does hereby create and establish a separate fund to be known as the Pinellas County, Florida, SHIP local housing assistance trust fund (the "SHIP trust fund"). All moneys received by the county from its share of SHIP funds and any other county funds received or budgeted to finance the local housing assistance program shall be deposited into the SHIP trust fund. Expenditures other than for eligible administrative expenses and implementation of the local housing assistance program may not be made from the SHIP trust fund. All program income, including investment earnings, shall be retained by the local assistance trust fund and used for purposes thereof.

(b)

Moneys in the SHIP trust fund, until utilized for the purposes thereof, shall be held in trust by the county solely for usage pursuant to the act in any community within the county area for projects meeting the intent of the act. All municipalities in the metropolitan area which are eligible to receive an entitlement of SHIP funds may enter into an interlocal agreement with the county to provide for jointly funding any housing activities or projects of mutual benefit. For projects funded under an interlocal agreement, any repayments shall be returned to the trust fund of each municipality contributing the funds. All amounts held in the SHIP trust fund shall be invested until needed for application thereof in the state board of administration's local government surplus funds trust fund established pursuant to F.S. ch. 218, pt. IV (F.S. § 218.40 et seq.). Fund administration shall comply with rule 9I-37.007, Florida Administrative Code. All investment earnings shall be retained in the SHIP trust fund and used for the purposes thereof.

(c)

The county agrees that the SHIP trust fund shall be separately stated as a special revenue fund in the county's audited financial statements. Copies of such audited financial statements shall be forwarded to the state housing finance agency each year as soon as such statements are available.

(Ord. No. 93-30, § 2, 3-9-93)

State Law reference— Mandatory provisions, F.S. § 420.9072(2)(b)1; local housing assistance trust fund, F.S. § 420.9075(5).

Sec. 38-28. - Local housing assistance program—Established; implementation.

The county hereby establishes a local housing assistance program to make affordable housing available for very low income, low income and moderate income persons, including persons who have special housing needs, such as, but not limited to, homeless people and persons with disabilities. The local housing assistance program shall be implemented by a local housing partnership and shall combine SHIP funds, local resources and cost saving measures to reduce the cost of housing. Implementation of the housing assistance program shall involve, to the greatest extent possible, local government, lending institutions, housing developers, community based housing and service organizations, and providers of professional services relating to affordable housing. The local housing assistance program shall follow the guidelines below:

(1)

SHIP funds will be used:

a.

For locally designed strategies that create or preserve both affordable rental and homeownership housing utilizing local, state or federal assistance through loans or grants that result in new construction, acquisition, acquisition with rehabilitation or rehabilitation; or

b.

To supplement existing and future local, state or federal housing programs, such as the state apartment incentive loan program or state and local homeownership assistance programs, with SHIP funds directed to uses within the county; or

c.

To provide local matches to obtain federal housing grants or programs, such as HOME; or

d.

To fund other eligible SHIP activities and projects as later provided for under state law without amendment to this article so long as compatible with the locally developed strategy; and

e.

To provide for administrative expenses in accordance with rule 9I-37.007(4), Florida Administrative Code.

(2)

The percentage of SHIP funds to be allocated to the above strategies and activities will be designated in each local housing assistance plan to be developed and adopted pursuant to rule 9I-37.005, Florida Administrative Code, every one to three years.

(3)

The local housing assistance program shall be governed by the following criteria and administrative procedures:

a.

The county shall advertise the availability of its housing assistance program in a newspaper of general circulation and periodicals servicing ethnic and diverse neighborhoods, at least 30 days before the beginning of the application period.

b.

The county shall adopt a maximum award schedule or system of amounts that is commensurate with the intent of its local housing assistance program and the act.

c.

In accordance with the provisions of F.S. §§ 760.20—760.37, it is unlawful to discriminate on the basis of race, creed, religion, color, age, sex, marital status, familial status, national origin, or handicap in the loan application process for eligible housing.

d.

As a condition of receipt of an award, the eligible sponsor or eligible person must contractually commit to comply with the affordable housing criteria provided under F.S. §§ 420.907—420.9079, applicable to the affordable housing objective of the award. The program criteria adopted by the county must prescribe the contractual obligations required to ensure compliance with award conditions.

(4)

The following criteria will apply to awards made to eligible sponsors or eligible persons for the purpose of providing eligible housing, and will be more fully delineated in each local housing assistance plan:

a.

At least 65 percent of SHIP trust funds shall be used for homeownership activities, and 75 percent for construction and rehabilitation.

b.

Homes which are sold under the SHIP program will not have a sales price which exceeds 90 percent of the median area purchase price.

c.

Loans issued using SHIP funds will not have terms exceeding 30 years, except for deferred payment loans or loans that extend beyond 30 years which continue to serve eligible persons.

d.

All units constructed, rehabilitated, or otherwise assisted with SHIP program funds must be occupied by very low income, low income or moderate income persons, including persons with special needs. At least 30 percent of the units must be occupied by very low income persons and at least an additional 30 percent by low income persons. The remainder may be occupied by very low income, low income or moderate income persons.

e.

Rental housing constructed or rehabilitated using SHIP funds must provide the minimum set-aside of units for very low income, low income and moderate income residents for at least 15 years.

f.

Monthly mortgage payments and monthly rent payments must be affordable for the very low income, low income, and moderate income persons and households who will benefit from the program.

g.

Rental units constructed or rehabilitated with SHIP program funds must be monitored at least annually for compliance with tenant income requirements and affordability requirements as specified in rule 9I-37.015, Florida Administrative Code.

h.

Houses constructed or rehabilitated with SHIP program funds which are sold to home buyers shall be subject to subsidy recapture provisions which are identical to those specified in section 143 et seq. of the Internal Revenue Code, which govern use of proceeds of mortgage revenue bonds.

i.

Developers receiving assistance from both SHIP and the low income housing tax credit (LIHTC) program shall be required to comply with the income, affordability and other LIHTC requirements. Similarly, any units receiving assistance from SHIP and other federal programs shall be required to comply with any requirements specified by the federal program in addition to SHIP program requirements.

j.

The county may require that recipients of assistance under the SHIP program be residents of the county's eligible area which has been approved for receipt of SHIP funds or residents of those jurisdictions having interlocal agreements and have been approved for receipt of SHIP funds.

(5)

SHIP funds may not be used as a pledge of the debt service on bonds or as rent subsidies.

(Ord. No. 93-30, § 3, 3-9-93)

State Law reference— Mandatory provisions, F.S. § 420.9072(2)(b)2.

Sec. 38-29. - Same—Administration; costs.

(a)

The county community development department or its successors is hereby designated as the agency responsible for administering the SHIP program, including the development of a local strategy and local housing assistance program to meet the requirements of the SHIP program, as amended, and for coordinating with the housing partnership.

(b)

Administrative expenses under this article include the cost of salaries, benefits and operational expenses associated with the program. Such administrative expenses shall also include costs of necessary consultants to develop programs and program parameters, to evaluate proposals and projects, and to develop staff capacity to carry out the housing programs and projects. Administrative costs shall not exceed the amount authorized in F.S. § 420.9075(6).

(Ord. No. 93-30, § 4, 3-9-93; Ord. No. 08-39, § 1, 7-22-08)

State Law reference— Mandatory provisions, F.S. § 420.9072(2)(b)3.

Sec. 38-30. - Affordable housing advisory committee.

The county has established, by Resolution 08-75, adopted May 20, 2008, an 11-member affordable housing

advisory committee which complies with F.S. § 420.9076(2). The committee's work involves recommendations to the board of county commissioners for implementation of its affordable housing incentive program. Staff and administrative support shall be provided by the board of county commissioners as an eligible administrative expense under the SHIP program.

(Ord. No. 93-30, § 5, 3-9-93; Ord. No. 08-39, § 2, 7-22-08)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

State Law reference— Mandatory provisions, F.S. §§ 420.9072(2)(b)4, 420.9076.

Sec. 38-31. - Amendments to article.

A copy of any amendment to this article shall upon enactment thereof be provided to the state housing finance agency within 21 days after adoption.

(Ord. No. 93-30, § 6, 3-9-93)

Secs. 38-32—38-50. - Reserved.

ARTICLE III. - COMMUNITY REDEVELOPMENT[3]

Footnotes:

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State Law reference— Authority to provide for community redevelopment, F.S. § 125.01(1)(j); community redevelopment, F.S. § 163.330 et seq.

DIVISION 1. - GENERALLY

Secs. 38-51—38-60. - Reserved.

DIVISION 2. - REDEVELOPMENT TRUST FUNDS AND PLANS

Sec. 38-61. - 1982 plan and trust fund for City of St. Petersburg.

(a)

The creation of the redevelopment trust fund by the City of St. Petersburg, Florida, for the intown redevelopment area (the "fund") is hereby approved.

(b)

The county shall annually pay to the City of St. Petersburg for deposit to the fund a sum equal to the increment in the income, proceeds, revenues, and funds of the county derived from or held in connection with the intown redevelopment area, for the use of St. Petersburg's Community Redevelopment Agency in its undertaking and carrying out of the intown redevelopment plan. The increment shall be determined annually and shall be that amount equal to 95 percent of the difference between paragraphs (b)(1) and (b)(2) below:

(1)

The amount of ad valorem taxes levied each year by each taxing authority, exclusive of any amount from any

debt service millage on existing or future bonded indebtedness, on taxable real property contained within the geographic boundaries of the intown redevelopment area; and

(2)

The amount of ad valorem taxes which would have been produced by the rate upon which the taxes levied each year by or for each such taxing authority, exclusive of any debt service millage on existing or future bonded indebtedness, upon the total of the assessed value of the taxable property in the intown redevelopment area as shown upon the most recent assessment roll used in connection with the taxation of such property by each such taxing authority prior to the effective date of Ordinance 82-24 providing for the appropriation to the trust fund.

(3)

In calculating the increment, the amount of the ad valorem taxes levied based on the county-wide debt service on existing or future county bonds shall be totally excluded from the calculation. All increments in this amount shall continue to be used for its voter-approved purposes and shall not be appropriated in any part of the fund. Any adjustments made in the appropriation will be based upon the final extended tax roll.

(4)

The city and county may enter into an interlocal agreement to establish how tax increment revenues may be spent so long as those expenditures are not inconsistent with the redevelopment act.

(5)

Beginning January 1, 2016, the increment shall be that amount equal to 85 percent of the difference between the amounts calculated in paragraphs (b)(1) and (b)(2) of above.

(c)

Subject to the limitations provided herein, the county shall annually budget, appropriate and pay to the fund the tax increment due the fund prior to April 1 of each taxable year. The county's obligation to annually budget and appropriate on or before October 1 and pay over to the fund by April 1 of each year shall commence immediately upon the effective date of Ordinance No. 05-25 and continue until all loans, advances and indebtedness incurred as the result of the intown redevelopment plan have been paid. The county's increment contributions are to be accounted for as a separate revenue within the fund but may be combined with other revenues for the purpose of paying debt service. In no year shall the county's obligation to the fund exceed the amount of that year's tax increment as determined in subsection (b). With the exception of the financing reflected in attachment A to Ordinance No. 05-25, no new sale of bonds or indebtedness supported by tax increment revenues may occur nor may existing indebtedness so supported be refunded without approval of the board of county commissioners before 2020, except as otherwise approved as provided in subsection (d)(2)e. Said approval may be granted by resolution or interlocal agreement. Furthermore, there shall be no reimbursement of city payments from any funding source to existing projects made prior to adoption of the ordinance from which this section derives. In no event shall the contribution of tax increment revenues as provided in Table 2 to the intown redevelopment plan supplant funding otherwise provided by city, state, federal or private sources as set out in the "Other Potential Funding Sources" column to the projects in Table 2 to the intown redevelopment plan.

(d)

Duration of the fund.

(1)

The county's obligation to annually appropriate to the fund shall commence immediately upon the effective date of Ordinance No. 05-25 (April 7, 2005) and continue until the earlier of April 7, 2032, or until all loans, advances and indebtedness incurred as the result of the plan, and approved by the board have been paid, subject to subsection (d)(2) below.

(2)

Fifteen-year review. Notwithstanding the duration of the fund established in subsection (d)(1), above, on or before April 7, 2020, the county may review its tax increment contribution to the fund to determine whether given the totality of the circumstances, it continues to be prudent to dedicate the county portion of the tax increment revenues at the existing level, beyond 15 years, provided that there shall be no reduction in the dedication of tax increment revenues for as long as there are unpaid loans, advances or indebtedness approved as provided herein and secured by the county's tax increment revenues. The county may continue the contribution, eliminate it or reduce it, except as otherwise provided in subsection (d)(2)f. Any reduction or elimination may require the city to seek additional funding sources for the redevelopment plans and projects that will be in addition to any tax increment financing.

a.

Redevelopment conditions for 15-year tax increment financing (sometimes hereinafter referred to as "TIF") review. The success of the plan relies on significant private investment in residential, employment and retail uses so that the community redevelopment area is marketable. Absent realizing this investment, the plan is not succeeding. The following are the performance criteria:

1.

Performance of TIF revenues.

i.

During the 15-year review period, do the annual TIF revenues collected compare to the estimated revenues.

ii.

Measures: Collected TIF revenues (per property appraiser and tax collector).

2.

Implementation of intown redevelopment plan.

i.

During the 15-year review period, how has the city performed in implementing the intown redevelopment plan with particular emphasis on use of TIF funds in implementation.

ii.

Measures.

a.

Capital projects built or substantially completed compared to the intown redevelopment projects of the intown redevelopment plan; and CRA programs and programs outlined in the plan implementation chapter the intown redevelopment plan.

b.

Changes in employment opportunities in the intown/CRA comparing year 2005 to the year 2020.

3.

Effectiveness of intown redevelopment plan at mitigating blighting influence.

i.

During the 15-year review period, do the actions implementing the intown redevelopment plan have the desired effect of redeveloping the CRA.

ii.

Measures.

a.

A comparison, from the year 2005 to year 2020, of the changes in the median household income in the intown redevelopment area to the citywide median household income.

b.

A comparison of the land-value to improvement-value in the intown redevelopment area from year 2005 to year 2020.

c.

A comparison of the changes, from year 2005 to year 2020, in the percentage of land in the intown redevelopment area that is devoted to surface parking, or is vacant, or is otherwise underutilized.

d.

A comparison of the percentage of deteriorated or dilapidated structures in the intown redevelopment area from the year 2005 to year 2020.

b.

The city shall submit all data and analysis to the county as well as additional data requested by the county to perform for the 15-year review no later than October 1, 2019.

c.

The board of county commissioners shall complete its review prior to April 7, 2020, and shall notify the city in writing by April 7, 2020, if it intends to eliminate or reduce the amount and/or duration of the county's tax increment contribution as permitted herein. In the absence of such notification, the contribution shall continue as provided herein.

d.

Notwithstanding the review provision set forth above, the city may at any time bring requests for approval of the issuance of bonds or other indebtedness pledging the county's share of tax increment revenue to the board for consideration.

e.

It is the intention of the city and county to complete the projects to the greatest extent possible within the 15-year review period and without incurring avoidable financing costs by utilizing the tax increment revenue stream proceeds. Notwithstanding any provision herein to the contrary, the city may incur additional debt, including any refundings thereof, beyond that reflected in Attachment A and beyond the year 2020, but not beyond 2032, without board approval, providing the following conditions, as may be supplemented by interlocal agreement between the county and city, are met:

1.

The county and city financial advisors agree, by written notice to the county and city that: (i) based on the historical receipt of tax increment revenues, the term of the debt is the shortest reasonable length of time to obtain debt financing to complete the projects and ensure the payment of all indebtedness from tax increment revenues without reliance on other revenues; and (ii) the type of debt instrument proposed to finance the completion of the projects from available tax increment revenues is the most cost effective debt instrument, based upon then current market conditions; and (iii) the transaction has been structured so that the bonds or other indebtedness is callable, as is customary in the market, from tax increment revenues; and (iv) the financing has been structured to satisfy any other requirements as may be agreed to by the county and city by interlocal agreement,

2.

If the county and city financial advisors do not agree on any matter which requires their agreement in this subsection (d)(2)e., then the county and city financial advisors shall jointly choose a third financial advisor who shall determine whether the proposed indebtedness meets the requirements of this subsection (d)(2)e. on which the financial advisors are required to agree. The third financial advisor's opinion shall be binding on the parties. If the county and city financial advisors do not agree on a third financial advisor, then either party may petition the court to determine whether the requirements of this subsection (d)(2)e. on which the financial advisors are required to agree, have been met.

3.

The county's obligation to appropriate tax increment revenues under this section, subject to the foregoing conditions being met, shall terminate the earlier of (i) April 7, 2032, or (ii) at such time as the $117.354 million dollars of funding required for the projects, plus related financing costs, has been repaid, and no refunding thereof shall extend the maturity beyond April 7, 2032, without board approval.

4.

The city shall provide written notification of the terms of any financing authorized herein along with a report of the financial advisors' approvals to the board at least 30 days prior to the adoption of any ordinance or resolution by the city authorizing any such financing.

f.

In the event the city incurs additional financing pursuant to the provisions set forth in subsection (d)(2)e. above, obligating the county's tax increment revenues beyond 2020, the provisions of subsection (d)(2)e. remain in effect and such reports shall be provided by the city; however, the county's ability to adjust the increment shall not occur to the extent that the county's share of tax increment revenues are pledged to any existing indebtedness authorized as provided in subsection (d)(2)e.

g.

Any financing mechanism utilized by the city, and not meeting the conditions set forth in subsection (d)(2)e. above, which would obligate the county to tax increment contributions beyond 2020 must be approved by the board.

(e)

Review and audit.

(1)

Copies of reports of audits required by F.S. § 163.387(8) shall be provided to the board of county commissioners each fiscal year.

(2)

Review and approve annual progress reports to be prepared by the city, with a due date coinciding with the monthly date of this section. The reports shall detail the relationship between accomplishments of the redevelopment program and those projects that are proposed in the redevelopment plan ultimately adopted by the city.

(Ord. No. 82-24, §§ 1—3, 8-3-82; Ord. No. 86-39, §§ 1—3, 4-29-86; Ord. No. 05-25, §§ 1—8, 4-7-05; Ord. No. 15-40, § 1, 11-10-15)

Sec. 38-62. - City of Clearwater.

(a)

The creation of the redevelopment trust fund by the City of Clearwater, Florida, is hereby approved.

(b)

The county shall annually pay into the fund a sum equal to the increment in the income, process, revenues and funds of the county derived from or held in connection with community redevelopment project area, for the use of Clearwater's community redevelopment agency in its undertaking and carrying out of the community redevelopment project plan. The increment shall be determined and appropriated annually and shall be that amount equal to 95 percent of the difference between:

(1)

The amount of ad valorem taxes levied each year by or for the county, exclusive of any amount from debt service millage, on taxable real property contained within the geographic boundaries of the redevelopment area as defined in the adopted Redevelopment Plan for Downtown Clearwater (Ordinance No. 7153-03, as amended by Ordinance No. 7231-03); and

a.

For the original CRA area: the amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for the county, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the above-referenced redevelopment area as shown upon the most recent assessment roll used in connection with the taxation of such property by the county prior to the effective date (December 17, 1981) of Ordinance No. 2576-81 of the City of Clearwater; or

b.

For the gateway expansion area: the amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by the county, exclusive of any amount from any debt service millage, upon the total of the assessed value of the taxable property in the above-referenced redevelopment area as shown upon the most recent assessment role used in connection with the taxation of such property by the county prior to the effective date of the county ordinance providing for the funding of the trust fund.

(2)

In calculating the increment, the amount of the ad valorem taxes levied based on the countywide debt service on county bonds shall be totally excluded from the calculation. All increments in this amount shall continue to be used for its voter-approved purpose and shall not be appropriated in any part to the fund. Any adjustments made in the appropriation will be based upon the final extended tax roll. In no year shall the county obligation to the fund exceed the amount of that year's tax increment as defined by this section.

(3)

No sale of bonds or indebtedness supported by the county's tax increment may occur nor may existing indebtedness so supported be refunded without approval of the board of county commissioners. The county's increment contributions are to be accounted for as separate revenue within the fund but may be combined with other revenue for the purpose of debt service.

(c)

Allocation and restrictions on use.

(1)

The county shall annually pay to the fund the tax increment due the fund on January 1 of each taxable year. The county's obligation to annually appropriate to the fund on or before October 1 of each year shall commence immediately upon the effective date of the ordinance from which this section derives.

(2)

Nothing in this section, however, shall require the City of Clearwater or the City of Clearwater's Community

Redevelopment Agency to issue bonds or incur loans or other indebtedness as a condition precedent to the county depositing into the fund the amounts set forth in subsection (b) hereof.

(3)

Use of that portion of the tax increment attributable to the county shall be limited to capital improvements, land acquisition and environmental remediation as more specifically provided in Ordinance 7153-03, as amended by Ordinance 7231-03 and as it is amended from time to time.

(d)

Duration of the fund.

(1)

County shall annually appropriate to the fund the tax increment due the fund at the beginning of the county fiscal year. However, the fund shall receive the tax increment only as, if and when such taxes are collected. The county's obligation to annually appropriate to the fund shall commence immediately upon effective date of this section and continue for 30 years from the effective date of the ordinance from which this section derives.

(2)

Fifteen-year review. Notwithstanding the duration established in subsection 4.1, above, in 2019, the county may review its tax increment contribution to determine whether given the totality of the circumstances, it continues to be appropriate to dedicate the county portion of tax increment at the existing level, beyond 15 years. The county may continue the contribution or eliminate it. Nothing herein precludes the county from considering dedication at a reduced commitment provided that option is legally available.

a.

Redevelopment conditions for 15-year TIF review. The success of the plan relies on significant private investment in residential, employment and retail uses so that the downtown is marketable. Absent realizing this investment, the plan is not succeeding.

1.

Performance of TIF revenues.

i.

During the 15-year review period, how do the annual TIF revenues collected compare to the estimated revenues?

ii.

Measures: Collected TIF revenues (per property appraiser and tax collector).

2.

Implementation of downtown redevelopment plan.

i.

During the 15-year review period, how has the city performed in implementing the downtown redevelopment plan with particular emphasis on use of TIF funds in implementation.

ii.

Measures:

a.

Capital projects built or almost complete compared to the capital improvement plan of the downtown redevelopment plan; and CRA programs and initiatives implemented compared to those in the downtown redevelopment plan implementation chapter.

b.

Changes in the employment opportunities in the downtown/CRA comparing the year of plan adoption to the 15th year after adoption.

3.

Effectiveness of downtown redevelopment plan at mitigating blighting influence.

i.

During the 15-year review period, did the actions implementing the downtown redevelopment plan have the desired effect of redeveloping the CRA?

ii.

Measures:

a.

Changes in the downtown/CRA assessed property value as compared to the city's assessed value between the years of plan adoption to the 15th year after adoption.

b.

Demographic changes in the downtown/CRA and in the city comparing the year of plan adoption to the 15th year after adoption.

c.

Housing changes in the downtown/CRA and in the city comparing the year of plan adoption to the 15th year after adoption.

d.

Property ownership rates, code violation enforcement rates and crime rates in the downtown/CRA and in the city comparing the year of plan adoption to the 15th year after adoption.

b.

The city shall submit the data and analysis to the county for the 15-year review no later than October 1, 2018.

c.

The board of county commissioners shall complete its review prior to March 1, 2019 and shall notify the community redevelopment agency in writing by March 1, 2019, if it intends to eliminate or reduce the amount and/or duration of the county's tax increment contribution after the 15th year of increment. In the absence of such notification, the contribution shall continue as provided herein.

(e)

Audits copies of reports of audits required by F.S. § 163.387(8) shall be provided to the board of county commissioners each fiscal year.

(Ord. No. 82-34, §§ 1—3, 10-26-82; Ord. No. 86-14, §§ 1—3, 4-15-86; Ord. No. 04-10, §§ 1—5, 2-3-04)

Sec. 38-63. - Bayboro Harbor redevelopment for City of St. Petersburg.

(a)

The creation of the redevelopment trust fund by the City of St. Petersburg, Florida, is hereby approved.

(b)

The county shall annually pay into the fund approved in this section a sum equal to the increment in the income, proceeds, revenues and funds of the county derived from, or held in connection with, the community redevelopment project area, for the use of St. Petersburg's Bayboro Harbor community redevelopment agency in its undertaking and carrying out of the community redevelopment project plan. The increment shall be determined and appropriated annually and shall be that amount equal to 95 percent of the difference between:

(1)

The amount of ad valorem taxes levied each year by or for the county, exclusive of any amount from debt service millage, on taxable real property contained within the geographic boundaries of the Bayboro Harbor community redevelopment area as defined in Resolution No. 85-434 of the City of St. Petersburg; and

(2)

The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for the county, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the above-described redevelopment area as shown upon the most recent assessment roll used in connection with the taxation of such property by each such taxing authority prior to the effective date of Ordinance No. 1027-F of the City of St. Petersburg providing for the funding redevelopment trust fund described above.

In calculating the increment, the amount of the ad valorem taxes levied based on the countywide debt service on county bonds shall be totally excluded from the calculation. All increments in this amount shall continue to be used for its voter-approved purpose and shall not be appropriated in any part to the fund. Any adjustments made in the appropriation will be based upon the final extended tax roll.

(c)

Beginning January 1, 2016, the increment shall be that amount equal to 85 percent of the difference between the amounts calculated in paragraphs (b)(1) and (b)(2) above.

(d)

The county shall annually pay to the fund the tax increment due the fund on January 1 of each taxable year. The county's obligation to annually appropriate to the fund on or before October 1 of each year shall commence immediately upon the effective date of the ordinance from which this section derives and continue until all loans, advances and indebtedness incurred as a result of the community redevelopment project have been paid (but not to exceed 30 years). Nothing in this section, however, shall require the City of St. Petersburg or the City of St. Petersburg's Bayboro Harbor community redevelopment agency to issue bonds or incur loans or other indebtedness as a condition precedent to the county depositing into the fund the amounts set forth in subsection (b) of this section. In no year shall the county's obligation to the fund exceed the amount of that year's tax increment as determined in subsection (b) of this section. Beginning with the 20th year after the date of sale of the initial bonding or indebtedness, if any, no new sale of bonds or indebtedness supported by the county's tax increment may occur nor may existing indebtedness so supported be refunded without approval of the board of county commissioners. The county's increment contributions are to be accounted for as a separate revenue within the fund but may be combined with other revenues for the purpose of paying debt service.

(e)

The redevelopment trust fund for the Bayboro Harbor Community Redevelopment Area shall terminate on March 17, 2018, and all tax increment funds remaining in the trust fund upon its termination shall be expended by September 30, 2021.

(f)

Copies of reports of audits required by F.S. § 163.387(8) shall be provided to the board of county commissioners each fiscal year.

(Ord. No. 88-45, §§ 1—4, 10-25-88; Ord. No. 15-41, § 1, 11-10-15)

Sec. 38-64. - City of Pinellas Park.

(a)

The creation of the redevelopment trust fund by the City of Pinellas Park, Florida, is hereby approved.

(b)

The county shall annually pay into the fund, a sum equal to the increment in the income, revenues and funds of the county derived from, or held in connection with the community redevelopment project area, for the use of the community redevelopment agency of the City of Pinellas Park in its undertaking and carrying out of the community redevelopment project plan. The increment shall be determined and appropriated annually and shall be that amount equal to 95 percent of the difference between:

(1)

The amount of ad valorem taxes levied each year by or for the county, exclusive of any amount from debt service millage, on taxable real property contained within the geographic boundaries of the redevelopment area; and

(2)

The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for the county, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the redevelopment area as shown upon the most recent assessment roll used in connection with the taxation of such property by each such taxing authority prior to the effective date of Ordinance No. 2462 of the City of Pinellas Park providing for the funding redevelopment trust fund described above.

In calculating the increment, the amount of the ad valorem taxes levied based on the countywide debt service on county bonds shall be totally excluded from the calculation. All increments in this amount shall continue to be used for its voter-approved purpose and shall not be appropriated in any part to the fund. Any adjustments made in the appropriation will be based upon the final extended tax roll.

(c)

The county shall annually pay to the fund the tax increment due the fund on January 1 of each taxable year. The county's obligation to annually appropriate to the fund on or before October 1 of each year shall commence immediately upon the effective date of this section and continue until all loans, advances and indebtedness incurred as a result of the community redevelopment project have been paid (but not to exceed 23 years as established by the city's and county's respective enactment of Ordinances No. 2047 and Ordinance No. 90-78, which said period shall end on January 1, 2020). Nothing in this section, however, shall require the City of Pinellas Park or the City of Pinellas Park's community redevelopment agency to issue bonds or incur loans or other indebtedness as a condition precedent to the county depositing into the fund the amounts set forth in subsection (b) of this section. In no year shall the county's obligation to the fund exceed the amount of that year's tax increment as determined in subsection (b) of this section. Beginning with the 13th year after the date of sale of the initial bonding or indebtedness, if any, no new sale of bonds or indebtedness supported by the county's tax increment may occur nor may existing indebtedness so supported be refunded without approval of the board of county commissioners. The county's increment contributions are to be accounted for as separate revenue within the fund but may be combined with other revenues for the purpose of paying debt service.

(d)

Copies of reports of audits required by F.S. § 163.387(8) shall be provided to the board of county commissioners each fiscal year.

(Ord. No. 90-78, §§ 1—4, 9-25-90; Ord. No. 98-29, §§ 1—4, 2-24-98)

Sec. 38-65. - Intown west community redevelopment area for City of St. Petersburg.

(a)

The creation of the redevelopment trust fund by the City of St. Petersburg, Florida, is hereby approved.

(b)

The county shall annually pay into the fund a sum equal to the increment in the income, proceeds, revenues and funds of the county derived from, or held in connection with, the community redevelopment project area, for the use of St. Petersburg's intown west community redevelopment agency in its undertaking and carrying out of the community redevelopment project plan. The increment shall be determined and appropriated annually and shall be that amount equal to 95 percent of the difference between:

(1)

The amount of ad valorem taxes levied each year by or for the county, exclusive of any amount from debt service millage, on taxable real property contained within the geographic boundaries of the intown west community redevelopment area as defined in Resolution No. 90-389 of the City of St. Petersburg; and

(2)

The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for the county, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the above-described redevelopment area as shown upon the most recent assessment roll used in connection with the taxation of such property by each such taxing authority prior to the effective date of Ordinance No. 2013-F of the City of St. Petersburg providing for the funding of the redevelopment trust fund described above.

In calculating the increment, the amount of the ad valorem taxes levied based on the countywide debt service on county bonds shall be totally excluded from the calculation. All increments in this amount shall continue to be used for its voter-approved purpose and shall not be appropriated in any part to the fund. Any adjustments made in the appropriation will be based upon the final extended tax roll.

(c)

The county shall annually pay to the fund the tax increment due the fund on January 1 of each taxable year. The county's obligation to annually appropriate to the fund on or before October 1 of each year shall commence immediately upon the effective date of this section and continue until all loans, advances and indebtedness incurred as a result of the community redevelopment project have been paid (but not to exceed 30 years). Nothing in this section, however, shall require the City of St. Petersburg or the City of St. Petersburg's intown west community redevelopment agency to issue bonds or incur loans or other indebtedness as a condition precedent to the county depositing into the funds the amounts set forth in subsection (b) of this section. In no year shall the county's obligation to the fund exceed the amount of that year's tax increment as determined in subsection (b) of this section. Beginning with the 20th year after the date of sale of the initial bonding or indebtedness, if any, no new sale of bonds or indebtedness supported by the county's tax increment may occur nor may existing indebtedness so supported be refunded without approval of the board of county commissioners. The county's increment contributions are to be accounted for as a separate revenue within the fund but may be combined with other revenues for the purpose of paying debt service.

(d)

Copies of reports of audits required by F.S. § 163.387(8) shall be provided to the board of county commissioners each fiscal year.

(Ord. No. 91-7, §§ 1—4, 1-29-91)

Sec. 38-66. - City of Safety Harbor.

(a)

The creation of the redevelopment trust fund by the City of Safety Harbor, Florida, is hereby approved.

(b)

The county shall annually pay into the fund approved in this section a sum equal to the increment in the income, process, revenues and funds of the county derived from, or held in connection with, the community redevelopment project area, for the use of the community redevelopment agency of the City of Safety Harbor in its undertaking and carrying out of the community redevelopment project plan. The increment shall be determined and appropriated annually and shall be that amount equal to 95 percent of the difference between:

(1)

The amount of ad valorem taxes levied each year by or for the county, exclusive of any amount from debt service millage, on taxable real property contained within the geographic boundaries of the redevelopment area; and

(2)

The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for the county, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the redevelopment area as shown upon the most recent assessment roll used in connection with the taxation of such property by each such taxing authority prior to the effective date of Ordinance No. 92-24 of the City of Safety Harbor providing for the funding redevelopment trust fund described above.

In calculating the increment, the amount of the ad valorem taxes levied based on the countywide debt service on county bonds shall be totally excluded from the calculation. All increments in this amount shall continue to be used for its voter-approved purpose and shall not be appropriated in any part to the fund. Any adjustments made in the appropriation will be based upon the final extended tax roll.

(c)

The county shall annually pay to the fund the tax increment due the fund on January 1 of each taxable year. The county's obligation to annually appropriate to the fund on or before October 1 of each year shall commence immediately upon the effective date of this section and continue until all loans, advances and indebtedness incurred as a result of the community redevelopment project have been paid (but not to exceed 30 years). Nothing in this section, however, shall require the City of Safety Harbor or the City of Safety Harbor's community redevelopment agency to issue bonds or incur loans or other indebtedness as a condition precedent to the county depositing into the fund the amounts set forth in subsection (b) of this section. In no year shall the county's obligation to the fund exceed the amount of that year's tax increment as determined in subsection (b) of this section. Beginning with the 20th year after the date of sale of the initial bonding or indebtedness, if any, no new sale of bond or indebtedness supported by the county's tax increment may occur nor may existing indebtedness so supported be refunded without approval of the board of county commissioners. The county's increment contributions are to be accounted for as separate revenue within the fund but may be combined with other revenues for the purpose of paying debt service.

(d)

Copies of reports of audits required by F.S. § 163.387(8) shall be provided to the board of county commissioners each fiscal year.

(Ord. No. 92-60, §§ 1—4, 10-6-92)

Sec. 38-67. - City of Gulfport.

(a)

The creation of the redevelopment trust fund by the City of Gulfport, Florida, is hereby approved.

(b)

The county shall annually pay into the fund approved in this section a sum equal to the increment in the income, process, revenues and funds of the county derived from, or held in connection with, the community redevelopment project area, for the use of the community redevelopment agency of the City of Gulfport in its undertaking and carrying out of the community redevelopment project plan. The increment shall be determined and appropriated annually and shall be that amount equal to 95 percent of the difference between:

(1)

The amount of ad valorem taxes levied each year by or for the county, exclusive of any amount from debt service millage, on taxable real property contained within the geographic boundaries of the redevelopment area; and

(2)

The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for the county, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the redevelopment area as shown upon the most recent assessment roll used in connection with the taxation of such property by each such taxing authority prior to the effective date of Ordinance No. 93-4 of the City of Gulfport providing for the funding redevelopment trust fund described above.

In calculating the increment, the amount of the ad valorem taxes levied based on the countywide debt service on county bonds shall be totally excluded from the calculation. All increments in this amount shall continue to be used for its voter-approved purpose and shall not be appropriated in any part to the fund. Any adjustments made in the appropriation will be based upon the final extended tax roll.

(c)

The county shall annually pay to the fund the tax increment due the fund on January 1 of each taxable year. The county's obligation to annually appropriate to the fund on or before October 1 of each year shall commence immediately upon the effective date of this section and continue until all loans, advances and indebtedness incurred as a result of the community redevelopment project have been paid (but not to exceed 30 years). Nothing in this section, however, shall require the City of Gulfport or the City of Gulfport's community redevelopment agency to issue bonds or incur loans or other indebtedness as a condition precedent to the county depositing into the fund the amounts set forth in subsection (b) of this section. In no

year shall the county's obligation to the fund exceed the amount of that year's tax increment as determined in subsection (b) of this section. Beginning with the 20th year after the date of sale of the initial bonding or indebtedness, if any, no new sale of bond or indebtedness supported by the county's tax increment may occur nor may existing indebtedness so supported be refunded without approval of the board of county commissioners. The county's increment contributions are to be accounted for as separate revenue within the fund but may be combined with other revenues for the purpose of paying debt service.

(d)

Copies of reports of audits required by F.S. § 163.387(8) shall be provided to the board of county commissioners each fiscal year.

(Ord. No. 93-67, §§ 1—4, 6-22-93)

Sec. 38-68. - City of Dunedin.

(a)

The creation of the redevelopment trust fund by the City of Dunedin, Florida, is hereby approved.

(b)

The county shall annually pay into the fund a sum equal to the increment in the income, proceeds, revenues, and funds of the county derived from, or held in connection with the community redevelopment project area, for the use of Dunedin's Community Redevelopment Agency in its undertaking and carrying out of the community redevelopment project plan. The increment shall be determined and appropriated annually and shall be that amount equal to 95 percent of the difference between:

(1)

The amount of ad valorem taxes levied each year by or for the county, exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries of the redevelopment area as defined in Resolution No. 88-128 of Pinellas County; and

(2)

The amount of ad valorem taxes which would have been produced by the rate upon which the taxes levied each year by or for the county, exclusive of any debt service millage, upon the total of the assessed value of the taxable property in the above-described redevelopment area as shown upon the most recent assessment roll used in connection with the taxation of such property by each taxing authority prior to the effective date of the ordinance of the City of Dunedin providing for the funding of the redevelopment trust fund described above.

In calculating the increment, the amount of the ad valorem taxes levied based on the countywide debt service on county bonds shall be totally excluded from the calculation. All increments in this amount shall continue to be used for its voter-approved purposes and shall not be appropriated in any part of the fund. Any adjustments made in the appropriation will be based upon the final extended tax roll. In no year shall the county's obligation to the fund exceed the amount of that year's tax increment as determined in this subsection of this ordinance.

(c)

Beginning with the twentieth (20th) year after the date of sale of the initial bonding or indebtedness, if any, no new sale of bonds or indebtedness supported by the county's tax increment may occur nor may existing indebtedness so supported be refunded without approval of the board of county commissioners. The county's increment contributions are to be accounted for as a separate revenue within the fund but may be combined with other revenues for the purpose of paying debt service.

(d)

The county shall annually appropriate to the fund the tax increment due the fund at the beginning of the county fiscal year. However, the fund shall receive the tax increment only if and when such taxes are collected. The county's obligation to annually appropriate to the fund shall continue for 45 years from the effective date of Ordinance 88-67.

(e)

Mid-term review. Notwithstanding the duration established in subsection (d), above, in 2025, the county may review its tax increment contribution to determine whether given the totality of the circumstances, it continues to be appropriate to dedicate the county portion of tax increment at the existing level, beyond year 2025. The county may continue the contribution or eliminate it, provided that there shall be no reduction in the dedication of tax increment revenues for as long as there are unpaid loans, advances or indebtedness approved as provided herein and secured by the county's tax increment revenues. Nothing herein precludes the county from considering dedication at a reduced commitment provided that option is legally available. The approval may require the city to seek additional funding sources for the redevelopment plans and projects that will be in addition to any tax increment financing.

(f)

Redevelopment conditions for tax increment financing (TIF) mid-term review. The success of the plan relies on public investment to stimulate investment in residential, employment and retail uses so that the community redevelopment area is marketable.

(1)

Performance of TIF revenues.

a.

During the mid-term review period, how do the annual TIF revenues collected compare to the projected revenues?

b.

Measures: Collected TIF revenues (per property appraiser and tax collector).

(2)

Implementation of Downtown Master Plan 2033.

a.

During the mid-term review period, how did the City perform in implementing the Downtown Master Plan 2033 with particular emphasis on use of TIF funds in implementation?

b.

Measure: Progress made in implementing Table 12 and Table 13 in the Capital Improvements Chapter of the Downtown Master Plan 2033.

(3)

Effectiveness of the Downtown Master Plan 2033 at Mitigating Blighting Influences.

a.

During the mid-term review period, did the actions implementing the Downtown Master Plan 2033 have the desired effect of redeveloping the CRA and reducing blighting influences?

b.

Measures.

i.

Defective or inadequate street layout: A comparison of the changes to enhance walkability and other methods of travel along with securing additional downtown parking between year 2012 and year 2025.

ii.

Tax revenue: The percentage of citywide tax revenues that were collected from properties in the Redevelopment District in Year 2012 and in Year 2025.

iii.

Diversity of ownership: Progress in capitalizing on strategic Downtown vacant parcels to foster economic development during the period year 2012 to year 2025.

(g)

The city shall submit the data and analysis to the county for the mid-term review no later than October 1, 2025. The board of county commissioners shall complete its review prior to April 5, 2026 and shall notify the Dunedin Community Redevelopment Agency, in writing, by April 5, 2026, if it intends to eliminate or reduce the amount and/or duration of the county's tax increment contribution after the 37th year of increment. In the absence of such notification, the contribution shall continue as provided herein.

(h)

Copies of reports of audits required by F.S. § 163.387(8) shall be provided to the Board of County Commissioners of Pinellas County each year.

(Ord. No. 88-67, §§ 1—4, 12-20-88; Ord. No. 12-26, § 1, 7-10-12)

Sec. 38-69. - City of Oldsmar.

(a)

The creation of the redevelopment trust fund by the City of Oldsmar, Florida, is hereby approved.

(b)

The county shall annually pay into the fund, an amount equal to that increment in the income, proceeds, revenues and funds of the county derived from, or held in connection with Oldsmar's community redevelopment area, and the Oldsmar community redevelopment agency's undertaking and carrying out of the community redevelopment project plan. Said increment shall be determined and appropriated annually and shall be that amount equal to 95 percent of the difference between:

(1)

The amount of ad valorem taxes levied each year by or for the county, exclusive of any amount from debt service millage, on taxable real property contained within the geographic boundaries of Oldsmar's community redevelopment area;

(2)

The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for the county, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in Oldsmar's community redevelopment area as shown upon the most recent assessment roll used in connection with the taxation of such property by each such taxing authority prior to the effective date of Ordinance No. 96-11 of the City of Oldsmar providing for the funding redevelopment trust fund described above.

In calculating the increment, the amount of the ad valorem taxes levied based on the countywide debt service on county bonds shall be totally excluded from the calculation. All increments in this amount shall continue to be used for its voter-approved purpose and shall not be appropriated in any part to the fund. Any adjustments made in the appropriation will be based upon the final extended tax roll.

(c)

The county shall annually pay to the fund the tax increment due the trust fund on January 1 of each taxable year. The county's obligation to annually appropriate to the fund on or before October 1 of each year shall commence immediately upon the effective date of this section and continue until all loans, advances and indebtedness, if any, and interest thereon incurred by Oldsmar's community redevelopment agency as a result of the community redevelopment project have been paid (but not to exceed 30 years). Nothing in this section, however, shall require the City of Oldsmar or the City of Oldsmar's community redevelopment agency to issue bonds or incur loans or other indebtedness as a condition precedent to the county depositing into the fund the amounts set forth in subsection (b) hereof.

In no year shall the county's obligation to the exceed the amount of that year's tax increment as determined in subsection (b) of this section. Beginning with the 20th year after the date of sale of the initial bonding of indebtedness, if any, no new sale of bonds or indebtedness supported by the county's tax increment may occur nor may existing indebtedness so supported be refunded without approval of the board of county commissioners. The county's increment contributions are to be accounted for as separate revenue within the fund but may be combined with other revenues for the purpose of paying debt service.

(d)

Copies of reports of audits required by F.S. § 163.387(8) shall be provided to the board of county commissioners each fiscal year.

(Ord. No. 96-74, §§ 1—4, 9-24-96)

Sec. 38-70. - City of Tarpon Springs.

(a)

The creation of the redevelopment trust fund by the City of Tarpon Springs, Florida, is hereby approved.

(b)

The county shall annually pay into the fund, a sum equal to the increment in the income, process, revenues, and funds of the county derived from, or held in connection with the community redevelopment project area, for the use of the community redevelopment agency of the City of Tarpon Springs in its undertaking and carrying out of the community redevelopment project plan. The increment shall be determined and appropriated annually and shall be that amount equal to 95 percent of the difference between:

(1)

The amount of ad valorem taxes levied each year by or for the county, exclusive of any amount from debt service millage, on taxable real property contained within the geographic boundaries of the redevelopment area; and

(2)

The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for the county, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the redevelopment area as shown upon the most recent assessment roll used in connection with the taxation of such property by each such taxing authority prior to the effective date of Ordinance 2001-24 of the City of Tarpon Springs providing for the funding redevelopment trust fund described above.

In calculating the increment, the amount of the ad valorem taxes levied based on the county-wide debt service on county bonds shall be totally excluded from the calculation. All increments in this amount shall continue to be used for its voter-approved purpose and shall not be appropriated in any part to the fund. Any adjustments made in the appropriation will be based upon the final extended tax roll.

(c)

The county shall annually pay to the fund the tax increment due the fund on January 1 of each taxable year. The county's obligation to annually appropriate to the fund on or before October 1 of each year shall commence immediately upon the effective date of this section and continue until all loans, advances and indebtedness incurred as a result of the community redevelopment project have been paid (but not to exceed 30 years). Nothing in this section, however, shall require the City of Tarpon Springs or the City of Tarpon Springs community redevelopment agency to issue bonds or incur loans or other indebtedness as a condition precedent to the county depositing into the fund the amounts set forth in subsection (b) hereof.

In no year shall the county's obligation to the fund exceed the amount of that year's tax increment as determined in subsection (b) of this section. Beginning with the 20th year after the date of sale of the initial bonding or indebtedness, if any, no new sale of bond or indebtedness supported by the county's tax increment may occur nor may existing indebtedness so supported by refunded without approval of the board of county commissioners. The county's increment contributions are to be accounted for as separate revenue within the fund but may be combined with other revenues for the purpose of paying debt service.

(d)

Copies of reports of audits required by F.S. § 163.387(8), shall be provided to the board of county commissioners each fiscal year.

(Ord. No. 01-66, §§ 1—4, 9-18-01)

Sec. 38-71. - South St. Petersburg community redevelopment area for the City of St. Petersburg.

(a)

The creation of the redevelopment trust fund by the City of St. Petersburg, Florida, for the South St. Petersburg Community Redevelopment Area (the "fund"), is hereby approved.

(b)

The county shall annually pay to the City of St. Petersburg for deposit to the fund a sum equal to the increment in the income, proceeds, revenues, and funds of the county derived from or held in connection with the South St. Petersburg Community Redevelopment Area, for the use of St. Petersburg's Community Redevelopment Agency in its undertaking and carrying out of the South St. Petersburg Community Redevelopment Plan. The increment shall be determined annually and shall be that amount equal to 85 percent of the difference between:

(1)

The amount of ad valorem taxes levied each year by or for the county, exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries of the South St. Petersburg Community Redevelopment Area; and

(2)

The amount of ad valorem taxes which would have been produced by the rate upon which the taxes levied each year by or for the county, exclusive of any debt service millage, upon the total of the assessed value of the taxable property in the South St. Petersburg Community Redevelopment Area as shown upon the most recent assessment roll used in connection with the taxation of such property by each taxing authority prior to the effective date of Ordinance 175-H of the City of St. Petersburg providing for the appropriation to the fund.

(c)

In calculating the increment, the amount of the ad valorem taxes levied based on the countywide debt service on existing or future county bonds shall be totally excluded from the calculation. All increments in this amount shall continue to be used for its voter-approved purposes and shall not be appropriated in any part of

the fund. Any adjustments made in the appropriation will be based upon the final extended tax roll.

(d)

Subject to the limitations provided herein, the county shall annually budget, appropriate and pay to the fund the tax increment due the fund prior to April 15 of each taxable year. The county's obligation to annually budget and appropriate on or before October 1 and pay over to the fund by April 15 of each year shall commence after the City Council of the City of St. Petersburg and the Board of County Commissioners of Pinellas County have both approved amendments to the intown redevelopment plan (IRP) and interlocal agreement that 1) reduce Pinellas County's contribution to the IRP redevelopment trust fund to 85 percent of the annual tax increment created each year in the intown community redevelopment area and 2) increase the IRP capital projects financed with tax increment funds by $20,000,000.00 for implementation of the downtown waterfront master plan. The county's obligation shall continue until all loans, advances and indebtedness incurred as the result of the South St. Petersburg Community Redevelopment Plan have been paid (but not to extend beyond May 21, 2045).

(e)

The county's increment contributions are to be accounted for as a separate revenue account within the fund, but may be combined with other revenues for the purpose of paying debt service with approval of the board of county commissioners. In no year shall the county's obligation to the fund exceed the amount of that year's tax increment as determined in subsection (b). No sale of bonds or indebtedness supported by the county's tax increment may occur nor may existing indebtedness so supported be refunded without approval of the board of county commissioners.

(f)

Duration of the fund.

(1)

The county's obligation to annually appropriate to the fund shall commence immediately upon the effective completion of subsection (d) above and continue until May 21, 2045, subject to subsection (1)a. below.

a.

Fifteen-year review. Notwithstanding the duration of the fund established in subsection (f)(1) above, on or before April 1, 2031, the county may review its tax increment contribution to the fund to determine whether given the totality of the circumstances, it continues to be prudent to dedicate the county portion of the tax increment revenues at the existing level, beyond 15 years, provided that there shall be no reduction in the dedication of tax increment revenues for as long as there are unpaid loans, advances or indebtedness approved as provided herein and secured by the county's tax increment revenues.

b.

Redevelopment conditions for 15-year tax increment financing (sometimes hereinafter referred to as "TIF") review. The success of the plan relies on significant private investment in residential, employment and business development uses so that the community redevelopment area is desirable as a place to live and work. The following are the performance criteria:

1.

Performance of TIF revenues.

i.

During the 15-year review period, how do the annual TIF revenues collected compare to the estimated TIF revenue growth in the South St. Petersburg Community Redevelopment Plan?

ii.

Measures: Collected TIF revenues (per property appraiser and tax collector).

2.

Implementation of South St. Petersburg Community Redevelopment Plan.

i.

During the 15-year review period, how has the City of St. Petersburg performed in implementing the South St. Petersburg Community Redevelopment Plan?

ii.

Measures.

a.

Changes in the total assessed property values within the South St. Petersburg Community Redevelopment Area compared to the total assessed property values for the City of St. Petersburg comparing the year 2015 to year 2030.

b.

Changes in employment opportunities in the South St. Petersburg Community Redevelopment Area comparing year 2015 to the year 2030.

c.

Changes in affordable housing availability in the South St. Petersburg Community Redevelopment Area comparing year 2015 to year 2030.

3.

Effectiveness of the South St. Petersburg Community Redevelopment Plan at addressing conditions of blight within the South St. Petersburg Community Redevelopment Area.

i.

During the 15-year review period, do the actions and programs implementing the South St. Petersburg Community Redevelopment Plan have the desired effect of redeveloping the South St. Petersburg Community Redevelopment Area?

ii.

Measures.

a.

A comparison, from the year 2015 to year 2030, of the changes in the median household income in the South St. Petersburg Community Redevelopment Area to the citywide median household income.

b.

A comparison of the land-value to improvement-value in the South St. Petersburg Community Redevelopment Area from year 2015 to year 2030.

c.

The extent of deteriorated properties in the South St. Petersburg Community Redevelopment Area compared to the rest of the City of St. Petersburg from the year 2015 to year 2030.

c.

The City of St. Petersburg shall submit all data and analysis to the county as well as additional data requested by the county to perform the 15-year review no later than October 1, 2030.

d.

The board of county commissioners shall complete its review prior to April 1, 2031, and shall notify the City of St. Petersburg in writing by April 30, 2031, if it intends to eliminate or reduce the amount and/or duration of the county's tax increment contribution as permitted herein. In the absence of such notification, the contribution shall continue as provided herein.

(g)

Review and audit.

(1)

Copies of reports of audits required by F.S. § 163.387(8) shall be provided to the board of county commissioners each fiscal year.

(2)

Annual progress reports to be prepared by the City of St. Petersburg shall be submitted to the county with a due date of March 31 of each reporting year to begin in 2017 and continue until 2045. The reports shall describe the progress of the redevelopment plan relative to benchmarks and performance measures established by the South St. Petersburg Community Redevelopment Agency and detail expenditures from Pinellas County's account within the South St. Petersburg Community Redevelopment Trust Fund.

(Ord. No. 15-27, § 1, 6-23-15)

Secs. 38-72—38-80. - Reserved.

DIVISION 3. - TENANT RELOCATION PLAN

Sec. 38-81. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Community redevelopment area means a slum area, a blighted area, or an area in which there is a shortage of housing that is affordable to residents of low and moderate income, including the elderly, or a combination thereof, which the governing body designates as appropriate for community redevelopment and designated in accordance with F.S. ch. 163, pt. III (F.S. § 163.330 et seq.).

Governing body means the city council or other legislative body charged with governing the county or municipality.

Low and moderate income means a household income that does not exceed 80 percent of the median income for the Tampa/St. Petersburg/Clearwater metropolitan statistical area as determined by the United States Department of Housing and Urban Development and adjusted for household size.

Reasonable relocation expenses means:

(1)

Moving expenses of the displaced persons and their personal property for a distance of 25 miles. Transportation cost for a distance beyond 25 miles can be justified. The discretion to determine whether moving costs beyond 25 miles are reasonable and necessary is left with the community redevelopment agency or the official responsible for providing assistance.

(2)

First and last month's rent.

(3)

Security deposit.

(4)

Utility deposits and/or reconnection of utilities (not including payment of delinquent accounts, line extensions or other capital expenses).

(Ord. No. 93-94, § 4, 10-19-93)

Cross reference— Definitions generally, § 1-2.

Sec. 38-82. - Authority.

The county is authorized by F.S. ch. 163, pt. III (F.S. § 163.330 et seq.), as amended, and the county comprehensive plan policy 1.6.8 to consider the needs of residents of community redevelopment areas and require a plan for equitable and reasonable relocation.

(Ord. No. 93-94, § 1, 10-19-93)

Sec. 38-83. - Applicability.

The minimum relocation guidelines outlined in this division are applicable to community redevelopment agency sponsored or assisted redevelopment activities involving the acquisition of land by the community redevelopment agency or local government.

(Ord. No. 93-94, § 5, 10-19-93)

Sec. 38-84. - Incorporation in redevelopment plans.

The board of county commissioners shall incorporate the relocation plan provided in this division, at a minimum, into the preparation of a community redevelopment plan and any amendments to the plan.

(Ord. No. 93-94, § 2, 10-19-93)

Sec. 38-85. - Plan review for compliance with relocation policy.

As part of the board of county commissioners' reserved authority to approve and review plans and plan amendments, the board will review all plans and plan amendments for compliance with the provisions of the division.

(Ord. No. 93-94, § 3, 10-19-93)

Sec. 38-86. - Minimum required plan provisions.

All community redevelopment plans shall contain provisions regarding residential relocation that occurs within the geographical boundaries of a redevelopment area and shall require the community redevelopment agency to do the following:

(1)

Make its best effort to provide written notice to residential tenants who will be displaced 60 days prior to loss of possession;

(2)

Provide advisory services, as appropriate, including counseling, referrals to suitable, decent, safe, and sanitary replacement housing which is comparable and within the tenant's financial means; and

(3)

Provide payment and/or reimbursement of actual reasonable relocation expenses for displaced low and moderate income residential tenants of up to $1,000.00 per household.

(Ord. No. 93-94, § 6, 10-19-93)

Secs. 38-87—38-115. - Reserved.

ARTICLE IV. - COMMUNITY HOUSING TRUST FUND PROGRAM[4]

Footnotes:
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Editor's note—Ord. No. 09-44, § 1, adopted July 21, 2009, amended Art. IV in its entirety to read as herein set out. Former Art. IV, §§ 38-116—38-119, pertained to similar subject matter, and derived from Ord. No. 06-28, §§ 1—4, adopted March 14, 2006.

Sec. 38-116. - Definitions.

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adjusted for family size means adjusted in a manner based upon a formula established by the United States Department of Housing and Urban Development or other such method approved by the board.

Annual gross income means annual income as defined under the Section 8 housing assistance payments programs in 24 C.F.R. part 5; annual income as reported under the census long form for the recent available decennial census; or adjusted gross income as defined for purposes of reporting under Internal Revenue Service Form 1040 for individual federal annual income tax purposes; or annual income as defined by the Department of the Treasury for Mortgage Revenue Bond programs; or other such methods approved by the board. Income shall be calculated by annualizing verified sources of income to be received by the household during the 12 months following the effective date of the determination.

Award means a loan or grant funded wholly or partially by the Pinellas Community Housing Trust Fund Program.

Community housing means any real or personal property located within the county that is designed and intended for the primary purpose of providing decent, safe, and sanitary residential units for home ownership, or rental at an affordable cost to a range of income categories including very low-income, low-income, and moderate-income households.

Eligible person or eligible household means one or more natural persons or a family determined by the HFA to be of very low-income, low-income, or moderate-income according to the income limits, adjusted to family size, published annually by the United States Department of Housing and Urban Development or the Department of the Treasury based upon the annual gross income of the household.

Eligible sponsor means a person or a private or public entity, for profit or not-for-profit, that applies for an award under a local housing assistance plan for the purpose of providing eligible housing for eligible persons.

Encumbered means that deposits made to the local housing assistance fund have been committed by contract, or purchase order, letter of commitment or award in a manner that obligates the HFA, or interlocal entity, to expend the encumbered amount upon delivery of goods, the rendering of services, or the conveyance of real property by a vendor, supplier, contractor, or owner.

Entitlement community means a local government that is eligible for Federal Community Development Block Grant entitlement monies as an entitlement community identified in 24 C.F.R. s. 570, subpart D, Entitlement Grants.

Expenditure, expended, or spent means the affordable housing activity is complete, and housing trust fund

proceeds have been transferred from a local housing assistance fund account to pay for the cost of the activity. In all cases, this definition will apply when the project is completed as evidenced by documentation of final payment to the contractor and release of all lien waivers, issuance of the certificate of occupancy by the local building department, and occupancy by an eligible person or eligible household. In the case of a loan guarantee strategy, housing trust fund proceeds will be considered expended when they are deposited into the guarantee fund.

Fund shall mean the housing trust fund established herein.

Grant means an award from the local housing assistance fund to an eligible sponsor or eligible person to partially assist in the construction, rehabilitation, or financing of eligible housing or to provide the cost of tenant or ownership qualifications without requirement for repayment as long as the condition of award is maintained.

Housing assistance strategies means the housing construction, rehabilitation, repair, or finance programs implemented by the HFA with housing trust fund proceeds or other housing assistance funds.

Loan means an award from the local housing assistance fund to an eligible sponsor or eligible person to partially finance the acquisition, construction, or rehabilitation of eligible housing with requirement for repayment to the local housing assistance fund.

Local housing assistance fund means a special revenue fund established by the HFA for the purpose of receiving deposits of, and accounting for encumbrances and expenditures of, housing trust fund proceeds, program income, recaptured funds, or other housing assistance funds.

Low-income person or low-income household means one or more natural persons or a household that has a total annual gross household income that does not exceed 80 percent of the median annual income, adjusted for family size, for households within the Tampa/St. Petersburg metropolitan statistical area or the county, whichever amount is greatest. With respect to rental units, the low-income household's annual income at the time of initial occupancy may not exceed 80 percent of the area's median income, adjusted for family size. While occupying the rental unit, a low-income household's annual income may increase to an amount not to exceed 140 percent of 80 percent of the area's median income, adjusted for family size.

HFA means the Housing Finance Authority of Pinellas County.

Housing trust fund proceeds means the proceeds of the taxes and other revenue sources deposited into the housing trust fund and distributed to eligible sponsors or eligible persons participating in the Pinellas Community Housing Trust Fund Program.

Minor rehabilitation means rehabilitation repairs or improvements which do not increase the value of a unit by more than 50 percent.

Moderate-income person or moderate-income household means one or more natural persons or a household that has a total annual gross household income that does not exceed 120 percent of the median annual income, adjusted for family size, for households within the Tampa/St. Petersburg metropolitan statistical area or the county, whichever is greatest. With respect to rental units, the moderate-income household's annual income at the time of initial occupancy may not exceed 120 percent of the area's median income, adjusted for family size. While occupying the rental unit, a moderate-income household's annual income may increase to an amount not to exceed 140 percent of 120 percent of the area's median income, adjusted for family size.

Persons with special needs means individuals who have incomes not exceeding moderate income and, because of particular social, economic, or health-related circumstances, may have greater difficulty acquiring or maintaining affordable housing. Such persons may include, but are not limited to, elderly persons 62 years of age or greater, homeless persons, persons with developmental or physical disabilities, persons with mental illnesses or chemical dependency, persons living with Acquired Immune Deficiency Syndrome (AIDS) or Human Immunodeficiency Virus (HIV) disease, runaway and abandoned youth, youth aging out of foster care.

Program income means the proceeds derived from interest earned on, or investment of, the housing trust fund proceeds and other funds deposited into the local housing assistance fund, proceeds from loan repayments, recycled funds, and all other income derived from use of housing trust fund proceeds. Program income does not include recaptured funds, as defined herein.

Recaptured funds means funds that are recouped by the HFA from eligible persons or eligible sponsors who default or violate the terms of a grant award, or loan award, or as corrective action for failure to comply with program requirements or rules.

Rental assistance means ongoing monthly rental payments for a period not to exceed one year. The term does not include initial assistance to tenants, such as grants or loans for security and utility deposits.

Sales price or value means, in the case of acquisition of an existing or newly constructed unit, the amount on the executed sales contract. For eligible persons who are building a unit on land that they own, the sales price is determined by an appraisal performed by a state-certified appraiser. The appraisal must include the value of the land and the improvements, using the after-construction value of the property, and must be dated within 12 months of the date construction is to commence. In the case of rehabilitation or emergency repair of an existing unit that does not create additional living space, sales price or value means the value of the real property, as determined by an appraisal performed by a state-certified appraiser, and dated within 12 months of the date construction is to commence, or the assessed value of the real property as determined by the county property appraiser. In the case of rehabilitation of an existing unit that includes the addition of new living space, sales price or value means the value of the real property, as determined by an appraisal performed by a state-certified appraiser and dated within 12 months of the date construction is to commence, or the assessed value of the real property as determined by the county property appraiser, plus the cost of the improvements in either case. Alternative methods may be approved by the board.

Very low-income person or very low-income household means one or more natural persons or a household that has a total annual gross household income that does not exceed 50 percent of the median annual income adjusted for family size for households within the Tampa/St. Petersburg metropolitan statistical area or the county, whichever is greatest. With respect to rental units, the very low-income household's annual income at the time of initial occupancy may not exceed 50 percent of the area's median income adjusted for family size. While occupying the rental unit, a very low-income household's annual income may increase to an amount not to exceed 140 percent of 50 percent of the area's median income adjusted for family size.

(Ord. No. 09-44, § 1, 7-21-09)

Sec. 38-117. - Pinellas Community Housing Trust Fund Program.

The Pinellas Community Housing Trust Fund Program ("program") is created for the purpose of providing funds to promote homeownership and to expand the production and preservation of rental and owner housing affordable to very low-income, low-income, and moderate-income households. The program shall include the

following:

(1)

The program shall be administered by the HFA on behalf of the board pursuant to an interlocal agreement as authorized by Resolution No. 05-237.

(2)

The board authorizes and directs the HFA to establish a special revenue fund for housing trust fund proceeds designated as the housing trust fund, for the purpose of implementing the program. There shall be deposited into the fund a portion of the general revenue tax and other revenue sources as determined by the board. Housing trust fund proceeds that are not currently needed for the purposes of the program administered shall be deposited to the credit of the fund and may be invested as provided by law. The interest received on any such investment shall be credited to the fund. The funds deposited to the local housing assistance fund must be encumbered within 24 months and expended within 60 months from the end of the county fiscal year in which the funds are distributed. Exceptions to this time frame may be approved by a super majority vote of the HFA on a case-by-case basis. Exceptions will only be granted for good cause. Examples of good cause are natural disasters, requirements of other federal, state and local agencies, adverse market conditions, and others. Full documentation must be submitted to the HFA before an extension will be considered (e.g., project status, work plan and completion schedule and commitment of funds).

(3)

To receive funds under the program, an eligible sponsor must submit a complete application to the HFA demonstrating compliance and eligibility with the program requirements herein and rules established by the HFA.

(4)

Funds distributed under this program may not be used to pay the debt service.

(5)

The HFA shall adopt rules, policies, and procedures necessary to implement the program.

(Ord. No. 09-44, § 1, 7-21-09)

Sec. 38-118. - Housing assistance strategies; partnerships.

(a)

Housing assistance strategies shall be developed and implemented to make affordable residential units available to persons of very low-income, low-income, or moderate-income, and to persons with special needs. Housing assistance strategies are intended to increase the availability of affordable residential units by combining local resources and leveraging private and public funds to reduce the cost of housing.

(1)

Eligible housing assistance strategies may allocate housing trust fund proceeds to:

a.

Produce new rental and owner housing. Eligible costs include, but are not limited to, land acquisition, predevelopment costs, site development, and construction activities.

b.

Preserve existing rental and owner housing. Eligible costs include, but are not limited to, the purchase and renovation of existing units and preserving expiring use properties.

c.

Promote housing opportunities. Eligible costs include, but are not limited to, down payment and closing cost assistance, interest-rate buy-downs, matched savings programs, tenant-based rental assistance, and employer-assisted housing programs.

d.

Provide housing services. Eligible activities include, but are not limited to, homebuyer counseling, budgeting and financial literacy, landlord-tenant counseling, and self-sufficiency counseling.

(2)

HFA shall have a policy assuring that housing trust fund proceeds are not used in conjunction with, or subordinated to, sub-prime loans or with loans to which fees are added in excess of two percent of the purchase price or rehabilitation amount.

(3)

HFA shall have a policy prohibiting subordination of housing trust fund proceeds in any instance where the borrower withdraws cash, including debt consolidation, as a result of the subordination, unless such cash proceeds are used to improve the real property and the proceeds of such improvement are distributed by the entitlement community to a licensed contractor.

(b)

HFA shall assure the involvement of appropriate public sector and private sector entities as partners in order to combine resources to reduce housing costs for the targeted population. This partnership process may involve, but not be limited to:

(1)

Lending institutions.

(2)

Housing builders and developers.

(3)

Nonprofit and other community-based housing and service organizations.

(4)

Providers of professional services relating to affordable housing.

(5)

Advocates for low-income persons.

(6)

Real estate professionals.

(7)

Other persons or entities who can assist in providing housing or related support services.

(c)

Each housing assistance strategy shall be governed by the criteria and administrative procedure established by the HFA, and approved by the board.

(d)

The HFA shall apply the following minimum criteria to awards made to eligible sponsors or eligible persons for the purpose of providing eligible housing through an approved local housing assistance plan:

(1)

Housing trust fund proceeds must be leveraged at a minimum ratio of 2:1.

(2)

A minimum of 80 percent of housing trust fund proceeds must be utilized as either non-forgiven loans that generate program income or for the direct acquisition of land. Land acquired must be used to ensure that adequate sites for affordable community housing exist and remain available and shall be restricted by perpetual affordability requirements. Any housing trust fund proceeds used for land acquisition shall be recaptured upon the sale, transfer, or other disposition of the property unless otherwise approved by the board.

(3)

A minimum of 15 percent of housing trust fund proceeds must benefit persons with special needs or persons earning 30 percent or less of the area median income.

(4)

The sales price, value, or affordable rents, as applicable, of new or existing eligible housing may not exceed the maximum sales prices, values, and affordable rents established annually by the HFA.

(5)

All units constructed, rehabilitated, or otherwise assisted with housing trust fund proceeds must be occupied

by very low-income persons, low-income persons, or moderate-income persons.

(6)

The number of units assisted with housing trust fund proceeds in multi-unit housing projects shall be proportionate to the ratio of housing trust fund proceeds to total project cost.

(7)

Loans or grants for eligible rental housing constructed, rehabilitated, or otherwise assisted from housing trust fund proceeds must include a land use or deed restriction to assure continued use serving the eligible population for a period of not less than 30 years or the term of the loan, whichever is greater. Eligible sponsors that offer rental housing for sale before the affordability term must offer first right of refusal to eligible nonprofit organizations for purchase at the current market value, as determined by independent appraisal, for continued occupancy by eligible persons.

(8)

Loans or grants for minor rehabilitation of eligible housing units assisted with housing trust fund proceeds must include affordability restrictions to assure continued use serving eligible persons for a period of not less than five years.

(9)

Loans or grants for eligible homeowner housing constructed, acquired, rehabilitated, or otherwise assisted with housing trust fund proceeds, with the exception of minor rehabilitation, must include affordability restrictions to assure continued use serving eligible persons for a period of not less than 20 years.

(10)

Housing trust fund proceeds shall be subject to the recapture funds requirements set forth herein if affordability restrictions are not met.

(11)

The maximum sales price or value per unit and the maximum award per unit for eligible housing benefiting from awards made pursuant to this section must be established annually.

(12)

The benefit of assistance provided through the Pinellas Community Housing Trust Fund Program must accrue to eligible persons occupying eligible housing. This provision shall not be construed to prohibit use of housing trust fund proceeds for a mixed-income or mixed-use development to the extent that housing trust fund proceeds are used specifically to fund the eligible housing portion of the development.

(e)

All housing trust fund proceeds, program income, recaptured funds, and other funds received or budgeted to implement the local housing assistance plan shall be deposited into the local housing assistance fund; however, housing trust fund proceeds and program income resulting from housing trust fund proceeds used to match federal HOME program expenditures may be repaid to the HOME program fund if required by federal

law or regulations. Expenditures other than for the administration and implementation of the local housing assistance plan may not be made from the fund.

(f)

All housing trust fund proceeds deposited in the local housing assistance fund shall be used to administer and implement the local housing assistance plan. The cost of administering the plan may not exceed ten percent of the housing trust fund proceeds and program income deposited into the local housing assistance fund. Administrative expenses may not be charged against recaptured funds.

(g)

The HFA shall provide an annual report to the board on the activities and accomplishments of the Pinellas Community Housing Trust Fund program by January 15 of each year. The report must include, but is not limited to:

(1)

The number of households served by income category, age, family size, and race, and data regarding any special needs populations such as homeless persons, and the elderly.

(2)

The number of units and the average cost of producing units under each local housing assistance strategy.

(3)

The average area purchase sales price or value of single-family units and the amount of rent charged for rental units based on unit size.

(4)

The sales price or value of housing produced and an accounting of what percentage was financed by the housing trust fund proceeds, other public monies, and private resources.

(5)

Such other data or affordable housing accomplishments considered significant by the HFA.

(6)

Such other data as required by the HFA in administering the Pinellas Community Housing Trust Fund Program.

(Ord. No. 09-44, § 1, 7-21-09)

Sec. 38-119. - Areas embraced.

The provisions of this article shall apply within the geographical boundaries of Pinellas County.

(Ord. No. 09-44, § 1, 7-21-09)

Secs. 38-120—38-140. - Reserved.

ARTICLE V. - COUNTYWIDE HISTORIC PRESERVATION PROGRAM

Sec. 38-141. - Established.

A countywide historic preservation program is established.

(Ord. No. 08-11, § 1, 2-19-08)

Sec. 38-142. - Declaration of historic preservation as public policy.

(a)

The board of county commissioners finds that Pinellas County and its municipalities have played an important part in the history of the State of Florida and the nation and that history is evidenced by the historic resources located throughout Pinellas County. Historic resources are defined to include historic buildings, structures and objects, historic districts and archaeological sites. The board further finds that the preservation and protection of these historic resources are a public necessity due to their character and value as visible reminders of the shared history and heritage of these municipalities, Pinellas County, Florida and the nation.

(b)

The board finds that the preservation and protection of these historic resources contribute to the education, culture, economy and quality of life of the citizens of Pinellas County. The board further finds that the county's historic resources are irreplaceable and therefore, this legacy must be protected for future generations.

(c)

The board finds that preservation of historic resources will assist in the creation of a higher quality of life for all citizens; therefore, the board directs that historic preservation goals be integrated into all aspects of county policies and procedures and encourages decisions that support and further the goals of historic preservation.

(Ord. No. 08-11, § 2, 2-19-08)

Sec. 38-143. - Benefits of historic preservation.

The board of county commissioners finds that there are many diverse and valuable benefits that arise from historic preservation including the following benefits:

(1)

Historic resources are a tangible reminder of our past, of our ancestors and their way of life. The preservation of these historic resources educates us about our past, expresses the connections across generations and cultures and provides continuity of our shared history.

(2)

Historic resources are valued as things of beauty as they evidence a variety of architectural styles, building methods and materials as well as expressing our cultural diversity and values.

(3)

Through their architecture and aesthetic appeal, historic resources create a sense of place that is unique to each site, the surrounding community, the municipality and to Pinellas County.

(4)

Historic preservation is a significant positive contributor to the economy of Pinellas County and Florida through heritage tourism, creation of jobs, private investment in historic sites and enhancement of the value of historic areas. In 2002, the total economic impact of historic preservation in Florida was $4.2 billion dollars annually and this impact is expected to continue. (Source: Economic Impacts of Historic Preservation in Florida by the Center for Governmental Responsibility at the University of Florida College of Law and the Center for Urban Policy Research at Rutgers, the State University of New Jersey, September, 2002.)

(Ord. No. 08-11, § 3, 2-19-08)

Sec. 38-144. - Establishment of countywide historic preservation program components.

The board of county commissioners hereby establishes the components of the countywide historic preservation program as follows:

(1)

Survey and identification.

a.

The county shall establish and maintain a county register of historic resources (hereinafter "historic register") (defined to include significant historic buildings, structures and objects, historic districts and archaeological sites) within the county and its municipalities.

b.

The historic register will be updated on a regular basis, readily available to the public through the county's website and shall be organized to allow for research on the major features of the site, such as building type, year built, style, location/jurisdiction, architect/builder and applicable county criteria. The criteria for listing historic resources on the historic register shall be consistent with the standards established by the National Park Service for the National Register of Historic Places and with the criteria described on Exhibit A attached to Ordinance No. 08-11. The eight local criteria that reflect the themes of development and history in Pinellas County include: Coastal living, tourism, agriculture, transportation, wars, Florida boom, community life, and pre-history/archaeology.

(2)

Preservation programs. The county shall develop and promote preservation regulations and programs that support the historic preservation policies of this article.

Programs that will be pursued include the identification of a model historic preservation plan element, model preservation protection ordinance, model design guidelines as well as outstanding examples of preservation documents and programs from other governments or preservation sources. This information will be readily available to the public through the county's website and in publication form.

(3)

Educational outreach. The county shall provide educational programs and technical assistance to municipalities, owners of historic property, architects and contractors, preservation commission and historic society members, developers, historic preservation professionals and other citizens interested in historic preservation.

The educational programs may include but are not limited to a "how- to tool box" for preservation advocates describing preservation methods, workshops and conferences, technical assistance, preservation website, publications and presentations.

(4)

Financial incentives. The county shall research, develop and promote financial and tax incentives at all levels of government that will encourage historic preservation.

In addition to promoting and adopting the existing historic preservation incentives such as the local ad valorem tax incentive and the federal income tax credit, other financial and tax incentives for adoption by local governments and the State of Florida shall be pursued. The program shall also develop and promote creative local incentives and emergency funding for threatened historic/archaeological sites.

(5)

The county shall demonstrate leadership through protecting and preserving the historic resources owned or leased by the county.

(6)

The county shall integrate the historic preservation public policy of this article and all historic resources into its planning processes, including the comprehensive plan and all of its elements, neighborhood/sector plans and any other applicable plans that govern the future development in the county. The county shall evaluate the development of criteria for the review of land use plan amendments, rezoning applications and site plan applications in relation to their impact on historic resources.

(7)

Within one year after adoption of this article, the county shall evaluate its comprehensive plan, land development regulations, policies and procedures to determine their level of consistency with the historic preservation public policy as adopted in this article. As soon as is practicable after the evaluation is complete, the county shall amend its comprehensive plan, land development regulations, policies and procedures to include goals, objectives, regulations, policies and procedures that implement this historic preservation public policy.

The board finds that a historic preservation protection ordinance is a critical component in the implementation of this historic preservation policy and directs the county staff to develop such an ordinance. The board further recognizes that there are varying levels of significance among the historic resources on the historic register; therefore, the revised comprehensive plan and land development regulations will reflect varying levels of protection for historic resources based on the differing levels of significance.

After adoption of this article and while the review of the county's comprehensive plan and ordinances are

underway, the county will consider development of a process to identify threatened historic resources and a method to place a hold on irreparable harm to the historic resource while alternatives to demolition are explored.

(8)

The board of county commissioners directs the county staff to also conduct an evaluation of the countywide plan and rules and any other applicable planning documents to determine their level of consistency with the historic preservation public policy as adopted in this article. The board directs that this evaluation be conducted within one year after adoption of this article. As soon as is practicable after the evaluation is complete, the county staff, in cooperation with the Pinellas Planning Council, shall propose amendments to the countywide plan and rules that implement this historic preservation public policy.

(9)

The protection of historic resources of countywide, state or national significance is declared to be in the county's public interest. Therefore, within one year of adoption of this article, the county shall research and evaluate the development of an ordinance to restrict the demolition of historic resources that have countywide, state and/or national significance. This provision would focus on resources that are listed in the National Register of Historic Places or potentially eligible for listing as determined by the state historic preservation officer.

(10)

The county shall authorize the staff and financial resources required to implement and administer the historic preservation public policy of this article.

(Ord. No. 08-11, § 4, 2-19-08)

Sec. 38-145. - Local historic preservation program for municipalities.

(a)

Minimum components. The board of county commissioners encourages all municipalities within the county to embrace the importance of historic preservation public policy as adopted in this article and will assist and support the municipalities as they develop their local preservation program. The board of county commissioners strongly encourages each municipality to adopt a local historic preservation program with the following minimum components:

(1)

Survey and identify historic resources (defined to include historic buildings, structures and objects, historic districts and archaeological sites) within its boundaries in accordance with the standards established by the National Park Service for the National Register of Historic Places. Historic resource surveys should be an ongoing systematic process with the goal to ultimately survey all historic areas within the municipality's boundaries.

(2)

Protect the historic resources within its municipal boundaries through local regulations. The municipality is

encouraged to develop its historic preservation program in compliance with the certified local government program established by the National Park Service.

(3)

Integrate the goals of historic preservation and all historic resources into its planning processes, including the comprehensive plan and all of its elements, neighborhood/sector plans and any other applicable plans that govern the future development in the municipality. The municipality shall evaluate the development of criteria for the review of land use plan amendments, rezoning applications and site plan applications in relation to their impact on historic resources.

(4)

Demonstrate leadership through protecting and preserving the historic resources owned or leased by the municipality.

(5)

Demonstrate leadership through protecting and preserving the historic resources owned or leased by the municipality.

(6)

Develop and implement regulatory and financial incentives to encourage private property stewardship of historic resources.

(7)

Municipalities who have adopted a local preservation program composed with these minimum components (subsections (1)—(5) above) shall be given priority in technical assistance, educational opportunities, financial incentives and other preservation resources offered by the county.

(b)

Optional components. The following elements are optional components of a historic preservation program and the board strongly encourages the municipalities to additionally incorporate these components into its local preservation program:

(1)

The municipality is encouraged to develop diverse educational programs to inform historic property owners, citizens and the development community about the municipality's preservation program and the importance of historic preservation.

(2)

The municipality is encouraged to publish information about historic resources and make this information accessible to the public.

(3)

The municipality is encouraged to implement other preservation programs and projects that reflect its community character.

(Ord. No. 08-11, § 5, 2-19-08)

Sec. 38-146. - Implementation.

(a)

Historic preservation advisory board. The board of county commissioners shall appoint a historic preservation advisory board to implement the historic preservation policy of this article. The historic preservation advisory board shall be composed of a minimum of seven and a maximum of 15 individuals to include one member from the board of county commissioners, who shall serve as the chairman of the advisory board. The initial term of appointment for board members shall be two years.

(b)

Composition of historic preservation advisory board. The historic preservation advisory board shall be composed of community advocates; municipal representatives; and historic preservation professionals with expertise and/or knowledge in the historic preservation field and shall, to the extent possible, include representation from the following fields: archaeology, preservation architecture, history, architectural history, historical museum studies and preservation planning. The historic preservation task force, as appointed in Resolution No. 05-135, shall serve as the historic preservation advisory board for an initial two-year term to complete the initial education and information resources materials. Following this initial two-year term, the board of county commissioners will appoint a historic preservation advisory board for a term of not to exceed three years and as defined above.

(c)

Duties of historic preservation advisory board. The historic preservation advisory board shall direct the development of the countywide program and assist the municipalities in developing their local preservation program. The board of county commissioners directs the advisory board to meet on a regular basis and to annually report to the board as to its accomplishments and additional recommendations for the future.

(Ord. No. 08-11, § 6, 2-19-08)

Chapter 42 - CONSUMER PROTECTION[1]
Footnotes:
--- (**1**) ---

Charter reference— Consumer protection provisions required, § 2.02(f).

Cross reference— Businesses, ch. 26.

State Law reference— Consumer protection, F.S. ch. 501.

ARTICLE I. - IN GENERAL

Secs. 42-1—42-25. - Reserved.

ARTICLE II. - DEPARTMENT OF JUSTICE AND CONSUMER SERVICES[2]

Footnotes:
--- (**2**) ---

Editor's note—Ord. No. 03-85, § 1, adopted Nov. 4, 2003, specified that all references in this Code to the "department of consumer protection" shall be changed to read "department of justice and consumer services".

Sec. 42-26. - Declaration of legislative intent.

The public health, safety and welfare requires a strong and effective consumer protection program at the county level to protect the interest of both the consumer public and the legitimate businessman. Toward this end, the board of county commissioners hereby enacts this article, pursuant to F.S. ch. 125 and consistent with F.S. ch. 501, establishing the county department of justice and consumer services to receive consumer complaints, gather and assemble pertinent information, and refer the same to the appropriate enforcing authority having jurisdiction over the subject matter of the complaint.

(Ord. No. 78-11, § 2, 5-24-78; Ord. No. 98-8, § 3, 1-6-98)

Sec. 42-27. - Area embraced.

It is hereby provided that this article shall be applicable throughout the county, including all unincorporated and incorporated areas of the county.

(Ord. No. 78-11, § 5, 5-24-78)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 42-28. - Department of justice and consumer services—Established.

The board of county commissioners hereby establishes and creates a department of justice and consumer services which shall be operated under the administrative direction and supervision of the county administrator. The board shall have the power to appoint a director over the department and provide for the hiring of such other personnel as necessary to perform the duties prescribed by this article.

(Ord. No. 78-11, § 3, 5-24-78; Ord. No. 98-8, § 3, 1-6-98)

Sec. 42-29. - Same—Powers and duties.

The department of justice and consumer services, through its director and personnel, shall have the following powers and duties:

(1)

To receive, process, gather and assemble information pertinent to complaints of alleged unfair and deceptive acts or practices in the course of any consumer transaction.

(2)

To refer complaints to the appropriate enforcing authority having jurisdiction over the subject matter of the

complaint.

(3)

To implement and administer consumer protection education programs.

(4)

To conciliate consumer disputes through conferences with the interested parties and their representatives.

(Ord. No. 78-11, § 4, 5-24-78; Ord. No. 98-8, § 3, 1-6-98)

Secs. 42-30—42-50. - Reserved.

ARTICLE III. - ADULT USES[3]

Footnotes:

--- (**3**) ---

Cross reference— Female nudity in alcoholic beverage establishments, § 6-2; amusements and entertainments, ch. 10; businesses, ch. 26; commercial exploitation of nudity, § 26-176 et seq.; offenses involving public morals, § 86-101 et seq.

DIVISION 1. - GENERALLY

Sec. 42-51. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult arcade means a place to which the public is permitted or invited wherein coin-operated, slug-operated or token-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas, as defined in this section.

Adult bookstore means an establishment which advertises, sells or rents adult material or offers for sale or rent adult material, unless at the establishment:

(1)

Admission to the establishment is not restricted to adults only;

(2)

All adult material is accessible only by employees;

(3)

The gross income from the sale and/or rental of adult material comprises less than ten percent of the gross income from the sale and rental of the goods or services at the establishment; and

(4)

The individual items of adult material offered for sale, rental or display comprise less than 25 percent of the total individual new items publicly displayed as stock in trade in any of the following categories: books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, VHS format videotapes, BETA format videotapes, slides, or other visual representations, including, but not limited to, compact discs, CD-ROMs, laser discs, and digital video discs, or recordings, or other audio matter or less than 25 percent of the individual used items publicly displayed at the establishment as stock in trade in the same categories set out above.

Any establishment which has food, beverages, tobacco products or other grocery products as more than 75 percent of its sales shall not be considered an adult bookstore.

Adult booth means a separate enclosure inside an adult use establishment, accessible to any person, regardless of whether a fee is charged for access. The term "adult booth" includes, but is not limited to, a peep show booth, adult arcade booth, or other booth used to view adult material. The term "adult booth" does not include a foyer through which any person can enter or exit the establishment, or a restroom.

Adult material means any one or more of the following, regardless of whether it is new or used:

(1)

Books, magazines, periodicals or other printed matter, paintings, drawings, or other publications or graphic media, or photographs, films, motion pictures, videocassettes, or disks, slides, or other visual representations, or recordings, or other audio matter, which have as their primary or dominant theme matter depicting, illustrating, describing or relating to specified sexual activities or specified anatomical areas; or

(2)

Instruments, novelties, devices or paraphernalia which are designed for use in connection with specified sexual activities.

Adult photographic or modeling studio means and includes any business establishment which offers or advertises as its primary business stock in trade, the use of its premises for the purpose of photographing or exhibiting specified sexual activities or specified anatomical areas or the modeling of apparel that exhibits specified anatomical areas.

Adult theater means an enclosed building or an enclosed space within a building, or an open-air area used for presenting either filmed or live plays, dances, or other performances, either by individuals or groups, distinguished or characterized by an emphasis on material depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined in this section for observation by patrons therein. An establishment which has adult booths or an adult arcade is considered to be an "adult theater."

Adult use means any business entity which knowingly, or with reason to know, permits, suffers, or allows private performances as defined under this section. "Adult use" also shall be defined to include the terms adult arcade, adult bookstore, adult booth, adult theater, special cabarets, physical culture establishments, and adult photographic or modeling studios as defined in this section, including any business establishment whose primary business stock in trade is dependent upon the activities relating to specified sexual activities or specified anatomical areas as defined in this section.

Applicant means any business entity or person that has applied for an adult use permit or license.

Business entity means any and all persons, natural or artificial, including any individual, firm, corporation or association operating or proposed to operate for commercial or pecuniary gain. ("Operated for commercial or pecuniary gain" shall not depend upon actual profit or loss. Also, "operated for commercial or pecuniary gain" shall be presumed where the establishment has an occupational license.) "Business entity" includes any enterprise or venture in which a person sells, buys, exchanges, barters, deals or represents the dealing in any thing or article of value, or renders services for compensation.

Certification of compliance/noncompliance means a notice issued by the department of development review services indicating to an applicant that the location proposed for an adult use complies or does not comply with the locational requirements of this article.

Child care facility means any children's center, day nursery, nursery school, kindergarten, or family day care home as defined in Laws of Fla. ch. 61-2681 (compiled in ch. 26, art. II of this Code).

Church means a site or premises, such as a church, synagogue, temple, mosque, cathedral, chapel, tabernacle or similar place, which is used primarily or exclusively for religious worship and related activities.

Conviction means a determination of guilt resulting from plea or trial.

Department means the departments or divisions of county government, including health, development review services, or consumer protection, including the respective director, employees, officers and agents thereof.

Employee means a person who works or performs or provides services in connection with an adult use establishment, irrespective of whether such person is paid a salary or wage, or is an independent contractor, provided such person has a substantial or consistent relationship with the business of or entertainment/services provided by the adult use. "Employee" includes, but is not limited to, performers, managers and assistant managers, stockpersons, tellers, and operators.

Establishment means a site or premises, or portion thereof, upon which certain adult use activities or operations are conducted.

Establishment or commencement of business means and includes any of the following:

(1)

The opening or commencement of any adult use business as a new business;

(2)

The conversion of an existing business, whether or not an adult use business, to any adult use business;

(3)

The addition of any adult use business to any other existing adult use business;

(4)

The relocation of any adult use business; or

(5)

The continuation of an existing adult use business, regardless of whether it is in compliance with the requirements of this article.

For purposes of determining the date of commencement of business under division 5 of this article, evidence in the form of certified certificates of occupancy, affidavits, valid receipts or business records may be utilized. Any decision regarding a given date of commencement may be appealed pursuant to the provisions of section 42-62 of this article.

Information material to the decision means information which, if provided, would result in a denial of a license pursuant to subsection 42-79(c)(1).

Law enforcement officer means any person who is elected, appointed, or employed full-time by the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.

Licensee means any person whose application for an adult entertainment establishment has been granted and who owns, possesses, operates and controls the establishment.

Material false information means information provided by the applicant which, if false, would result in denial of a license pursuant to subsection 42-79(c)(1).

Misrepresentation, mistake of fact or law relevant to the decision means information which, if not misrepresented or mistaken, would result in a denial of a license pursuant to subsection 42-79(c)(1).

Mixed use zoning district means any parcel located in the incorporated or unincorporated areas of the county, the municipal or county zoning designation of which allows residential use alone or in any combination with commercial or industrial uses.

Nates means the prominence formed by the muscles running from the back of the hip to the back of the leg.

Operator means any person or business entity who engages in or performs any activity which is necessary to or which facilitates the operation of an adult entertainment establishment, including but not limited to, the licensee, manager, owner, doorman, bartender, disc jockey, sales clerk, ticket taker, movie projectionist, performer, employee, or supervisor. This term is not meant to include repairmen, janitorial personnel or the like who are only indirectly involved in facilitating the operation of the adult use.

Patron means and includes any natural person other than an employee, operator, licensee, or governmental officer while performing duties pursuant to this article or other law.

Physical culture establishment means any business establishment which offers or advertises massage, body rubs or physical contact with specified anatomical areas, whether or not licensed. Business establishments which routinely provide medical services by state licensed medical practitioners, and electrolysis treatment by licensed operators of electrolysis equipment shall be excluded from the definition of adult physical culture establishments.

Private performance means engaging in specified sexual activities or the display of any specified anatomical area by an employee to a person other than another employee while the person is in an area not accessible

during such display to all other persons in the establishment, or while the person is in an area in which the person is totally or partially screened or partitioned during such display from the view of all persons outside the area.

Public recreation area means a tract of land within a municipality or unincorporated area which is kept for ornament and/or recreation and which is maintained as public property.

Residential zoned property means any parcel located in the incorporated or unincorporated areas of the county, the municipal or county zoning designation of which allows residential use.

School means and includes a premises or suite upon which there is a nursery school, kindergarten, elementary school, junior high school, middle school, senior high school, or exceptional learning center. However, the term "school" does not include a premises or site upon which there is an institution devoted solely to vocational or professional education or training or an institution of higher education, including, but not limited to, a community college, junior college, four-year college or university.

Special cabarets means any bar, dancehall, restaurant, or other place of business which features dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers, or waiters or waitresses that engage in specified sexual activities or display specified anatomical areas, or any such business establishment, the advertising for, or a sign or signs identifying which, use the words, "adult," "topless," "nude," "bottomless," or other words of similar import.

Specified anatomical areas means:

(1)

Less than completely covered or opaquely covered:

a.

Human genitals or pubic regions; or

b.

Cleavage of the nates of the human buttocks; or

c.

That portion of the human female breast directly or laterally below a point immediately above the top of the areola; this definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not so exposed.

(2)

Human male genitals in a discernible turgid state, even if completely and opaquely covered.

(3)

Any covering, tape, pastie, latex spray or paint or other device which simulates or otherwise gives the appearance of the display or exposure of any of the specified anatomical areas listed in subsections (1) and

(2) of this definition.

Specified criminal act means:

(1)

A violation or violations of this article, as amended, sufficient to warrant suspension or revocation of an adult use license under section 42-85(b) and (c);

(2)

An offense under F.S. ch. 794 (sexual battery);

(3)

An offense under F.S. ch. 796 (prostitution);

(4)

An offense under F.S. ch. 800 (lewdness; indecent exposure);

(5)

An offense under F.S. ch. 826 (bigamy; incest);

(6)

An offense under F.S. ch. 847 (obscene literature; profanity); or

(7)

An offense under a statute of a state other than Florida analogous to the offenses listed in subsections (2)—(6) of this definition, or under an analogous ordinance of another county or city which would be sufficient to warrant suspension or revocation of an adult use license under section 42-85(b) and (c).

Specified sexual activity means:

(1)

Human genitals in a state of sexual stimulation, arousal or tumescence;

(2)

Acts of anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellatio, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sapphism, sexual intercourse, sodomy, urolagnia or zooerasty;

(3)

Fondling or other erotic touching of human genitals, pubic region, buttock, anus or female breast; or

(4)

Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (3) of this definition.

(Ord. No. 90-65, § 1.7, 7-24-90; Ord. No. 91-8, art. 2, 1-29-91; Ord. No. 92-6, art. I, 2-18-92; Ord. No. 93-89, art. 2, 10-19-93; Ord. No. 97-74, § 1, 9-9-97; Ord. No. 01-79, § 1, 11-13-01)

Cross reference— Definitions generally, § 1-2.

Sec. 42-52. - Penalty for violation of article.

Except as otherwise provided by law or ordinance, a person convicted of a violation of this article shall be punished by a fine not to exceed $500.00 or by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment. With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense, except that only a civil penalty shall be imposed for violation of sections 42-138 and 42-139.

(Ord. No. 01-79, § 2, 11-13-01; Ord. No. 06-62, § 2, 8-1-06)

Sec. 42-53. - Construction of article.

The comprehensive adult use regulation ordinance shall be liberally construed to accomplish its purpose of licensing and regulating adult uses and related activities. Unless otherwise indicated, all provisions of this article shall apply equally to all persons, regardless of sex. Masculine pronouns, such as "he," "his" and "him," as employed in this article, shall also be construed to apply to feminine pronouns and neutral pronouns, unless the context suggests otherwise. Words used in the singular number shall include the plural number, unless the context suggests otherwise.

(Ord. No. 90-65, § 1.4, 7-24-90; Ord. No. 91-8, art. 2, 1-29-91; Ord. No. 94-40, art. II, 4-19-94)

Sec. 42-54. - Authority.

The comprehensive adult use regulation ordinance is enacted pursuant to F.S. ch. 125 and under the Home Rule Power of Pinellas County, Florida, in the interest of the health, peace, safety, and general welfare of the people of the county.

(Ord. No. 90-65, § 1.2, 7-24-90; Ord. No. 91-8, art. 2, 1-29-91)

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g).

Sec. 42-55. - Territory embraced.

All territory within the legal boundaries of unincorporated Pinellas County, Florida, shall be embraced by the provisions of this article.

(Ord. No. 90-65, § 1.3, 7-24-90; Ord. No. 91-8, art. 2, 1-29-91)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 42-56. - Purpose and intent.

The intent of the board of county commissioners in adopting the comprehensive adult use regulation

ordinance is to establish reasonable and uniform regulations that will protect the health, safety and general welfare of the people of Pinellas County, Florida. The provisions of this article, acting alone or together with other applicable county ordinances, have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult material. Similarly, it is not the intent nor effect of this article to restrict or deny access by adults to adult materials or expression protected by the First Amendment, or to deny access by distributors and exhibitors of adult uses to their intended market.

(Ord. No. 90-65, § 1.5, 7-24-90; Ord. No. 91-8, art. 2, 1-29-91)

Sec. 42-57. - Legislative findings.

(a)

With respect to zoning issues:

(1)

The board of county commissioners has considered the following reports, studies, and judicial opinions concerning the adverse secondary effects of adult uses on the community:

a.

Northend Cinema Inc. v. Seattle, 90 Wash. 2d 709, 585 P.2d 1153 (1978).

b.

Report On Zoning and Other Methods of Regulating Adult Entertainment in Amarillo (Texas), dated September 12, 1977.

c.

Regulation of Criminal Activity and Adult Businesses, City of Phoenix, May, 1979.

d.

Findings of the city planning commission for the City of New York, dated January 26, 1977.

e.

Detroit's Approach to Regulating the Adult Uses, presented to the American Institute of Planners, Annual Conference, October 10, 1977.

f.

Report to the city planning commission and city council from the planning department of the City of Beaumont, Texas, dated September 14, 1982.

g.

Legislative Report on an Ordinance Amending Section 28-73 of the Code of Ordinances of the City of Houston, Texas; Providing for the Regulation of Sexually Oriented Commercial Enterprises, Adult Bookstores, Adult Movie Theaters and Massage Establishments; and Making Various Provisions and

Findings Relating to the Subject. Report prepared by the Committee on the Proposed Regulation of Sexually Oriented Businesses and dated 1983.

h.

Report on Adult Oriented Business in Austin. Report prepared by the special programs division of the office of land development services of the City of Austin, Texas, dated May 19, 1986.

i.

Adult Entertainment Business in Oklahoma City, A Survey of Real Estate Appraisers. Report Prepared by the community development department of the City of Oklahoma City, Oklahoma, dated March 3, 1986.

j.

Adult Entertainment Businesses in Indianapolis. An analysis prepared by the department of metropolitan development, dated February, 1984.

k.

Director's Report: Proposed Land Use Code Text Amendment, Adult Cabarets. A report prepared by the director of the department of construction and land use of the City of Seattle, Washington, dated March 24, 1989.

l.

Transcription of Pinellas County Sheriff's Department videotape titled Adult Lounges Surveillance. A nine-minute videotape dated June, 1987, which was presented to the board of county commissioners at the June 16, 1987, public hearing during which Ordinance No. 87-45 was adopted.

m.

Summary and presentation of Pinellas County sheriff's officers' report detailing the criminal activities associated with adult uses in Pinellas County.

n.

Past reports from Hillsborough County re criminal nature of secondary effects.

o.

Transcript from the June 16, 1987, public hearing during which Ordinance No. 87-45 was adopted.

p.

Copies of Hillsborough County Sheriff's Office reports dealing with several adult businesses in the county.

(2)

The board of county commissioners has considered a report by the county sheriff's office which documents in detail the criminal activities which are associated with adult uses in the county.

(3)

The county planning department has conducted a study to determine the amount of available land area within the unincorporated county for adult uses after the adoption of this article. This study has found that given the dense population of Pinellas County, distance requirements greater than 400 feet between adult and certain other land uses would not provide a sufficient area in which adult uses could be located and constitutional strictures to be met.

The board of county commissioners, therefore, finds that the 400-foot distance requirement is a reasonable balance between the concern for the public health, safety and welfare of the citizens and a need to provide a sufficient area for adult uses to be located.

(4)

The board of county commissioners has determined that a one-year amortization period for nonconforming adult uses is reasonable in that the premises affected by this article are readily adaptable to conforming uses.

(5)

The board of county commissioners recognizes that as adult uses, as defined herein, affect surrounding sites in a deleterious manner, particularly when several adult uses are concentrated, special regulation of these uses is necessary to ensure that these effects will not contribute to the blighting or downgrading of the surrounding neighborhood.

(6)

The board of county commissioners has determined that adult uses should be dispersed rather than concentrated and finds that a minimum distance of 400 feet between adult uses serves an important function in preventing the concentration of adult uses.

(7)

The board of county commissioners has determined that this article is necessary to prevent crime, protect the county's retail trade, maintain property values, and protect and preserve the quality of the county's neighborhoods, commercial districts, and the quality of urban life.

(8)

The board of county commissioners has received a recommendation from the local planning agency, pursuant to F.S. ch. 163.

(b)

With respect to other regulatory issues at the time of the adoption of Ordinance No. 91-8 (September 29, 1991):

(1)

Adult uses in the county lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. There is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

(2)

Sexual acts are a regular occurrence at the adult use establishments, especially in private or semiprivate booths or cubicles for viewing films or live sex shows.

(3)

Such establishments exist within Pinellas County, Florida:

a.

Where the superficial tissues of one person are manipulated, rubbed, stroked, kneaded, and/or tapped by a second person, accompanied by the display or exposure of specified anatomical areas;

b.

Where dancers, entertainers, performers or other individuals, for commercial gain, perform or are presented while displaying or exposing a specified anatomical area.

(4)

Employees of adult use establishments engage in a higher incidence of certain types of criminal behavior than employees of other establishments.

(5)

Employees of adult use establishments engage in a higher incidence of certain types of sexual behavior than employees of other establishments, including offering to perform sexual acts.

(6)

Sexual acts are a regular occurrence at adult use establishments, especially those which provide private or semiprivate booths or cubicles for viewing films or videos, defined under this article as adult theaters.

(7)

Offering and providing such space, areas and rooms where such activities take place creates conditions that generate prostitution and other crimes as well as unhealthy conditions.

(8)

Persons frequent certain adult theaters for the purpose of providing sex within the premises of such adult theaters.

(9)

At least 50 communicable diseases may be spread by activities occurring in adult use establishments, including, but not limited to, syphilis, gonorrhea, human immune deficiency virus infection (AIDS), genital herpes, hepatitis B, Non A, Non B, amebiasis, salmonella infections and shigella infections.

(10)

Since 1981 and to the present, there have been an increasing cumulative number of reported cases of acquired immunodeficiency syndrome (AIDS) caused by the human immunodeficiency virus (HIV) in the United States: 843 in 1982, 3,064 in 1983, 7,699 in 1984, 15,948 in 1985, 29,003 in 1986, 49,743 in 1987, 82,406 in 1988, 117,781 in 1989, and 157,525 through November, 1990; and in Florida: 110 cases in 1982, 345 in 1983, 778 in 1984, 1,628 in 1985, 2,980 in 1986, 5,228 in 1987, 8,111 in 1988, 11,466 in 1989, and 13,927 through November, 1990.

(11)

Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by HIV in Pinellas County: Six in 1982, eight in 1983, 16 in 1984, 51 in 1985, 116 in 1986, 212 in 1987, 350 in 1988, 496 in 1989, and 638 through November, 1990.

(12)

As of November 30, 1990, there have been 638 reported cases of AIDS in Pinellas County, with 376 deaths being reported, and of such 638 cases, 588 were males and 50 were females.

(13)

The number of cases of primary and secondary syphilis in the United States reported annually has risen with 33,613 cases reported in 1982, 32,698 in 1983, 28,607 in 1984, 27,131 in 1985, 27,883 in 1986, 35,147 in 1987, 40,117 in 1988, 44,540 in 1989, and 45,200 through November, 1990; and in Florida, with 4,149 cases reported in 1982, 4,179 in 1983, 3,876 in 1984, 3,679 in 1985, 4,344 in 1986, 7,440 in 1987, 8,378 in 1988, 7,092 in 1989, and 4,909 through November, 1990.

(14)

The number of cases of primary and secondary syphilis in Pinellas County reported annually has risen with 22 cases reported in 1982, 165 in 1983, 176 in 1984, 117 in 1985, 130 in 1986, 270 in 1987, 396 in 1988, 465 in 1989, and 334 through November, 1990.

(15)

The number of cases of gonorrhea in the United States reported annually remains at a high level with 960,633 civilian cases reported in 1982, 900,435 in 1983, 878,556 in 1984, 911,419 in 1985, 900,868 in 1986, 780,905 in 1987, 719,536 in 1988, 733,151 in 1989 and 611,932 through November, 1990; and in Florida, with 62,702 total cases reported in 1982, 53,370 in 1983, 51,212 in 1984, 57,647 in 1985, 67,443 in 1986, 62,944 in 1987, 60,714 in 1988, 51,236 in 1989, and 40,457 through November, 1990.

(16)

The number of cases of gonorrhea reported annually in Pinellas County remains at a high level with 3,999 total cases reported in 1982, 3,518 in 1983, 3,545 in 1984, 3,604 in 1985, 4,128 in 1986, 4,122 in 1987, 3,993 in 1988, 3,060 in 1989, and 2,333 through November, 1990.

(17)

Of the 2,333 cases of gonorrhea reported in Pinellas County in January through November, 1990, 187 were resistant to penicillin, this number presenting a 34.5 percent increase over the 139 cases reported in the same

period in 1989.

(18)

The Surgeon General of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

(19)

According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(20)

According to the best scientific evidence, numerous other diseases and infestations, including chlamydia, pelvic inflammatory disease, chancroid, herpes, hepatitis B, lymphogranuloma venereum, granuloma inguinale, genital warts, trichomoniasis, scabies, pediculosis, amebiasis, giardiasis, and others are transmitted by sexual acts.

(21)

Sanitary conditions in some adult theaters are unhealthy, in part because of the unregulated nature of the activities, because of the failure of owners and operators of the facilities to self-regulate those activities, and in part because of the substandard facilities and maintenance of those facilities.

(22)

The United States Centers for Disease Control have issued universal precautions, including housekeeping and disinfection guidelines, for the prevention of transmission of the HIV virus and other diseases, which guidelines should be followed by adult-oriented establishments.

(23)

Sexually transmitted disease clinic patients interviewed by disease intervention specialists of the county health department have admitted sexual contacts with patrons and employees at various adult use establishments.

(24)

Upon inspection by staff members of the county sheriff's office and members of the county health department, semen has been found in the areas of adult use establishments where persons view adult-oriented films or witness sexually explicit live entertainment.

(25)

Mingling and sexual contact between patrons and employees is generally initiated by the exchange of money and may reasonably be expected to serve as an opportunity to solicit for and an inducement to agree to unprotected sexual activity, including prostitution, and thus poses a threat to the health of both groups and promotes the spread of communicable as well as social diseases.

(26)

Unprotected sexual intercourse, especially prostitution, is a major contributing factor to the increase of sexually transmitted diseases and AIDS. Based on interviews of STD clinic patients, who report sexual contacts with patrons and employees at various adult use establishments, it is reasonable to conclude that the entertainment provided in such establishments is conducive to the arrangement of such liaisons to be later consummated off-premises.

(27)

When the previously described activities characteristic of adult use establishments are present within the county, other activities which are illegal or unhealthful tend to accompany them, concentrate around them and be aggravated by them. Such other activities include, but are not limited to, prostitution, pandering, solicitation for prostitution, lewd and lascivious behavior, exposing minors to harmful materials, possession, distribution and transportation of obscene materials.

(28)

Adult use establishments are usually constructed, partly or wholly, of substandard material, and are usually maintained in a manner reflecting disregard for the health and safety of the occupants.

(c)

The concerns raised in the foregoing legislative findings in this section relate to substantial and legitimate governmental interests.

(d)

Adult use establishments have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

(e)

A reasonable and simple licensure procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners, operators and managers of the adult use establishments. Further, such a licensing procedure will place a heretofore nonexistent incentive on the owner/operator to see that the adult use establishment is run in a manner that is consistent with the health, safety and welfare of its patrons and employees as well as the citizens of the county. It is appropriate to require reasonable assurances that the licensee is the actual owner/operator of the adult use establishment, fully in possession and control of the premises and the activities occurring therein.

(f)

Adult use establishments are a pervasively regulated industry, making reasonable inspections and administrative searches necessary to enforce regulatory standards.

(g)

Removal of doors on adult booths and requiring sufficient lighting in adult theaters advances the substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring at adult theaters.

(h)

The prevention of sexual contact between patrons and employees at adult use establishments is unrelated to the suppression of free expression but serves to address the concerns raised in the findings contained in this section. Although the dancer's erotic message may be slightly less effective from three feet away, the ability to engage in the protected expression is not significantly impaired.

(i)

Separating dancers from patrons and prohibiting dancers and patrons from engaging in sexual fondling and caressing in adult cabarets would reduce the opportunity for prostitution transactions and thus should deter prostitution.

(j)

Requiring that the facilities of adult theaters be constructed of materials that are easily cleanable, that the facilities be cleaned on a regular basis, and that the employees cleaning the facilities take reasonable precautions to avoid contact with possible disease transmitting media is reasonably related to the protection of both employees and patrons from sexually transmitted diseases.

(k)

Requiring licensees of adult use establishments to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

(l)

The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the adult use establishment is beneficial where such information is substantially related to the significant governmental interest in the operation of such uses in such manner as to prevent the spread of sexually transmitted diseases and to reduce or eliminate the criminal activity associated with adult use establishments.

(m)

It is desirable in the prevention of the spread of communicable diseases and in the investigation of criminal activity to obtain a limited amount of information regarding certain employees who either engage in the conduct which this article is designed to prevent or are likely to be witnesses to such activity.

(n)

A substantial rational relationship between sexually oriented businesses and sexually related crimes establishes a compelling justification for barring those persons prone to such crimes from the management of such businesses.

(o)

The fact that an applicant for an adult use license has been convicted of a sexually related crime leads to a rational inference that the applicant is more likely to engage in conduct in contravention of this article.

(p)

The barring of a person from participating in an adult use business may cease when circumstances indicate to the county that offenders are no longer criminally inclined.

(q)

The barring of such individuals from management of adult uses for a period of years serves as a deterrent to and prevents the conduct which leads to the transmission of sexually transmitted diseases and to the promotion of that criminal activity associated with adult uses.

(r)

Because the weight of evidence shows that while adult bookstores which only sell or rent adult material and have no adult booth/theater component have similar secondary effects as other adult uses, such bookstores do not promote the transmission of sexual diseases, an exemption of such limited adult establishments from the licensure requirements, but not the locational requirements of this article is appropriate.

(s)

Because grocery stores, convenience stores and other similar establishments which may carry some magazines or books containing some adult materials do not have similar secondary effects as other adult uses, they should be exempt from regulations under this section.

(t)

The board of county commissioners has determined that a one-year amortization for presently nonconforming adult use or uses which become nonconforming in the future is reasonable in that the premises affected by this article are readily adoptable to conforming uses.

(Ord. No. 90-65, § 1.6, 7-24-90; Ord. No. 91-8, art. 2, 1-29-91; Ord. No. 93-89, art. 1, 10-19-93; Ord. No. 97-74, §§ 2, 3, 9-9-97)

Sec. 42-58. - Regulation of obscenity subject to state law.

It is not the intent of the board of county commissioners to legislate with respect to matters of obscenity. These matters are regulated by state law, including F.S. ch. 847.

(Ord. No. 90-65, § 1.8, 7-24-90; Ord. No. 91-8, art. 2, 1-29-91)

Sec. 42-59. - Regulation of massage establishments subject to state law.

It is not the intent of the board of county commissioners to legislate with respect to matters of massage establishments. These matters are regulated by state agency, the department of professional regulation, board of massage, and by F.S. ch. 480.

(Ord. No. 90-65, § 1.9, 7-24-90; Ord. No. 91-8, art. 2, 1-29-91)

Sec. 42-60. - Enforcement of article.

(a)

In the event the sheriff learns or finds upon sufficient cause that a licensed adult use establishment is operating contrary to the respective general requirements of section 42-106, or the applicable special requirements of sections 42-107(1)a., b., c., d., h., (2), (3), (4) and (5) and section 42-108, he shall notify the licensee of the violation and shall allow the licensee a 30-day period in which to correct the violation. Subsequent inspections for violations of the foregoing provisions shall not require any notice prior to citation as the licensee and its employees are deemed to have been placed on notice of the requirements of this article by the first notice and cure period. The frequency of citation for these violations, however, shall be no more frequent than every 15 days.

(b)

The filing of an application to the board of adjustment for a variance from subsections 42-107(1)d, e and/or f preclude citation for those provisions until the expiration of such time as the board of adjustment, in its conditions for any variance, provide for correction of the violation, consistent with the variance. If the licensee fails to so correct the violation before the expiration of the time period provided for by the board of adjustment, the sheriff may issue citations in the same manner as subsequent inspections under subsection (a).

(c)

Whoever violates any section of division 6 of this article may be prosecuted and punished as provided by F.S. § 125.69 (2000), except that a penalty of imprisonment shall not be imposed for violations of sections 42-138 and 42-139. Nothing in this requirement shall be interpreted to bind sheriff's deputies to the requirements of code inspectors under F.S. § 125.69 (2000).

(d)

In addition to the penalties provided for violation of county ordinances in section 1-8, adult bookstores, adult theaters, special cabarets, physical culture establishments or adult photographic or modeling studios not in conformity with the requirements of this article shall be subject to the appropriate civil action, including injunctive relief, in the court of appropriate jurisdiction for their abatement. Except as provided in subsections (a) and (b) of this section, each day that any violation is committed shall constitute a separate offense.

(e)

It is the responsibility of the licensee, owner, employee or operator of an adult use business establishment to ensure compliance with this article, notwithstanding the issuance of an occupational license, building permit, zoning clearance for an alcohol license or any other governmental permit.

(Ord. No. 90-65, § 6.15, 7-24-90; Ord. No. 91-8, art. 7, 1-29-91; Ord. No. 92-6, art. XI, 2-18-92; Ord. No. 93-89, art. 19, 10-19-93; Ord. No. 94-40, art. X, 4-19-94; Ord. No. 97-74, § 4, 9-9-97; Ord. No. 01-79, § 3, 11-13-01)

Sec. 42-61. - Responsibilities of board of commissioners, department of justice and consumer services, departments, and sheriff.

(a)

Ultimate responsibility for the administration and enforcement of this article is vested in the board of county

commissioners.

(b)

The department of justice and consumer services is responsible for granting, denying, revoking, renewing, suspending, and canceling adult use licenses for proposed or existing adult use establishments and for ascertaining whether a suspected adult use establishment is licensed. The office of the sheriff is responsible for all enforcement actions brought under division 6 of this article. The health department and the department of justice and consumer services may assist the office of the sheriff in its investigative responsibilities.

(c)

The sheriff is responsible for verifying information contained on an application pursuant to section 42-77(b) for inspecting any proposed, licensed or nonlicensed establishment in order to ascertain whether it is in compliance with applicable local ordinances and criminal statutes, including the provisions set forth in division 6 of this article.

(d)

The health department is responsible for any licensed establishment in order to review and approve its sanitation procedure required under section 42-107(4).

(e)

The planning department is responsible for ascertaining whether an existing adult use or a proposed establishment for which a license is being applied for complies with all locational requirements of county ordinances, pursuant to section 42-106(4), and if it complies, issuing an approval in the form of a valid adult use permit pursuant to division 5 of this article.

(f)

Any law enforcement officer or employee of the departments referenced in subsections (b), (c) and (d) of this section who is authorized by the head of that department shall, at any reasonable hour, have access to and shall have the right to inspect the premises of all licensees under this article for compliance with any or all of the applicable codes, statutes, ordinances, and regulations in effect in the county and within the responsibilities of their respective department as outlined in subsections (b), (c) and (d) of this section. Such officer or employee shall require strict compliance with the provisions of this article. Reports of violations shall be reported to the department of justice and consumer services.

(Ord. No. 90-65, § 2.1, 7-24-90; Ord. No. 91-8, art. 3, 1-29-91; Ord. No. 93-89, arts. 3, 4, 10-19-93; Ord. No. 94-40, art. II, 4-19-94; Ord. No. 97-74, § 5, 9-9-97)

Sec. 42-62. - Review of decisions by department of justice and consumer services, board of county commissioners or its departments.

Any decision of the department of justice and consumer services, the board of county commissioners or its departments made pursuant to this article may be immediately reviewed as a matter of right by petition for writ of common law certiorari to the Circuit Court for Pinellas County upon the filing of an appropriate pleading by an aggrieved party.

(Ord. No. 90-65, § 7.1, 7-24-90; Ord. No. 91-8, art. 8, 1-29-91; Ord. No. 93-89, art. 20, 10-19-93; Ord. No. 97-74, § 6, 9-9-97)

Sec. 42-63. - Service of notice.

Any notice required under this article shall be accomplished by sending a written notification by certified mail to the mailing address set forth on the application for the license or a permit. This mailing address shall be considered the correct mailing address unless the department of justice and consumer services has been notified otherwise in writing.

(Ord. No. 90-65, § 7.2, 7-24-90; Ord. No. 91-8, art. 8, 1-29-91; Ord. No. 97-74, § 7, 9-9-97)

Sec. 42-64. - Immunity from prosecution.

The county, the sheriff, or any department shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon an adult use establishment while acting within the scope of its authority under this article.

(Ord. No. 90-65, § 7.3, 7-24-90; Ord. No. 91-8, art. 8, 1-29-91; Ord. No. 93-89, art. 21, 10-19-93)

Secs. 42-65—42-75. - Reserved.

DIVISION 2. - LICENSE

Sec. 42-76. - Required; classification.

(a)

Requirement. No adult use establishment except an adult bookstore operating only as an adult bookstore shall be permitted to operate without having first been granted an adult use license by the department of justice and consumer services under this article.

(b)

Classifications. Any adult use shall be classified as an adult bookstore, adult theater, adult photographic or modeling studio, physical culture establishment, or special cabaret, or any combination of these uses, based on the information in the application subject to subsequent inspection for verification.

(Ord. No. 90-65, § 2.2, 7-24-90; Ord. No. 91-8, art. 3, 1-29-91; Ord. No. 92-6, art. II, 2-18-92; Ord. No. 97-74, § 8, 9-9-97)

Sec. 42-77. - Application required; contents; fee; rejection of incomplete application; consent by applicant.

(a)

Required. Any person desiring to operate an adult use establishment shall file with the department of justice and consumer services a sworn license application on a standard application form supplied by the department of justice and consumer services.

(b)

Contents of application. The completed application required by this section shall contain the following

information and shall be accompanied by the following documents:

(1)

If the applicant is:

a.

An individual, the individual shall state his legal name and any aliases and submit satisfactory proof that he is at least 18 years of age;

b.

A partnership, the partnership shall state its complete name, the names of all partners having either direct, managerial, supervisory or advisory responsibilities for day-to-day operations of the adult use, and whether the partnership is general or limited;

c.

A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing, the names and capacity of all officers, directors, and stockholders having either direct, managerial, supervisory or advisory responsibilities for day-to-day operations of the adult use and, if applicable, the name of the registered corporate agent and the legal street address of the registered office for service of process.

(2)

If the applicant intends to conduct the establishment under a name other than that of the applicant, the establishment's fictitious name and a certified copy of the applicant's registration with the division of corporations of the department of state under F.S. § 865.09 (1990).

(3)

Whether the applicant or any of the other individuals listed pursuant to subsection (b)(1) of this section has, within the five-year period immediately preceding the date of the application, been convicted of a specified criminal act and, if so, the specified criminal act involved, the date of conviction, and the place of conviction, and whether there exist any charges of a specified criminal act pending at the time of the application and, if so, the specified criminal act involved and the name and location of the court in which the charges are pending.

(4)

Whether the applicant or any of the other individuals listed pursuant to subsection (b)(1) of this section has had a previous license or permit, under this article or any other ordinance regulating adult uses, suspended or revoked, or by court order required to cease operation, including the name and location of the establishment for which the license was suspended or revoked, as well as the date of the suspension or revocation, and whether the applicant or any other individuals listed pursuant to subsection (b)(1) of this section has been a partner in a partnership or an officer, director or principal stockholder of a corporation whose license under this article or any other ordinance regulating adult uses has previously been suspended or revoked, including the name and location of the establishment for which the license was suspended or revoked, as well as the

date of the suspension or revocation.

(5)

Whether the applicant or any other individuals listed pursuant to subsection (b)(1) of this section holds any other licenses under this article and, if so, the names and locations of such other licensed establishments.

(6)

The general nature of the type of adult use for which the applicant is seeking a license, including a statement concerning the degree to which the anticipated activities at the adult use meet the definitions of the enumerated adult use classifications listed in section 42-76(b). Such a characterization shall serve as an initial basis for the permitted activities allowed under the license issued.

(7)

The location of the proposed establishment, including a legal description of the property site, and a legal street address.

(8)

The names of the employees for the proposed establishment, if known, or if presently unknown, a statement to that effect.

(9)

The name, legal mailing address and street address of any business entity which holds a contract to manage or operate the adult use establishment, and the names of all employees of that business entity.

(10)

The applicant's legal mailing address, residential street address, and residential telephone number, if any.

(11)

A site plan of the proposed or existing establishment. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each site plan should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The site plan shall include, but not be limited to, the following:

a.

All property lines, rights-of-way, and the location of buildings, parking areas and spaces, curb cuts, and driveways;

b.

All windows, doors, entrances and exits, fixed structural features, walls, stages, partitions, projection booths, admission booths, adult booths, concession booths, stands, food service equipment, counters and similar structures;

c.

All proposed improvements or enlargements to be made, which shall be indicated and calculated in terms of percentage of increase in floor size;

d.

A designation of any portion of the premises in which patrons will not be permitted;

e.

If a proposed establishment is constructed in a manner that varies from the site plan submitted, a supplemental site plan showing the existing facility shall be provided, once the certificate of occupancy or final building permit inspection is completed.

(12)

A recent photograph of the individuals listed pursuant to subsection (b)(1) of this section.

(13)

Either the driver's license number or the state or federally issued identification card number of the individuals listed pursuant to subsection (b)(1) of this section.

(14)

A valid adult use permit signed by the director of the county department of development review services or his designee pursuant to division 5 of this article.

(15)

A sworn statement attesting to the accuracy of the information provided in the application and to the fact that the applicant, as licensee, will own, possess, operate and exercise control over the proposed or existing adult use establishment.

(c)

Application fees.

(1)

Any adult use establishment shall pay to the county department of development review services, prior to application for a license, that fee in an amount to cover the expenses of the zoning review necessary to obtain an adult use permit pursuant to division 5 of this article. The amount of such fee shall be established by resolution of the board of county commissioners. Such fee shall be paid only one time for any proposed adult use location unless the proposal is to expand the dimensions of a permitted adult use.

(2)

Each application for an adult use license shall be accompanied by a nonrefundable fee in an amount required to offset the cost of processing the application as set by resolution of the board of county commissioners. If

the application for a license is approved and a license is granted, the fee shall be applied as a credit towards the annual license fee required for the first year pursuant to section 42-81.

(d)

Incomplete application.

(1)

In the event the department of justice and consumer services determines that the applicant has not properly completed the application for a proposed establishment pursuant to the requirements of this section, the department shall promptly notify the applicant of such fact and the time period for granting or denying a license under section 42-79 shall be stayed during the period in which the applicant is allowed an opportunity to respond to the notice. Failure to respond to a request for information necessary to complete the application within 15 days shall result in a denial of the application on the basis of abandonment and the applicant shall be refunded that portion of the fee applicable to the background investigations if the investigations did not occur. This denial shall be without prejudice to the applicant's right to reapply.

(2)

If the applicant denies that the application is incomplete with respect to subsections (b)(1) through (b)(14) of this section, the department of justice and consumer services shall treat the application as abandoned and deny the application pursuant to subsection (d)(2) of this section.

(Ord. No. 90-65, § 2.3, 7-24-90; Ord. No. 91-8, art. 3, 1-29-91; Ord. No. 92-6, art. IV, 2-18-92; Ord. No. 93-89, arts. 5, 6, 10-19-93; Ord. No. 94-40, art. IV, 4-19-94; Ord. No. 97-74, § 9, 9-9-97)

Sec. 42-78. - Reserved.

Editor's note— Ord. No. 01-79, § 4, adopted Nov. 13, 2001, repealed § 42-78, which pertained to investigation of application and derived from Ord. No. 90-65, § 2.4, adopted July 24, 1990; Ord. No. 91-8, art. 3, adopted Jan. 29, 1991; Ord. No. 94-40, art. IV, adopted April 19, 1994; and Ord. No. 97-74, § 10, adopted Sept. 9, 1997.

Sec. 42-79. - Grant; denial.

(a)

Time period for granting or denying license.

(1)

The department of justice and consumer services shall grant or deny an application for a new, renewal or transfer license under this article within 30 days from the date of its proper filing. Any denial shall state the reasons for the denial. Upon the expiration of the 30th day, the applicant may, at the applicant's discretion, begin operating the establishment for which a license is sought, without benefit of a license, unless and until the department of justice and consumer services notifies the applicant of a denial of the application and states the reason(s) for that denial. Failure to timely grant or deny an application for a license, and the revisions of this section allowing operation without benefit of a license, shall not serve as a granting of the license.

(2)

Failure to timely grant or deny an application for a license under this article shall serve to ripen an appropriate action to compel a decision on the application. The county will cooperate with the applicant to assure his entitlement to prompt judicial review of the county's failure to timely grant or deny the application. All operations of the establishment under this special provision shall conform to the provisions of division 5 and sections 42-138 (d), (e), 42-139, 42-146 and 42-148.

(b)

Granting of application for license. If there is no basis for denial of a license under this article, pursuant to subsection (c) of this section, the department of justice and consumer services shall grant the application, notify the applicant of the granting, and issue the license to the applicant upon payment of the appropriate annual license fee provided in section 42-81, with credit as provided in section 42-77.

(c)

Denying of application for license.

(1)

The department of justice and consumer services shall deny the application for a license under this article for any of the following reasons:

a.

The application contains material false information, or information material to the decision was omitted; failure to list an individual required to be listed, pursuant to subsection 42-77(b)(1), and whose listing would result in a denial pursuant to subsections (c)(1)b and (c)(1)d of this section, is presumed to be a material false information for purposes of denial of the application; the certification that the licensee owns, possesses, operates and exercises control over the proposed or existing adult use establishment is a material representation for purposes of this section.

b.

The applicant or any of the other individuals listed pursuant to subsection 42-77(b)(1) holds or has held a license under this article, or any other ordinance regulating adult uses, which has been suspended or revoked for reasons which would be sufficient to warrant suspension or revocation under this article and from which less than ten years have elapsed since the date of revocation or from which less than two years have elapsed since the date of suspension.

c.

The granting of the application would violate a statute, ordinance, or an order from a court of law.

d.

An applicant or any of the other individuals listed pursuant to subsection 42-77(b)(1) has been convicted of a specified criminal act:

1.

For which:

i.

Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

ii.

Less than five years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense; or

iii.

Less than five years have elapsed since the date of the last conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

2.

The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

3.

An applicant who has been convicted of a specified criminal act may qualify for an adult use license only when the time period required by subsection (c)(1)d.1(i)—(iii) of this section has elapsed.

e.

Abandonment of the application pursuant to section 42-77(d).

(2)

If the department of justice and consumer services denies the application, it shall notify the applicant of the denial, and state the reason(s) for the denial.

(3)

If a person applies for a license at a particular location within a period of six months from the date of denial of a previous application for a license at the location, and there has not been an intervening change in the circumstances material to the decision regarding the former reason(s) for denial, the application shall not be accepted for consideration.

(d)

Compliance required. The granting of a license under this article does not act as a certification that the proposed adult use establishment meets all provisions of this article or of any health or zoning statute, code, ordinance, or regulation. The existing adult use establishment and any proposed adult use establishment, once established, must meet all code provisions required of all regulated businesses, including the provisions of this article.

(Ord. No. 90-65, § 2.5, 7-24-90; Ord. No. 91-8, art. 3, 1-29-91; Ord. No. 92-6, art. IV, 2-18-92; Ord. No. 93-89, arts. 7—9, 10-19-93; Ord. No. 94-40, arts. V, VI, 4-19-94; Ord. No. 97-74, § 11, 9-9-97)

Sec. 42-80. - Contents of license; term; renewals; expiration; cancellation.

(a)

Contents. An adult use license shall state on its face:

(1)

The name of the licensee;

(2)

The legal mailing address of the licensee;

(3)

The name of the establishment;

(4)

The legal street address of the establishment;

(5)

The classifications of the license;

(6)

The date of issuance; and

(7)

The date of expiration.

(b)

Term. All licenses issued under this article shall be annual licenses which shall commence from the date of issue.

(c)

Renewals.

(1)

Adult use licenses shall be renewed annually. Subject to the requirements of this article, a licensee under this article shall be entitled to a renewal of his annual license from year to year, as a matter of course, prior to expiration of the license by presenting the license for the previous year, paying the appropriate license fee and completing a renewal application on a form provided by the department of justice and consumer services.

(2)

An application for renewal of an adult use license may be denied if updated information provided in the renewal application indicates that one or more of the individuals required to be listed pursuant to subsection 42-77(b)(1) were not listed in the original application and their existence in the original application would have resulted in a denial of the application pursuant to subsections 42-79(c)(1)b and d. Removal of that individual(s) from the application for renewal will allow approval of the application for renewal.

(3)

An application for renewal of an adult use license may not be denied where the individuals required to be listed pursuant to subsection 42-77(b)(1) were listed in the original application and, subsequent to issuance of the license, were convicted of an offense which would have resulted in a denial of the application pursuant to subsections 4279(c)(1)b and d. Such convictions are to be accommodated through the suspension and revocation procedures of sections 42-85 and 42-86.

(d)

Expiration. A license that is not renewed under this article shall expire. An expired license may be renewed within 30 days of expiration upon presentation of an affidavit stating that no adult entertainment activity has taken place at the establishment subsequent to expiration, upon payment of the appropriate license fee, upon completion of the renewal application, and upon payment of a penalty of ten percent of the appropriate license fee for the first 30 days after expiration of the license, or fraction thereof. Without presentation of the affidavit, the establishment seeking to renew the license must apply for a new license.

(e)

Cancellation. All expired adult use licenses not renewed within 30 days of expiration shall be canceled summarily by the department of justice and consumer services.

(Ord. No. 90-65, § 2.6, 7-24-90; Ord. No. 91-8, art. 3, 1-29-91; Ord. No. 93-89, art. 10, 10-19-93; Ord. No. 97-74, § 12, 9-9-97)

Sec. 42-81. - Annual licensing regulatory fees; levy of; regulatory in nature.

(a)

Levy of license fees.

(1)

In order to cover the administrative and enforcement costs associated with this article, there are hereby levied annual licensing regulatory fees under this article for an adult entertainment establishment in amounts set by resolution of the board of county commissioners.

(2)

An establishment proposing to operate or operating only as an adult cabaret shall pay a licensing regulatory fee.

(3)

An establishment proposing to operate or operating only as an adult photographic studio shall pay a licensing

regulatory fee.

(4)

An establishment proposing to operate or operating only as a physical culture establishment shall pay a licensing regulatory fee.

(5)

An establishment proposing to operate or operating only as an adult use which cannot be categorized according to the above-referenced categories shall be assessed at the rate applicable to the adult use most closely resembling the proposed or existing use.

(6)

An establishment proposing to operate or operating as two of the above-referenced classifications shall pay a licensing regulatory fee.

(7)

An establishment proposing to operate or operating as three of the above-referenced classifications shall pay a licensing regulatory fee.

(8)

An establishment proposing to operate or operating as four or more of the above-referenced classifications shall pay a licensing regulatory fee.

(b)

License fees are regulatory in nature. The annual license fees collected under this article are declared to be regulatory fees which are collected for the purpose of examination and inspection of adult uses under this article and the administration thereof. These regulatory fees are in addition to and not in lieu of building permit, zoning, and food establishment fees, or other fees imposed by other sections of this Code.

(Ord. No. 90-65, § 2.7, 7-24-90; Ord. No. 91-8, art. 3, 1-29-91; Ord. No. 92-6, art. VI, 2-18-92; Ord. No. 97-74, § 13, 9-9-97)

Sec. 42-82. - Records and reports; consent by licensee.

(a)

Records and reports.

(1)

Each licensee shall keep such records and make such reports as are required under this article.

(2)

Whenever the information required by or provided under subsection 42-77(b) has changed, the licensee shall provide the department of justice and consumer services with the changed information within 15 days of

occurrence of the change.

(b)

Consent. By holding a license under this article, the licensee shall be deemed to have consented to the provisions of this article and to the exercise by the department of justice and consumer services, the sheriff, and the departments administering this article of their respective responsibilities under this article.

(Ord. No. 90-65, § 2.8, 7-24-90; Ord. No. 91-8, art. 3, 1-29-91; Ord. No. 93-89, art. 11, 10-19-93; Ord. No. 97-74, § 14, 9-9-97)

Sec. 42-83. - Transfer of license.

(a)

Requirements for transfer. A licensee under this article shall not transfer his license or control, operation or management of the licensed adult use establishment to another business entity or person, and thereby surrender ownership, possession, control, and operation of the licensed establishment to such other business entity or person, unless and until such other business entity or person satisfies the following requirements:

(1)

Obtains a new license from the department of justice and consumer services, valid for one year from the date of issue, which indicates the new licensee, which new license may be obtained only upon completion and proper filing of an application with the department of justice and consumer services setting forth the information called for under subsection 42-77(b)(1) through (14), with respect to the new applicant, and that application has been granted by the department of justice and consumer services pursuant to section 42-79; and

(2)

Pays the application fee and the appropriate annual license fee.

(b)

Effect of suspension or revocation procedures. No license may be transferred pursuant to subsection (a) of this section when the department of justice and consumer services has notified the licensee that suspension or revocation proceedings have been or will be brought against the licensee.

(c)

No transfer to different location. A licensee shall not transfer his license under this article to another location.

(Ord. No. 90-65, § 2.9, 7-24-90; Ord. No. 91-8, art. 3, 1-29-91; Ord. No. 97-74, § 15, 9-9-97)

Sec. 42-84. - Changing name of establishment.

No licensee may change the name of an adult use establishment unless and until he satisfies each of the following requirements:

(1)

Gives the department of justice and consumer services 30 days' notice in writing of the proposed name change;

(2)

Pays the department of justice and consumer services a change of name fee of $3.00; and

(3)

Complies with F.S. § 865.09 (1990).

(Ord. No. 90-65, § 2.10, 7-24-90; Ord. No. 91-8, art. 3, 1-29-91; Ord. No. 97-74, § 16, 9-9-97)

Sec. 42-85. - Suspension of license.

(a)

Illegal transfer. In the event the licensee is convicted of a license transfer contrary to section 42-83, the department of justice and consumer services shall notify the licensee of its intent to suspend the license. The suspension, once effective, shall remain in effect until the requirements of section 42-83 have been met.

(b)

Conviction for violations of division 6 of this article. The two-year period referenced in this subsection applies to the dates of the specified criminal acts and violation of division 6 of this article, regardless of the date of conviction.

(1)

In the event three or more violations of a specified criminal act, violations of division 6 of this article, violations of section 6-2 of this Code, or violations of chapter 26, article V of this Code, occur at an adult use establishment within a two-year period, and convictions result from at least three of the violations of either the licensee, the licensee's operators or employees, or of any of the other individuals listed pursuant to subsection 42-77(b)(1), the department of justice and consumer services shall, upon the date of the third conviction, notify the license of its intent to suspend the license. The suspension, once effective, shall remain in effect for a period of 30 days. For purposes of this subsection (b)(1) only, in the event that a single occurrence of enforcement results in more than one conviction, the total number of convictions shall be combined into a single violation. "Single occurrences of enforcement" are enforcement actions occurring at the same location and less than four hours apart. Enforcement actions occurring more than four hours apart or at different locations resulting in convictions are separate violations for purposes of this subsection. All violations for operation without a valid license shall be separate violations not to be included with other cited violations as part of a single occurrence of enforcement.

(2)

In the event one or more violations of a specified criminal act, a violation of division 6 of this article, a violation of section 6-2 of this Code, or a violation of chapter 26, article V of this Code, occurs at the adult use establishment within a period of two years and 30 days from the date the most recent conviction which was the basis of the suspension for 30 days under subsection (b)(1) of this section, and a conviction results from one or more of the violations, of either the licensee, the licensee's operators or employees, or of any of

the other individuals listed pursuant to subsection 42-77(b)(1), the department of justice and consumer services shall, upon the date of the first conviction, notify the licensee of its intent to suspend the license. The suspension, once effective, shall remain in effect for a period of 90 days.

(3)

In the event that one or more violations of a specified criminal act or violations of division 6 of this article occurs within a period of two years and 90 days from the most recent conviction which was the basis for the suspension for 90 days under subsection (b)(2) of this section, and a conviction results from one or more of the violations, of either the licensee, the licensee's operator or employee, or of or any of the other individual listed pursuant to subsection 42-77(b)(1), the department of justice and consumer services shall, upon the date of the first conviction, notify the licensee of its intent to suspend the license. The suspension, once effective, shall remain in effect for a period of 180 days.

(4)

The transfer or renewal of a license pursuant to this article shall not defeat the terms of subsections (b)(1) through (b)(3) of this section.

(c)

Effective date of suspension. All periods of suspension shall begin 35 days after the date the department of justice and consumer services mails the notice of suspension to the licensee or on the date the licensee delivers his license to the department of justice and consumer services, whichever happens first. The licensee shall have the right to request a hearing before the director of the department of justice and consumer services or her designee. This hearing shall be commenced within 30 days of the date of the request for the hearing. In the event that the suspension decision is appealed pursuant to section 42-62, subsequent to the hearing before the director of the department of justice and consumer services, the effective date of suspension shall begin upon issuance of the mandate of the court having jurisdiction over the appeal.

(Ord. No. 90-65, § 2.11, 7-24-90; Ord. No. 91-8, art. 12, 1-29-91; Ord. No. 92-6, art. VI, 2-18-92; Ord. No. 94-40, art. VII, 4-19-94; Ord. No. 97-74, § 17, 9-9-97; Ord. No. 01-79, § 5, 11-13-01)

Sec. 42-86. - Cancellation or revocation of license.

(a)

False information. In the event the department of justice and consumer services learns or finds upon sufficient cause that a license was granted based upon material false information, misrepresentation, mistake of fact or law relevant to the decision, or omission of information material to the decision, it shall notify the licensee and shall provide no more than 30 days during which the licensee may correct or explain the reason for the false, omitted, misrepresented, or mistaken information. If the licensee cannot correct the application to conform with the requirements of this article, the licensee will be subject to citation for violation of this article. A law enforcement officer may issue a citation for violation of this subsection. The licensee will be subject to all fines and penalties as provided in section 1-8 and under this article. In the event that the licensee is convicted or found guilty of a violation of this provision, he shall also be subject to cancellation of the license as provided in subsections (b)(3) and (b)(4) of this section.

(b)

Convictions for violations of division 6 of this article.

(1)

If the licensee, the licensee's operator or employee, or any other individual listed pursuant to subsection 42-77(b)(1), is convicted for one or more specified criminal acts or for a violation of division 6 of this article and the conviction(s) was (were) for activities that occurred at an adult use establishment which has had a license suspended for a period of 180 days pursuant to subsection 42-85(b)(3), and the conviction(s) occur(s) within a period of 2½ years after the license was suspended for 180 days pursuant to subsection 42-85(b)(3), the licensee will be in violation of this provision and will be subject to revocation of his license.

(2)

The 2½-year time frame during which the licensee is subject to revocation proceedings under subsection (b)(1), above, shall begin to run from the first day upon which the 180-day suspension of the license takes effect.

(3)

Upon discovery of a violation as defined in subsection (b)(1) of this section, the department of justice and consumer services shall notify the licensee of its intent to revoke the license. The licensee shall have 35 days from the date of mailing the aforementioned notice upon which to request a hearing before the director of the department of justice and consumer services or her designee. Such hearing shall be commenced within 30 days of the date of the request for hearing. The director of the department of justice and consumer services shall revoke the license if he or she finds that the licensee is in violation of this provision.

(4)

In the event that the licensee fails to make a timely request for hearing, the department of justice and consumer services shall revoke the license and notify the licensee of the revocation and the reasons therefor.

(5)

The transfer or renewal of a license pursuant to this article shall not defeat the terms of subsection (b)(1) of this section.

(6)

The decision of the director of the department of justice and consumer services shall constitute final agency action, and may be appealed pursuant to section 42-62.

(c)

Loss of a permit. If the underlying adult use permit is revoked pursuant to § 42-122, the license shall be cancelled. Loss of a license under this provision shall not serve as a basis for denial of a future license request.

(d)

Effect of revocation. If a license is revoked, the licensee shall not be allowed to obtain another adult use license for a period of ten years.

(e)

Effective date of revocation. The revocation of a license under this article shall take effect 35 days after the date the department of justice and consumer services mails the notice of revocation to the licensee or on the date the licensee delivers his license to the department of justice and consumer services, whichever occurs first. In the event that the revocation decision is appealed pursuant to section 42-62, the effective date of revocation shall begin upon issuance of the mandate of the court having jurisdiction over the appeal.

(Ord. No. 90-65, § 2.12, 7-24-90; Ord. No. 91-8, art. 3, 1-29-91; Ord. No. 93-89, art. 13, 10-19-93; Ord. No. 94-40, art. VIII, 4-19-94; Ord. No. 97-74, § 18, 9-9-97)

Secs. 42-87—42-95. - Reserved.

DIVISION 3. - EMPLOYEE RESTRICTIONS AND REQUIREMENTS

Sec. 42-96. - Records for employees.

(a)

The licensee of an adult use establishment is responsible for keeping a record of all employees who are currently employed by the establishment, and of all former employees who were employed by the establishment during the preceding one-year period. The record shall contain the current or former employee's full legal name, including any aliases, date of birth, and photographic picture, which shall be updated annually.

(b)

The original records required by subsection (a) of this section, or true and exact photocopies thereof, shall be kept at the adult use establishment at all times.

(c)

Any operator of an adult use establishment shall be responsible for knowing the location of the original records required by this section, or the true and exact photocopies thereof.

(d)

Any operator of an adult use establishment shall, upon request by a law enforcement officer, health department official, or a representative of the department of justice and consumer services, make available for inspection the original records, or the true and exact photocopies thereof, required by this section while the establishment is open for business.

(Ord. No. 90-65, § 3.1, 7-24-90; Ord. No. 91-8, art. 4, 1-29-91; Ord. No. 92-6, art. VII, 2-18-92; Ord. No. 93-89, art. 14, 10-19-93; Ord. No. 97-74, § 19, 9-9-97; Ord. No. 98-38, § 1, 3-10-98)

Secs. 42-97—42-105. - Reserved.

DIVISION 4. - OPERATIONAL REQUIREMENTS FOR ESTABLISHMENTS

Sec. 42-106. - Requirements for all establishments.

Each adult use establishment shall, regardless of whether it is licensed, observe the following general

requirements:

(1)

Conform to all applicable building statutes, codes, ordinances and regulations, whether federal, state or local.

(2)

Conform to all applicable fire statutes, codes, ordinances, and regulations, whether federal, state or local.

(3)

Conform to all applicable health statutes, codes, ordinances, and regulations, whether federal, state or local.

(4)

Conform to all applicable zoning regulations and land use laws, whether state or local.

(5)

Keep the adult use license posted in a conspicuous place at the adult use establishment at all times, which license shall be available for inspection upon request at all times by the public. Adult bookstores, operating only as an adult bookstore, shall keep the adult use permit posted in a conspicuous place at the adult bookstore at all times, which permit shall be available for inspection upon request by the public at all times.

(6)

Opaquely cover each nonopaque area through which a person outside the establishment may otherwise see inside the establishment. All activities of adult uses involving the display of specified anatomical areas or involving specified sexual activities must be inside the establishment and not visible to a person outside the establishment.

(7)

Maintain a continuously updated compilation of the records required in section 42-96.

(Ord. No. 90-65, § 4.1, 7-24-90; Ord. No. 91-8, art. 5, 1-29-91; Ord. No. 92-6, art. VIII, 2-18-92; Ord. No. 93-89, art. 5, 10-19-93)

Sec. 42-107. - Adult theaters.

In addition to the general requirements for an adult use establishment contained in section 42-106 and the special requirements of section 42-108, an adult theater shall, regardless of whether it is licensed, observe the following special requirements:

(1)

If the adult theater contains a hall or auditorium area, the area shall comply with each of the following provisions:

a.

Have individual, separate seats, not couches, benches, or the like, to accommodate the maximum number of persons who may occupy the area.

b.

Have a continuous main aisle alongside of the seating areas in order that each person seated in the areas shall be visible from the aisle at all times.

c.

Have a sign posted in a conspicuous place at or near each entranceway to the hall or auditorium area which lists the maximum number of persons who may occupy the hall or auditorium area, which number shall not exceed the number of seats within the hall or auditorium area.

d.

The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) footcandle as measured at floor level.

e.

It shall be the duty of the licensee, the owners, and operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the illumination described in subsection (1)d, above, is maintained at all times that any patron is present in the premises.

(2)

If the adult theater contains adult booths, each adult booth shall comply with each of the following provisions:

a.

Have a sign posted in a conspicuous place at or near the entranceway which states the maximum number of persons who may occupy the booth, which number shall correlate with the number of seats in the booth.

b.

Have a permanently open entranceway not less than two feet wide and/or less than six feet high, which entranceway shall not have any curtain rods, hinges, rails or the like which would allow the entranceway to be closed or partially closed by any curtain, door, or other partition.

c.

Have individual, separate seats, not couches, benches or the like, which correlate with the maximum number of persons who may occupy the booth.

d.

Have a continuous main aisle alongside the booth in order that each person situated in the booth shall be visible from the aisle as well as from the manager's station at all times.

e.

Have, except for the entranceway, walls or partitions of solid construction without any holes or openings in such walls or partitions.

(3)

Refurbishing of adult theaters.

a.

Each adult theater subject to this article shall cover the floors of areas accessible to patrons with smooth and nonpermeable flooring material which can withstand frequent effective cleaning with industrial strength cleaning agents. Carpeting of any type is prohibited.

b.

Each adult theater subject to this article shall use smooth and nonpermeable upholstery material which can withstand frequent cleaning with industrial strength cleaning agents to cover furniture permitted by this article for the use of patrons.

c.

Each adult theater subject to this article shall have, in areas accessible to patrons, interior wall surfaces which can withstand frequent cleaning with industrial strength cleaning agents.

d.

Each adult theater subject to this article shall use only those shades, blinds and vertical blinds which can withstand frequent cleaning with industrial strength cleaning agents. Draperies are prohibited.

(4)

Sanitation.

a.

All areas of each adult theater subject to this article accessible to patrons shall be maintained in a clean and sanitary condition. The surfaces of all floors, furniture, countertops, shades, blinds, vertical blinds, doors and walls of areas accessible to patrons shall be cleaned and sanitized a minimum of one time each 24 hours with an industrial strength cleaner.

b.

All floors, furniture, countertops, shades, blinds, vertical blinds, doors and walls of areas accessible to patrons of adult theaters subject to this article shall be renovated or be replaced as needed. All furniture must be kept free from holes and rips.

c.

Any individual cleaning or sanitizing the areas accessible to patrons shall utilize an appropriate and effective

adaptation of the U.S. Centers for Disease Control's universal precautions for the prevention of transmission of the HIV virus and other diseases. Such procedure shall be reviewed and approved by the county health department. A copy of the approved procedure shall be kept on file at the adult theater and a copy shall be provided to each person cleaning or sanitizing the areas accessible to patrons. Each such individual shall certify that he has read and understood the procedures by signing a copy of the procedure. Such signed copy shall be kept as a part of the records of the adult theater and open for inspection by the health department, sheriff, or the department of justice and consumer services.

(5)

If the adult theater is designed to permit outdoor viewing by persons seated in automobiles, it shall have the motion picture screen so situated, or the perimeter of the establishment so fenced, that the material to be seen by such persons may not be seen from any public right-of-way, residential zoned property, mixed use zoning district, church, school, child care facility or public recreation area.

(Ord. No. 90-65, § 4.2, 7-24-90; Ord. No. 91-8, art. 5, 1-29-91; Ord. No. 93-89, arts. 16, 17, 10-19-93; Ord. No. 94-40, art. IX, 4-19-94; Ord. No. 97-74, § 20, 9-9-97; Ord. No. 98-8, § 3, 1-6-98; Ord. No. 01-79, §§ 6, 7, 11-13-01)

Sec. 42-108. - Special cabarets, adult photographic or modeling studios, and adult theaters.

In addition to the general requirements for an adult use establishment contained in section 42-106, a special cabaret, an adult photographic or modeling studio, and an adult theater, regardless of whether it is licensed, shall observe the following special requirements:

(1)

A stage shall be provided for the display or exposure of any specified anatomical area by an employee to a person other than another employee consisting of a permanent platform or other similar permanent structure raised a minimum of 18 inches above the surrounding floor and encompassing an area of at least 100 square feet.

(2)

The stage shall be at least three feet from the nearest table, chair or other accommodation where food or drink is served or consumed.

(3)

Any area in which a private performance occurs shall:

a.

Have a permanently open entranceway not less than two feet wide and not less than six feet high, which entranceway shall not have any curtain rods, hinges, rails, or the like which would allow the entranceway to be closed or partially closed by any curtain, door, or other partition; or

b.

Have a wall to wall, floor to ceiling partition of solid construction without any holes or openings, which partition may be completely or partially transparent, and which partition separates the employee from the

person viewing the display.

(Ord. No. 90-65, § 4.3, 7-24-90; Ord. No. 91-8, art. 5, 1-29-91; Ord. No. 92-6, art. IX, 2-18-92; Ord. No. 97-74, § 21, 9-9-97; Ord. No. 01-79, § 8, 11-13-01)

Secs. 42-109—42-120. - Reserved.

DIVISION 5. - LOCATION RESTRICTIONS

Sec. 42-121. - Location of adult use establishments.

(a)

No adult use establishment, including an adult bookstore operating only as an adult bookstore, may be located within 400 feet of any residential zoned property, or any portion of a mixed use zoning district developed and utilized as residential, nor within 400 feet of any church, school, child care facility or public recreation area which is validly located or has previously received legal authority to so locate.

(b)

No adult use business establishment may be located within 400 feet of any other adult use.

(c)

The distance requirements under subsections (a) and (b) of this section shall be measured along a straight line from the nearest residential zoning district or the nearest property line of the church, school, child care facility, public recreation area or adult use to the closest property line of the adult use. In a multitenant or multiuser building, such as a shopping center, such distance requirement shall be measured from the unit or closest portion of the building or structure utilized by and containing or being utilized by any facet of the adult use establishment.

(d)

Nothing in this section shall be construed to permit the operation of any business or the performance of any activity prohibited under any other section of this article. Additionally, nothing in this article shall be construed to authorize, allow or permit the establishment of any business, the performance of any activity, or the possession of any item, which is obscene under the judicially established definition of obscenity.

(Ord. No. 90-65, § 5.1, 7-24-90; Ord. No. 91-8, art. 6, 1-29-91)

Sec. 42-122. - Adult use permits.

(a)

No adult use establishment shall be allowed to commence or continue to operate without first obtaining a valid adult use permit. Any business entity or person desiring to locate, operate or continue the operation of any adult use shall be required to obtain an adult use permit from the director of the department of development review services before the establishment or commencement of business as an adult use. Adult uses which have been established or have commenced business at their existing locations prior to the effective date of the ordinance from which this article derives shall be required to obtain an adult use permit from the director of the department of development review services within three months of the adoption of

such ordinance.

(b)

In order to obtain an adult use permit, the applicant shall provide, in addition to a fee determined by the board of county commissioners to be reasonably calculated to cover the costs of administering this permitting requirement, the following information:

(1)

Name, mailing address and telephone number.

(2)

Street address and a legal description of the property containing the proposed or existing adult use.

(3)

A site plan of the proposed establishment. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each site plan should be oriented to the north or to some designated street or object and shall be drawn-to a designated scale or with marked dimensions sufficient to show the various dimensions of the site including property dimensions, building sizes, and locations and sizes of the Portions of the building containing the adult use. Multitenant buildings shall show interior and exterior locations and sizes of the areas proposed to be occupied by all facets of the adult business use, and all setbacks from property lines.

(4)

Known locations of any churches, schools, child care facilities, public recreation facilities or other existing or proposed adult uses within approximately 400 feet of the proposed or existing adult use location for which the adult use permit is being sought.

(5)

If the applicant's proposed location is that of an already established adult use, the date of commencement of operations as an adult use, including documentation of commencement if available.

(6)

If the applicant is not the record owner of the subject parcel, the application must include a letter, with the notarized signature of the record owner, purporting to be the record owner, stating that the applicant is authorized to seek an adult use permit for the premises.

(c)

Upon receipt of a completed application for an adult use permit, the director of the department of development review services, his designee, or any person designated by the county administrator shall inspect the proposed location of the adult use and, within nine days, provide notice to the applicant of a certification of compliance or noncompliance. The director of the department of development review services may extend such period of time, at the request of the applicant, for purposes of clarification of issues raised by the review but in no event for a period of time in excess of 20 days.

(1)

Certification of noncompliance.

a.

Where it is found that the location proposed in the application does not meet the distance requirements of section 42-121(a) or is one where a valid adult use exists or is one where a valid adult use permit or valid certification of compliance has been issued for another adult use, the location of which is within the distance requirements of section 42-121(b) from the proposed location, the applicant shall be notified of the certification of noncompliance of the proposed location with the locational requirements of this article.

b.

Upon receipt of the certification of noncompliance, the applicant shall have ten days to appeal the decision on noncompliance pursuant to the provisions of section 42-122(d)(3).

(2)

Certification of compliance.

a.

Where it is found that the applicant's proposed location meets the distance requirements of section 42-121(a) and where no valid adult use exists or where no valid adult use permit or valid certification of compliance has been issued for another adult use, the location of which is within the distance requirements of section 42-121(b) from the proposed location the applicant shall be notified of the certification of compliance of the proposed location with the locational requirements of subsections (a) and (b) of this section.

b.

Upon notification, the applicant shall have 20 days to obtain the adult use permit, signed by the director of the department of development review services or his designee. Failure to obtain such permit within the 20-day time period invalidates the certification of compliance and the applicant must reapply.

(3)

Conflicting applications.

a.

The board of county commissioners recognizes the potential of creating nonconformities by granting adult use permits that conflict. The director of the department of development review services shall develop a system for tracking potentially conflicting applications and for ranking them by date and time of application/date of establishment.

Between two applications being processed at the same time, which individually qualify under subsections 42-121(a) and (b), but would violate the provisions of subsection 42-121(b) if both were to receive permits, the application which was completed at the earliest date, as provided for in subsection (b) of this section, shall be notified that his proposed location has been certified in compliance pursuant to the provisions of subsection (c)(2) of this section.

The conflicting applicant shall be notified of his application's certification of noncompliance pursuant to the provisions of this subsection (c)(3) with a notation that the noncompliance was due to the earlier submittal of a conflicting application.

b.

The first applicant who has received the certification of compliance shall have 20 days to secure the adult use permit, signed by the director of the department of development review services. Upon lapse of the period of validity of the certification of compliance, pursuant to the provisions of subsection (c)(2)b of this section, the applicant must reapply.

c.

Any applicant who has received a certification of noncompliance pursuant to the provisions of this subsection (c)(3) may use his prior application date in a resubmission for the purposes of establishing priority if the original application was made no more than seven months previous. Otherwise, he must reapply.

(d)

Continuing validity of adult use permit.

(1)

The adult use permit signed by the director of the department of development review services or his designee shall be valid for a period of six months after issuance, during which time the applicant's adult use business must apply for an adult use license pursuant to division 2 of this article. The validity of such a permit may be extended by the director of the department of development review services one time for 90 days for good cause. Any decision to deny such an extension may be appealed pursuant to the provisions of section 42-62.

(2)

Once legally established, the adult use permit shall remain valid unless revoked pursuant to the provisions of section 42-123 or terminated sooner for any reason, including failure to have a valid adult use license, or unless voluntarily discontinued for a period of 30 days or more. Upon receipt of a notice of abandonment, the applicant shall have ten days to appeal the decision on noncompliance pursuant to the provisions of section 42-122(d)(3).

(3)

If the department of development review services decides to certify as noncompliant or to revoke an otherwise valid adult use permit, the applicant/permittee shall have the right to request a hearing before the director of the department of development review services or his/her designee. This hearing shall be commenced within 30 days of the date of the request for the hearing. Decisions by the director of the department of development review services to certify as non-compliant or to revoke an otherwise valid adult use permit may be reviewed pursuant to the provisions of section 42-62.

(Ord. No. 90-65, § 5.2, 7-24-90; Ord. No. 91-8, art. 6, 1-29-91; Ord. No. 97-74, § 22, 9-9-97)

Sec. 42-123. - Variances.

(a)

If an applicant receives a certification of noncompliance because the location of the proposed adult use is in violation of the locational requirements of this article, then the applicant may, not later than ten calendar days after receiving notice of the certification of noncompliance, file with the department of development review services a written request for a variance from the locational restrictions of section 42-121. The filing of such a request shall preserve the pending status of the application for purposes of the review of conflicting applications.

(b)

If the written request for a variance from the locational requirements of this article is filed with the department of development review services within the ten-day limit provided in subsection (a) above, he shall schedule a hearing before the board of adjustment, which body shall consider the request for a variance. The director of the department of development review services shall set a date for the hearing within 60 days from the date the written request is received.

(c)

The board of adjustment shall hear and consider evidence offered by any interested person in a public hearing scheduled with public notice. Public notice shall be given pursuant to the requirements of section 138-79(b) and shall include property owners of record by the property appraiser within 400 feet of the proposed location instead of 200 feet. The board of adjustment may, in its discretion, grant a variance, with reasonable conditions, from the locational restrictions of section 42-121 if it makes the following findings:

(1)

That a sufficient physical barrier separates the adult use establishment, for which a variance is being sought, from the land use(s), which has (have) caused the adult use not to be in compliance with the distance requirement of this article, so as to substantially fulfill the purpose of the distance requirement. Such physical barriers include, but are not limited to, limited access streets or highways, walls, and natural or manmade waterways.

(2)

That the strict application of the provisions of this article will work an undue hardship unique to the applicant for a particular location.

(3)

That all other applicable provisions of this article will be observed.

(4)

That the property is at least 200 feet from any property with the uses set forth in section 42-121.

(d)

The board of adjustment may only grant a variance to the provisions of this article by a majority vote. Failure to reach a majority vote shall result in a denial of the variance. The decision of the board of adjustment is final.

(e)

If the board of adjustment denies the request for exemption from the requirements of this article, the applicant may not reapply for an exemption until at least six months have elapsed since the date of the board of adjustment's action.

(f)

The grant of a variance under this section does not exempt the applicant from any other provisions of this article, other than the locational restrictions of section 42-121, as conditioned by the board of adjustment.

(Ord. No. 90-65, § 5.4, 7-24-90; Ord. No. 91-8, art. 6, 1-29-91; Ord. No. 97-74, § 23, 9-9-97)

Secs. 42-124—42-135. - Reserved.

DIVISION 6. - MISCELLANEOUS PROHIBITIONS

Sec. 42-136. - Affirmative defenses.

In prosecutions for violations of section 42-139, 42-144 or 42-145 of this article, it is a rebuttable presumption, where relevant, that the person with whom the charged individual is alleged to have performed the prohibited act is not an employee. It is an affirmative defense, where applicable, that the individual involved in the alleged violation is an employee with whom the otherwise prohibited act is allowed.

(Ord. No. 90-65, § 6.16, 7-24-90; Ord. No. 92-6, art. XII, 2-18-92; Ord. No. 94-40, art. XI, 4-19-94)

Sec. 42-137. - Operation of adult use without valid adult use license.

It shall be a violation of this article for any business entity or licensee to operate or for any person to be an operator or employee of an adult use establishment where the business entity, licensee or person knows or should know that:

(1)

The establishment does not have an adult use permit or adult use license for any applicable classification;

(2)

The adult use establishment has a license which is under suspension;

(3)

The adult use establishment has a license which has been revoked; or

(4)

The adult use establishment has a license which has expired or been cancelled.

(Ord. No. 90-65, § 6.1, 7-24-90; Ord. No. 91-8, art. 7, 1-29-91)

Sec. 42-138. - Prohibited operations.

(a)

It shall be a violation of this article for any business entity or licensee to operate or for any person to be an

operator or employee of an adult use establishment which does not satisfy all of the general requirements of subsections 42-106(5), (6) and (7).

(b)

It shall be a violation of this article for any business entity or licensee to operate or for any person to be an operator or employee of an adult theater which does not satisfy all of the special requirements of sections 42-107 and 42-108 of this article.

(c)

It shall be a violation of this article for any business entity or licensee to operate or for any person to be an operator or employee of an adult cabaret or adult theater which does not satisfy all of the special requirements of section 42-108 of this article.

(d)

It shall be a violation of this article for any business entity or licensee to operate or for any person to be an operator or employee of an adult use establishment and to knowingly, or with reason to know, permit, suffer, or allow the entrance or exit of the adult use establishment to be locked when a person other than an employee is inside the establishment.

(e)

It shall be a violation of this article for any business entity or licensee to operate or for any person to be an operator or employee of an adult use which does not comply with the provisions of section 6-2 or chapter 26, article V.

(f)

It shall be a violation of this article to transfer a license or control, operation or management of an adult use establishment without satisfying all of the provisions of section 42-82 of this article.

(Ord. No. 90-65, § 6.2, 7-24-90; Ord. No. 91-8, art. 7, 1-29-91; Ord. No. 97-74, § 24, 9-9-97)

Sec. 42-139. - Allowing employee to engage in prohibited acts.

(a)

It shall be a violation of this article for any business entity, licensee or for any operator of an adult use establishment, regardless of whether licensed under this article, to knowingly, or with reason to know, permit, suffer, or allow any employee to:

(1)

Engage in any specified sexual activity at the adult use establishment;

(2)

Display or expose any specified anatomical area at the adult use establishment, unless such employee is continuously positioned in an area as described in subsections 42-108(1) and (2), and where applicable,

subsection 42-108(3);

(3)

Display or expose any specified anatomical area while simulating any specified sexual activity with any other person at the adult use establishment, including with another employee;

(4)

Engage in a private performance unless such employee is in an area which complies with the special requirements of subsections 42-108(3)a and b;

(5)

While engaged in the display or exposure of any specified anatomical area, to intentionally touch, either directly or through a medium, any person, except another employee, at the adult use establishment, excluding, for purposes of passing a gratuity, that part of the person's arm distal to the wrist, commonly referred to as the hand, provided the person maintains a distance of two feet from the employee. It shall be a violation of this article for any gratuity to pass through any bodily contact other than from the hand of the person to the hand of the employee;

(6)

Intentionally straddle the legs of an employee over any part of the body of a person other than another employee at the establishment, regardless of whether there is a touch or touching; or

(7)

While engaged in the display or exposure of any specified anatomical areas, to voluntarily be within three feet of any person other than another employee unless a gratuity is being passed, in which case the requirements of 42-139(5) must be met.

(b)

It is a violation of this article for any business entity, licensee or operator to suffer, permit or allow a patron of the adult use establishment to commit a violation of section 42-145.

(Ord. No. 90-65, § 6.3, 7-24-90; Ord. No. 91-8, art. 7, 1-29-91; Ord. No. 97-74, § 25, 9-9-97; Ord. No. 98-38, § 3, 3-10-98; Ord. No. 01-79, § 9, 11-13-01)

Sec. 42-140. - Advertising prohibited activity.

It shall be a violation of this article for an operator of an adult use establishment, regardless of whether it is licensed under this article, to advertise the presentation of any activity prohibited by any applicable state statute or local ordinance.

(Ord. No. 90-65, § 6.4, 7-24-90; Ord. No. 91-8, art. 7, 1-29-91)

Sec. 42-141. - Minors prohibited.

It shall be a violation of this article for an operator of an adult use establishment, regardless of whether it is

licensed under this article, to knowingly, or with reason to know, permit, suffer, or allow:

(1)

Admittance to the adult use establishment of a person under 18 years of age;

(2)

A person under 18 years of age to remain at the adult use establishment;

(3)

A person under 18 years of age to purchase goods or services at the adult use establishment; or

(4)

A person to work at the adult use establishment as an employee who is under 18 years of age.

(Ord. No. 90-65, § 6.5, 7-24-90; Ord. No. 91-8, art. 7, 1-29-91)

Sec. 42-142. - Working at unlicensed establishment.

It shall be a violation of this article for any person to act as an employee of an adult use establishment that he knows or should know is not licensed under this article, or which has a license which is under suspension, has been revoked or cancelled, or has expired.

(Ord. No. 90-65, § 6.6, 7-24-90; Ord. No. 91-8, art. 7, 1-29-91)

Sec. 42-143. - Employee records.

It shall be a violation of this article to be an operator of an adult use establishment, regardless of whether it is licensed under this article, at which the records for employees required by section 42-96 have not been compiled, are not maintained or are not available for inspection.

(Ord. No. 90-65, § 6.7, 7-24-90; Ord. No. 91-8, art. 7, 1-29-91; Ord. No. 92-6, art. X, 2-18-92)

Sec. 42-144. - Engaging in prohibited activity.

(a)

It shall be a violation of this article for any employee of an adult use establishment, regardless of whether it is licensed under this article, to:

(1)

Engage in any specified sexual activity at the adult use establishment;

(2)

Display or expose any specified anatomical area at the adult use establishment, unless such employee is continuously positioned in an area as described in subsections 42-108(1) and (2), and where applicable, subsection 42-108(3).

(3)

Display or expose any specified anatomical area while simulating any specified sexual activity with any other person at the adult use establishment, including with another employee;

(4)

Engage in a private performance unless such employee is in an area which complies with the special requirements of subsections 42-108(3)a and b;

(5)

While engaged in the display or exposure of any specified anatomical area, to intentionally touch, either directly or through a medium, any person, except another employee, at the adult use establishment, excluding, for purposes of passing a gratuity, that part of the person's arm distal to the wrist, commonly referred to as the hand, provided the person maintains a distance of two feet from the employee. It shall be a violation of this article for any gratuity to pass through any bodily contact other than from the hand of the person to the hand of the employee;

(6)

Intentionally straddle the legs of an employee over any part of the body of a person other than another employee at the establishment, regardless of whether there is a touch or touching; or

(7)

While engaged in the display or exposure of any specified anatomical areas, to voluntarily be within three feet of any person other than another employee, unless a gratuity is being passed, in which case the requirements of 42-144(5) must be met.

(b)

It is a violation of this article for any business entity, licensee or operator to suffer, permit or allow a patron of the adult use establishment to commit a violation of section 42-145.

(Ord. No. 90-65, § 6.8, 7-24-90; Ord. No. 91-8, art. 7, 1-29-91; Ord. No. 98-38, § 4, 3-10-98; Ord. No. 01-79, § 10, 11-13-01)

Sec. 42-145. - Touching of employee by patron.

(a)

Except for the minimal touching allowed and as regulated in subsection 42-139(5) involving the passing of a gratuity, it shall be a violation of this article for any person in an adult use establishment, other than another employee, to intentionally touch, either directly or through a medium, an employee who is displaying or exposing any specified anatomical area at the adult entertainment establishment.

(b)

It shall be a violation of this article for any person in an adult use establishment, other than another employee, to intentionally touch, either directly or through a medium, the clothed or unclothed breast of any employee,

or to touch, either directly or through a medium, the clothed body of any employee at any point below the waist and above the knee of the employee.

(c)

Except involving the minimal touching of an employee's hand allowed in subsection 42-139(5) involving the passing of a gratuity, it shall be a violation of this article for any person, except another employee, to voluntarily be within three feet of any employee displaying or exposing any specified anatomical area at the adult use establishment.

(Ord. No. 90-65, § 6.9, 7-24-90; Ord. No. 91-8, art. 7, 1-29-91)

Sec. 42-146. - Exceeding occupancy limit of adult booth.

It shall be a violation of this article for any person to occupy an adult booth in which booth there are more people than that specified on the posted sign required by section 42-107.

(Ord. No. 90-65, § 6.10, 7-24-90; Ord. No. 91-8, art. 7, 1-29-91)

Sec. 42-147. - Use of restrooms or dressing rooms.

Notwithstanding any provision indicating to the contrary, it shall not be a violation of this article for any employee of an adult use establishment, regardless of whether it is licensed under this article, to expose any specified anatomical area during the employee's bona fide use of a restroom, or during the employee's bona fide use of a dressing room which is accessible only to employees.

(Ord. No. 90-65, § 6.11, 7-24-90; Ord. No. 91-8, art. 7, 1-29-91)

Sec. 42-148. - Hours of operation.

(a)

It shall be a violation of this article for any operator of an adult use establishment to allow such adult use establishment to remain open for business, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service between the hours of 3:00 a.m. and 8:00 a.m. of any particular day.

(b)

It shall be a violation of this article for any employee of an adult use establishment to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service between the hours of 3:00 a.m. and 8:00 a.m. of any particular day.

(c)

The provisions of subsections (a) and (b) of this section apply regardless of whether employees are no longer participating in the sale or rental of adult material, the display of specified anatomical areas, or are engaged in specified sexual activities after 3:00 a.m. An adult use establishment, licensed or permitted as such, will be considered an adult use at all times and is subject to all provisions of this article until such time as the adult use license or permit is suspended, canceled, revoked or voluntarily terminated.

(Ord. No. 90-65, § 6.12, 7-24-90; Ord. No. 91-8, art. 7, 1-29-91; Ord. No. 93-89, art. 18, 10-19-93; Ord. No. 11-11, § 1, 4-12-11)

Sec. 42-149. - Alteration of license.

It shall be a violation of this article for any person to alter or otherwise change the contents of an adult use license without the written permission of the department of justice and consumer services.

(Ord. No. 90-65, § 6.13, 7-24-90; Ord. No. 91-8, art. 7, 1-29-91; Ord. No. 98-8, § 3, 1-6-98)

Sec. 42-150. - False statement or false information in applying for license.

It shall be a violation of this article for any person applying for an adult use license to make a false statement which is intended to facilitate the issuance of a license, or to provide false information which is intended to facilitate the issuance of a license.

(Ord. No. 90-65, § 6.14, 7-24-90; Ord. No. 91-8, art. 7, 1-29-91)

Secs. 42-151—42-170. - Reserved.

ARTICLE IV. - HEALTH AND DANCE STUDIOS[4]

Footnotes:
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Editor's note—The act contained in this article assumed ordinance status pursuant to charter § 5.02.

Cross reference— Amusements and entertainments, ch. 10; businesses, ch. 26.

State Law reference— Dance Studio Act, F.S. § 501.143; health studios, F.S. § 501.012 et seq.

Sec. 42-171. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Student means any person desiring or receiving the services of a studio.

Studio means any person operating, maintaining or dealing with any establishment for the purpose of giving, for compensation, instruction, training, or assistance, in physical culture, body-building, exercising, reducing, figure development, dancing or any other such skill.

(Laws of Fla. ch. 63-1788, § 2)

Cross reference— Definitions generally, § 1-2.

Sec. 42-172. - Penalty for violation of article.

Any person violating the terms of this article shall be punished as prescribed in section 1-8.

(Laws of Fla. ch. 63-1788, § 7)

Sec. 42-173. - Purpose.

The purpose of this article is to prescribe specific standards for health studios and dance studios within the county that deal in advance sales of services to the public. The object is to eliminate certain undesirable practices which have resulted in injury both to the health and dance industries and to the public of this county. It is the legislative intent that this article be liberally construed so as to effectuate as far as legally possible these purposes.

(Laws of Fla. ch. 63-1788, § 1)

Sec. 42-174. - Exceptions to article.

The provisions of this article shall apply only to studios which contract with students for the sale of services involving prepayment by cash or otherwise in the amount of $300.00 or more.

(Laws of Fla. ch. 63-1788, § 6)

Sec. 42-175. - Bond required.

Prior to and as a requisite to licensing by any licensing authority, municipal, county or state, each studio shall post a bond with the secretary of state to be approved by the secretary of state in an amount equal to $25,000.00, conditioned upon the faithful performance of such studio of its contractual obligations to give instructions to students in accordance with the provisions of this article.

(Laws of Fla. ch. 63-1788, § 5)

Sec. 42-176. - Instructor and manager.

(a)

Any person acting in the capacity of instructor in a studio shall be over 21 years of age; of good moral character; and have a current valid health certificate from the authority responsible for issuing health certificates in the county.

(b)

Any person owning an interest in a studio or any person acting in the capacity of manager or instructor in a studio shall obtain and place on file with the county sheriff a full set of fingerprints rendered on such fingerprint card as is required by the sheriff's department.

(Laws of Fla. ch. 63-1788, § 3)

Sec. 42-177. - Contracts.

(a)

All contracts entered into between a studio and a student must be in writing and contain the following terms in boldface type:

(1)

The total amount of obligation the student undertakes, whether such obligation is to be paid in cash, installments or otherwise.

(2)

The total number of hours of services to be given by the studio to the student.

(3)

The cost per hour for such services.

(4)

That the contract shall be cancellable by the studio or by the student at any time within 30 days after execution upon one party giving the other written notice of such cancellation.

(b)

Upon receipt of written notice of cancellation by either party within the 30-day period provided for in subsection (a)(4) of this section, the studio shall immediately refund to the student all prepayments made under the contract minus the total of an amount equal to the cost per hour of services actually received by the student.

(c)

All contracts shall contain a clause providing that if by reason of death or disability the student is unable to receive all the services for which he has contracted, he or his estate shall be relieved from the obligation of making payment for services that are not received, and in the case of prepayment, the studio shall immediately refund all sums allotted for services not given.

(d)

No contract may be assigned by one studio to another studio without the consent of the student.

(e)

In the event a studio discontinues doing business for any reason, all contracts with students at that studio shall be void if the student so elects, and the student shall be entitled to a refund of all moneys paid beyond the actual prorated cost of the hours of instruction taken to the date of such discontinuation; provided however, that in the event such discontinuation is for less than 15 days' duration and for the purpose of alteration or redecoration of the studio, or the relocation of the studio within a distance of one-half mile in the same locality, then this subsection shall have no application.

(f)

All studios shall keep a certified copy of all instruction contracts on file for as long as the contract is in effect and for a period of two years thereafter.

(Laws of Fla. ch. 63-1788, § 4)

Secs. 42-178—42-200. - Reserved.

ARTICLE V. - PEDDLERS AND SOLICITORS[5]
Footnotes:
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Cross reference— Businesses, ch. 26; sale of goods to persons in motor vehicles or solicitation of contributions from occupants of motor vehicles, § 98-1.

State Law reference— Home solicitation sales, F.S. § 501.021 et seq.

DIVISION 1. - GENERALLY

Secs. 42-201—42-210. - Reserved.
DIVISION 2. - PERMIT[6]

Footnotes:
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Editor's note—The act in this division assumed ordinance status pursuant to Laws of Fla. ch. 71-29.

Sec. 42-211. - Exemptions from division.

The provisions of this division shall not apply and be applicable to solicitation permitted by the Constitution and the decisions by the Supreme Court of the United States of America.

(Laws of Fla. ch. 63-991, § 8; Laws of Fla. ch. 71-29, § 3)

Sec. 42-212. - Application; fee.

(a)

An application for a permit to solicit or peddle, as provided for in this division, shall be filed with the sheriff of the county, accompanied by a fee of $5.00 to defray the expenses and costs of the sheriff in making investigations of the solicitor or peddler. Within 30 days from the receipt of any such application, the sheriff shall make a report of his investigation to the board of county commissioners and the board of county commissioners shall thereupon approve or reject the application for a permit authorizing the solicitor or peddler to obtain a peddler's license.

(b)

The sheriff shall require the applicant for a permit to solicit or peddle under this division to submit with his application a recent photograph of himself and be fingerprinted.

(c)

All applications for permits and licenses, as required by this division, shall be personally made by such applicants.

(Laws of Fla. ch. 63-991, §§ 2, 4, 6; Laws of Fla. ch. 71-29, § 3)

Sec. 42-213. - Issuance.

(a)

The board of county commissioners is hereby authorized and directed to issue a peddler's or solicitor's permit to any person who is qualified under the provisions of this division. No peddler's or solicitor's license shall be issued to any person who is not a bona fide resident and freeholder of the county, except after such peddler or solicitor first files with the board of county commissioners a permit as provided in this division.

(b)

The board of county commissioners shall issue a peddler's or solicitor's permit to each applicant who is financially responsible, of good moral character, and who has not been previously convicted of a felony.

(Laws of Fla. ch. 63-991, §§ 2, 5; Laws of Fla. ch. 71-29, § 3)

Sec. 42-214. - Authority of board of county commissioners.

The board of county commissioners is hereby granted authority to charge a reasonable fee for a peddler's or solicitor's permit, prescribe the form for the application for such permit, and prescribe such rules and regulations as may be necessary to effectuate the intent and purpose of this division.

(Laws of Fla. ch. 63-991, § 7; Laws of Fla. ch. 71-29, § 3)

Sec. 42-215. - Authority of sheriff.

The county sheriff shall have full and complete authority and power to prevent and prohibit all soliciting and peddling until such time as a permit is issued by the board of county commissioners.

(Laws of Fla. ch. 63-991, § 9; Laws of Fla. ch. 71-29, § 3)

Sec. 42-216. - Penalty for violation of division.

Except as otherwise provided by law or ordinance, a person convicted of a violation of this division shall be punished by a fine not to exceed $500.00 or by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment. With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense.

(Laws of Fla. ch. 63-991, § 10; Laws of Fla. ch. 71-29, § 3; Ord. No. 06-62, § 3, 8-1-06)

Secs. 42-217—42-235. - Reserved.

ARTICLE VI. - SALE OF FUTURE CONSUMER SERVICES[7]

Footnotes:

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Cross reference— Businesses, ch. 26.

State Law reference— Home solicitation sales, F.S. § 501.021 et seq.

Sec. 42-236. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Future consumer services means services rendered by a supplier in the course of his occupation or business on behalf of an individual, which services are periodic and are to be performed at a time in excess of one month from the date of payment for such services and shall be limited to the following occupations or businesses: lawn services, building and office maintenance services, health studios, dance studios or clubs, pest control services, swimming pool maintenance services, medical emergency notification services, and security patrol services.

Payment means the delivery and acceptance of money or something equivalent to money by a supplier, or any obligation note or other evidence of indebtedness incurred or given by a person to the supplier or an assignee of the supplier.

Supplier means any person who solicits, sells, performs, assigns, or contracts for future consumer services to be rendered on behalf of the citizens of the county.

(Ord. No. 77-4, § 2, 2-24-77)

Cross reference— Definitions generally, § 1-2.

Sec. 42-237. - Areas embraced.

All territory within the legal boundaries of the county, including all incorporated and unincorporated areas, shall be embraced by the provisions of this article.

(Ord. No. 77-4, § 11, 2-24-77)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 42-238. - Purpose.

The purpose of this article is to protect the citizens of the county who contract with suppliers of future consumer services and pay for such services in advance of the performance thereof from financial loss occasioned by the fraud or failure of such suppliers to provide the services for which the parties contracted and for which payment was made in advance.

(Ord. No. 77-4, § 1, 2-24-77)

Sec. 42-239. - Violations.

(a)

Any person, or agent thereof, who shall carry on or conduct any business wherein future consumer services are sold or offered to be sold without first obtaining proof of bond or irrevocable letter of credit as required by this article shall be subject, upon conviction, to punishment as provided in section 1-8.

(b)

Any person who, in applying to the tax collector for a license based upon an affidavit that such person, firm, corporation or association on whose behalf such person is acting does not sell or offer to sell future consumer services, shall make a false statement under oath that such person, firm, corporation or association does not sell or offer to sell future consumer services shall be subject, upon conviction, to punishment as provided in section 1-8.

(Ord. No. 77-4, § 8, 2-24-77; Ord. No. 85-8, § 5, 4-23-85)

Sec. 42-240. - Report of violations to department of justice and consumer services.

If it should appear that any person has violated the provisions of this article, all information relative to such violation shall be referred to the county department of justice and consumer services for investigation.

(Ord. No. 77-4, § 9, 2-24-77; Ord. No. 98-8, § 3, 1-6-98)

Sec. 42-241. - Occupational license.

No occupational license shall be issued to a person engaged in or managing any business or occupation wherein such person in the course and scope of such business or occupation sells or offers to sell to individuals future consumer services, for which services payment is made in advance by the consumer, until such person has complied with the provisions of this article.

(Ord. No. 77-4, § 3, 2-24-77)

Sec. 42-242. - Duties of supplier.

All suppliers within the meaning of this article shall provide evidence to the county tax collector, prior to application for an occupational license, of a financial guarantee in the amount of $3,000.00, by either of the following methods:

(1)

A bond issued by a surety company admitted to do business in this state. The bond shall be in favor of the county for the benefit of any person injured as a result of a violation of this article. The aggregate liability of the surety to all persons for all breaches of the condition of the bond provided herein shall in no event exceed the amount of the bond; the original surety bond required by this subsection shall be filed with the clerk of the circuit court; or

(2)

In lieu of maintaining the bond required in subsection (1), the supplier may furnish to the tax collector an irrevocable letter of credit in favor of the county from any domestic bank located in the county in at least the amount of the bond required under subsection (1).

(Ord. No. 77-4, § 4, 2-24-77; Ord. No. 85-8, § 1, 4-23-85; Ord. No. 90-4, § 1, 1-30-90)

Sec. 42-243. - Failure of supplier to submit evidence of financial guarantee.

Any supplier who fails to provide satisfactory evidence of a bond or irrevocable letter of credit as required by section 42-242 of this article shall not be issued an occupational license until satisfactory evidence of such bond or irrevocable letter of credit is provided or until such supplier provides an affidavit as set forth in

section 42-244 of this article. The failure to maintain the surety bond or irrevocable letter of credit as required in section 42-242 of this article shall constitute sufficient cause for the revocation of the supplier's occupational license.

(Ord. No. 77-4, § 5, 2-24-77; Ord. No. 85-8, § 2, 4-23-85; Ord. No. 90-4, § 2, 1-30-90)

Sec. 42-244. - Exception to supplier's financial guarantee.

(a)

No supplier of future consumer services shall be required to provide evidence of bond or irrevocable letter of credit, in accordance with the requirements of section 42-242, where such supplier does not accept prepayment for services to be rendered in excess of one month from the date of payment for such services. The county tax collector shall require a notarized affidavit from such supplier stating that no prepayment is accepted for services to be rendered in excess of one month from the date of payment for such services prior to issuance of an occupational license. Such affidavit shall be in lieu of evidence of bond or irrevocable letter of credit as required by section 42-242, and may serve as the basis for annual renewal of occupational licenses so long as the excepted supplier continues to operate the business so as to limit collection of advance payments as provided for in this section.

(b)

Any given supplier who is originally excepted from the requirements of this article but whose business undergoes changes which would subsequently require compliance with section 42-242 and who renews a license based upon the original affidavit without posting the required financial guarantee shall be deemed to have filed a false affidavit in violation of this article and shall be subject to the penalties set forth in section 42-239.

(Ord. No. 77-4, § 7, 2-24-77; Ord. No. 85-8, § 3, 4-23-85)

Sec. 42-245. - Display of proof of purchase of occupational license.

The board of county commissioners shall adopt rules which will govern and provide for proof of purchase of all occupational licenses under this article, and will assure a means by which such proof of purchase of an occupational license will be predominantly displayed by the holder thereof for ready identification of the occupational license number.

(Ord. No. 77-4, § 6, 2-24-77)

Secs. 42-246—42-265. - Reserved.

ARTICLE VII. - CHARITABLE SOLICITATIONS[8]

Footnotes:

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Charter reference— Authority relative to charitable solicitations, § 2.04(o).

Cross reference— Sale of goods to persons in motor vehicles or solicitation of contributions from occupants of motor vehicles, § 98-1.

DIVISION 1. - GENERALLY

Sec. 42-266. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Charitable organization means any person who is or holds himself out to be established, for profit or not for profit, for any benevolent, educational, philanthropic, humane, scientific, artistic, patriotic, social welfare or advocacy, public health, environmental conservation, civic, safety, fraternal, historical, athletic, medical, religious or other eleemosynary purpose, or any person who in any manner employs a charitable appeal as the basis for any solicitation or an appeal that suggests that there is a charitable purpose to any solicitation. Such term includes a chapter, branch, area office, or similar affiliate soliciting contributions within the county for a charitable organization.

Charitable purpose means any benevolent, philanthropic, patriotic, educational, humane, scientific, artistic, public health, social welfare or advocacy, environmental conservation, civic, safety, fraternal, historical, athletic, medical, religious or other eleemosynary objective.

Charitable sales promotion means an advertising or sales campaign conducted by any person, professional solicitor, federated fundraising organization, commercial co-venturer, or sponsor which represents that the purchase or use of goods or services offered by the person, professional solicitor, federated fundraising organization or sponsor is to benefit a person or charitable or sponsor organization; provided, that advertising services to a charitable or sponsor organization does not, in itself, constitute a charitable sales promotion.

Code enforcement officers means those employees of the department of justice and consumer services designated as code enforcement officers pursuant to F.S. § 125.69.

Contribution means the promise, pledge, or grant of any money, property, financial assistance, service, or any other thing of value in response to a solicitation by any person on behalf of a charitable or sponsor purpose. "Contribution" includes, in the case of an offer of goods or services to the public, the difference between the direct cost of the goods or services and the price at which the goods or services are resold to the public. "Contribution" does not include fees, dues, or assessments paid by members, provided that membership is not conferred solely as consideration for making a contribution in response to a solicitation. "Contribution" does not include funds obtained by a charitable organization or sponsor pursuant to government grants or contracts.

Conviction means a determination of guilt resulting from plea or trial in connection with any federal, state or local ordinance, act, or law regulating theft, fraud, misrepresentation or the solicitation of funds.

Department means the Pinellas County Department of Justice and Consumer Services.

Direct collection campaign means any solicitation of funds on or on behalf of a charitable organization where a pledge or donation for the charitable organization is collected by any person without use of the mail.

Director means the director of the Pinellas County Department of Justice and Consumer Services.

Educational institutions and organizations means those institutions described in F.S. § 212.08(7)(o)2.d.

Emergency service employee means any employee who is a firefighter, as defined in F.S. § 633.30, or

ambulance driver, emergency medical technician, or paramedic, as defined in F.S. § 401.23.

Federated fundraising organization means a federation of independent charitable organizations which have voluntarily joined together, including, but not limited to, a United Way or community chest, for purposes of raising and distributing contributions for and among themselves, and where membership does not confer operating authority and control of the individual organization upon the federated group organization.

Financial record means computer records, banking records and statements, checks, drafts, receipts and papers of any description which indicate the receipt or expenditure of contributions.

Fundraising costs means those costs incurred in inducing others to make contributions to a charitable organization or sponsor. "Fundraising costs" include, but are not limited to, salaries, commissions, rent, telephone service, acquiring and obtaining mailing lists, printing, mailing, medical expenses and all direct and indirect costs of soliciting, as well as the cost of unsolicited merchandise sent to encourage contributions.

Hearing means, subsequent to public notice, a proceeding regarding the denial of a permit application, the suspension of a permit, or the revocation of a permit under this article.

Law enforcement officer means any person who is elected, appointed, or employed by the federal government, the state or any political subdivision thereof, and:

(1)

Who is vested with authority to bear arms and make arrests and whose primary responsibility is the prevention and detection of crime or the enforcement of the criminal, traffic, highway, marine, and fish, game and wildlife laws of the state; or

(2)

Whose responsibility includes supervision, protection, care, custody, or control of inmates within a reasonable institution.

Mail means a system by which letters and other materials are transported by the U.S. Postal Service or any private carrier.

Membership means the relationship of a person to an organization that entitles him to the privileges, professional standing, honors, or other direct benefit of the organization in addition to the right to vote, elect officers, and hold the office in the organization.

One time event means an event to raise funds for a charitable organization which does not exceed three consecutive calendar days annually.

Owner means any person who has a direct or indirect interest in any professional solicitor, federated fundraising organization or sponsor.

Parent organization means that part of a charitable organization or sponsor which coordinates, supervises, or exercises control over policy, fundraising, and expenditures or assists or advises one or more chapters, branches, or affiliates of such organization.

Person means any individual, organization, trust, foundation, group, association, entity, partnership, corporation, sponsor, or society, and the agent(s), employee(s) or officer(s) of any such person.

Professional solicitor means any person who, for compensation, performs for a charitable organization or sponsor any service in connection with which contributions are or will be solicited by the compensated person or by any person it employs, procures, or otherwise engages, directly or indirectly, as an agent, employee, independent contractor or subcontractor, in connection with the solicitation of contributions for or on behalf of a charitable organization or sponsor. A volunteer, employee or salaried officer of a charitable organization or sponsor is not a professional solicitor. An attorney, investment counselor, or banker who advises an individual, corporation, or association to make a charitable contribution is not a professional solicitor as the result of such advice. Any person, corporation, association or other organization which places advertising, or prepares or manages a mailing campaign, and sends materials to the public for the purpose of soliciting funds by charitable organization or a sponsor, or any person that conducts any direct collection campaign shall be considered a professional solicitor and not a professional fundraising consultant.

Religious institution means any church, ecclesiastical or denominational organization, or established physical place for worship, at which nonprofit religious services and activities are regularly conducted and carried on, and includes those religious groups which do not maintain specific places of worship. "Religious institution" also includes any separate group or corporation which forms an integral part of a religious institution which is exempt from federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code, and which is not primarily supported by funds solicited outside its own membership or congregation.

Solicitation means a request, direct or indirect, for money, property, financial assistance, service, or any other thing of value on the plea or representation that such money, property, financial assistance, service, or other thing of value or a portion of it will be used for a charitable or sponsor purpose or will benefit a charitable organization or sponsor. "Solicitation" includes, but is not limited to, the following methods of requesting or securing the promise, pledge, or grant of money, property, financial assistance, service, or any other thing of value:

(1)

Any oral or written request;

(2)

Distributing, circulating, posting, or publishing any handbill, written advertisement, or other publication that directly or by implication seeks to obtain any contributions; or

(3)

Selling or offering or attempting to sell any advertisement, advertising space, book, card, coupon, chance, device, magazine, membership, merchandise, subscription, sponsorship, flower, admission, ticket, food, or other service or tangible good, item, or thing of value, or any right of any description in connection with which any appeal is made for any charitable organization or sponsor and is used or referred to in any such appeal as an inducement or reason for making the sale or when, in connection with the sale or offer or attempt to sell, any statement is made that all or part of the proceeds from the sale will be used for any charitable or sponsor purpose or will benefit any charitable organization or sponsor. A solicitation is considered as having taken place whether or not the person making the solicitation receives any contribution. A solicitation does not occur when a person applies to the government or to an organization that is exempt from federal income taxation under section 501(c) of the Internal Revenue Code for a grant or an award.

Sponsor means a group which hosts an event or solicits contributions on behalf of a charitable organization.

Violation means that a person has committed a prohibited act under F.S. ch. 496, this article, or any other federal, state or local ordinance, act, or law governing theft, fraud, misrepresentation or the solicitation of funds.

(Ord. No. 93-106, § 1.9, 12-7-93; Ord. No. 97-32, § 1, 5-13-97; Ord. No. 98-108, § 1, 12-22-98; Ord. No. 02-79, § 1, 10-15-02; Ord. No. 03-85, § 2, 11-4-03)

Cross reference— Definitions generally, § 1-2.

Sec. 42-267. - Authority.

This article is enacted pursuant to F.S. chs. 125 and 496, and under the home rule powers of the county in the interest of the health, peace, safety, and general welfare of the people of the county.

(Ord. No. 93-106, § 1.2, 12-7-93)

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g).

Sec. 42-268. - Penalty for violation of article.

Violations of this article are punishable with a civil fine as provided in section 1-8 of this Code.

(Ord. No. 93-101, §§ 4.4, 5.4, 12-7-93; Ord. No. 00-52, § 2, 7-11-00)

Sec. 42-269. - Territory embraced.

All territory within the legal boundaries of the county, including all incorporated and unincorporated areas, shall be embraced by the provisions of this article.

(Ord. No. 93-106, § 1.3, 12-7-93)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 42-270. - Reserved.

Editor's note— Ord. No. 07-11, § 1, adopted Feb. 20, 2007, repealed § 42-270, which pertained to the purpose and intent of article VI and derived from Ord. No. 93-106, § 1.4, adopted Dec. 7, 1993.

Sec. 42-271. - Construction of article.

This article shall be liberally construed to accomplish its purpose.

(Ord. No. 93-106, § 1.5, 12-7-93)

Sec. 42-272. - Exemptions from article.

(a)

This article shall not apply to any solicitation made when the solicitation is directed toward persons who are members of the entity at the time of the solicitation.

(b)

This article shall not apply to any solicitation for the relief of any individual specified by name at the time of the solicitation where the solicitor establishes a legal depository account and represents in each case that the entire amount collected, without any reduction whatever, shall be turned over to the named beneficiary.

(c)

This article shall not apply to any solicitations conducted by schoolchildren or college or university students, or their parents, teachers or instructors under the direction and supervision of their parents, school, college or university officials, teachers, instructors, or principals for the purpose of financing extracurricular, social, athletic, artistic, scientific, or cultural programs which shall include, but shall not be restricted to, solicitations for band and athletic uniforms, scientific and/or artistic implements and literary matter.

(d)

This article shall not apply to state agencies or other governmental entities.

(e)

The exemptions in this section do not apply to any sponsor or to a person or group which is or holds out to be soliciting contributions by the use of any name which implies that the group or person is in any way affiliated with or organized for the benefit of emergency services employees or law enforcement officers.

(Ord. No. 93-106, § 1.6, 12-7-93; Ord. No. 97-32, § 2, 5-13-97; Ord. No. 98-108, § 2, 12-22-98)

Secs. 42-273—42-275. - Reserved.
Sec. 42-276. - Reserved.

Editor's note— Ord. No. 07-11, § 1, adopted Feb. 20, 2007, repealed § 42-276, which pertained to the powers and responsibilities of the department of justice and consumer services and derived from Ord. No. 93-106, § 2.2, adopted Dec. 7, 1993. See the Code Comparative Table for full derivation.

Sec. 42-277. - Reserved.
Sec. 42-278. - Reserved.

Editor's note— Ord. No. 07-11, § 1, adopted Feb. 20, 2007, repealed § 42-278, which pertained to the review of decisions by the director and derived from Ord. No. 93-106, § 5.2, adopted Dec. 7, 1993. See the Code Comparative Table for full derivation.

Sec. 42-279. - Reserved.

Editor's note— Ord. No. 07-11, § 1, adopted Feb. 20, 2007, repealed § 42-279, which pertained to service of notice and public records and derived from Ord. No. 93-106, § 5.3, adopted Dec. 7, 1993. See the Code Comparative Table for full derivation.

Sec. 42-280. - Reserved.

Editor's note— Ord. No. 07-11, § 1, adopted Feb. 20, 2007, repealed § 42-280, which pertained to responsibility for compliance with this article and derived from Ord. No. 93-106, § 4.4.3, adopted Dec. 7, 1993.

Secs. 42-281—42-290. - Reserved.

DIVISION 2. - RESERVED

Secs. 42-291—42-305. - Reserved.

Editor's note— Ord. No. 07-11, § 1, adopted Feb. 20, 2007, repealed §§ 42-291—42-296, which pertained to applications and permits for charitable solicitations and derived from Ord. No. 93-106, §§ 2.3—2.8, adopted Dec. 7, 1993. See the Code Comparative Table for full derivation.

DIVISION 3. - OPERATIONAL PROVISIONS

Sec. 42-306. - Telephone solicitations.

(a)

When conducting telephone solicitations for charitable or sponsor purposes, the charitable organization shall furnish to each contributor an invoice, receipt, or statement containing the name of the organization benefiting from the solicitation, the name of the soliciting organization, the full legal name of the individual who made the solicitation and the business address and telephone number from which the solicitation was made.

(b)

When conducting telephone solicitations for charitable or sponsor purposes, a professional solicitor and his agent(s) or employee(s) shall immediately identify himself to the listener with his full name and the name of the professional solicitor organization before he solicits any person for a charitable or sponsor contribution.

(Ord. No. 93-106, § 3.1, 12-7-93; Ord. No. 07-11, § 2, 2-20-07)

Sec. 42-307. - Identification of solicitor.

Any person seeking contributions under this article shall identify himself with his full, true and correct name.

(Ord. No. 93-106, § 3.2, 12-7-93)

Sec. 42-308. - Contribution receipts.

(a)

Any person accepting a contribution for any charitable or sponsor purpose shall tender to the contributor a receipt which acknowledges the amount and species of the contribution, the name of the organization for whom the contribution is made, the full name of the individual who made the solicitation, and the business address and telephone number from which the solicitation was made.

(b)

The receipt required by this section shall not be necessary for contributions made through receptacles, nor shall a receipt be necessary for a contribution of less than $5.00.

(Ord. No. 93-106, § 3.3, 12-7-93)

Sec. 42-309. - Contribution receptacles.

Each contribution receptacle which is unattended by the person or organization soliciting contributions shall bear the person's or organization's name, address and telephone number.

(Ord. No. 93-106, § 3.4, 12-7-93; Ord. No. 97-32, § 16, 5-13-97; Ord. No. 98-8, § 3, 1-6-98); Ord. No. 07-11, § 3, 2-20-07)

Sec. 42-310. - Reserved.

Editor's note— Ord. No. 02-79, § 6, adopted Oct. 15, 2002, repealed § 42-310, which pertained to Internet solicitations and derived from Ord. No. 00-52, § 1, adopted July 11, 2000.

Secs. 42-311—42-320. - Reserved.

DIVISION 4. - PROHIBITED ACTS

Sec. 42-321. - Reserved.

Editor's note— Ord. No. 07-11, § 1, adopted Feb. 20, 2007, repealed § 42-321, which pertained to charitable solicitation without a valid permit and derived from Ord. No. 93-106, § 4.1, adopted Dec. 7, 1993. See the Code Comparative Table for full derivation.

Sec. 42-322. - Reserved.

Editor's note— Ord. No. 07-11, § 1, adopted Feb. 20, 2007, repealed § 42-322, which pertained to false information in applications for permit and derived from Ord. No. 93-106, § 4.2, adopted Dec. 7, 1993. See the Code Comparative Table for full derivation.

Sec. 42-323. - False statement or deception in connection with solicitation.

It shall be a violation of this article for any person to make or perpetrate a false or misleading statement, deception or fraud in connection with any solicitation of any contribution for any charitable or sponsor purpose or purported charitable or sponsor purpose.

(Ord. No. 93-106, § 4.3.1, 12-7-93)

Sec. 42-324. - Reserved.

Editor's note— Ord. No. 07-11, § 1, adopted Feb. 20, 2007, repealed § 42-324 which pertained to implying county endorsement of charitable solicitations and derived from Ord. No. 93-106, § 4.3.1, adopted Dec. 7, 1993.

Sec. 42-325. - Commingling of contributions.

It shall be a violation of this article for any person, professional solicitor, federated fundraising organization or sponsor to commingle contributed funds or property with his own funds or property.

(Ord. No. 93-106, § 4.3.3, 12-7-93; Ord. No. 02-79, § 8, 10-15-02; Ord. No. 03-85, § 10, 11-4-03)

Sec. 42-326. - Reserved.

Editor's note— Ord. No. 07-11, § 1, adopted Feb. 20, 2007, repealed § 42-326, which pertained to noncompliance with application requirements and derived from Ord. No. 93-106, § 4.3.4, adopted Dec. 7,

1993. See the Code Comparative Table for full derivation.

Sec. 42-327. - Reserved.

Editor's note— Ord. No. 07-11, § 1, adopted Feb. 20, 2007, repealed § 42-327, which pertained to soliciting during pendency of suspension or revocation proceedings and derived from Ord. No. 93-106, § 4.3.5, adopted Dec. 7, 1993. See the Code Comparative Table for full derivation.

Sec. 42-328. - Reserved.

Editor's note— Ord. No. 07-11, § 1, adopted Feb. 20, 2007, repealed § 42-328, which pertained to transfer or assignment of a permit and derived from Ord. No. 93-106, § 4.3.6, adopted Dec. 7, 1993.

Sec. 42-329. - Nighttime solicitation to private residence.

It shall be a violation of this article for any person to solicit under this article at or to a private residence between the hours of 9:00 p.m. and 8:00 a.m.

(Ord. No. 93-106, § 4.3.7, 12-7-93; Ord. No. 97-32, § 20, 5-13-97)

Sec. 42-330. - Reserved.
Sec. 42-331. - Reserved.

Editor's note— Ord. No. 07-11, § 1, adopted Feb. 20, 2007, repealed § 42-331, which pertained to failure to possess and exhibit permits and authorizations and derived from Ord. No. 93-106, § 4.3.9, adopted Dec. 7, 1993. See the Code Comparative Table for full derivation.

Sec. 42-332. - Concealing identity of organization.

It shall be a violation of this article for any person to conceal the identity of an organization on whose behalf solicitations are being made.

(Ord. No. 93-106, § 4.3.10, 12-7-93)

Sec. 42-333. - Misrepresenting donations as being tax deductible.

It shall be a violation of this article to misrepresent that the proceeds of any solicitation of funds under current law would entitle the donor to a federal or state income tax deduction.

(Ord. No. 93-106, § 4.3.11, 12-7-93)

Sec. 42-334. - Reserved.

Editor's note— Ord. No. 07-11, § 1, adopted Feb. 20, 2007, repealed § 42-334, which pertained to failure to maintain proper records and derived from Ord. No. 93-106, § 4.3.12, adopted Dec. 7, 1993.

Sec. 42-335. - Reserved.

Editor's note— Ord. No. 07-11, § 1, adopted Feb. 20, 2007, repealed § 42-335, which pertained to noncompliance with reporting requirements and derived from Ord. No. 93-106, § 4.3.13, adopted Dec. 7, 1993.

Sec. 42-336. - Reserved.

Editor's note— Ord. No. 07-11, § 1, adopted Feb. 20, 2007, repealed § 42-336, which pertained to failure to surrender of permit and derived from Ord. No. 93-106, § 4.3.14, adopted Dec. 7, 1993. See the Code Comparative Table for full derivation.

Sec. 42-337. - Unauthorized representation of charitable organization.

It shall be a violation of this article to represent that a contribution is for or on behalf of a charitable organization or sponsor without first being authorized in writing by the charitable organization.

(Ord. No. 93-106, § 4.3.15, 12-7-93; Ord. No. 97-32, § 23, 5-13-97)

Sec. 42-338. - Soliciting for individual without establishing depository account.

It shall be a violation of this article to solicit contributions for or on behalf of a named individual without establishing a legal depository account.

(Ord. No. 93-106, § 4.3.16, 12-7-93)

Sec. 42-339. - Failure to honor timely request for refund.

It shall be a violation of this article for any person to fail to make a refund of a verified contribution within 30 days after a refund has been requested in writing, provided that the request is made within 60 days of the contribution.

(Ord. No. 93-106, § 4.3.17, 12-7-93)

Sec. 42-340. - Improper use of contributions.

It shall be a violation of this article to fail to apply contributions for the stated purpose of the solicitation.

(Ord. No. 93-106, § 4.3.18, 12-7-93; Ord. No. 97-32, § 24, 5-13-97)

Sec. 42-341. - Use of misleading name or symbol.

It shall be a violation of this article to use a name, symbol, emblem, device, service, mark, or statement so closely related to or similar to that used by another charitable or sponsor organization that the use thereof would mislead the public.

(Ord. No. 93-106, § 4.3.19, 12-7-93)

Sec. 42-342. - False representation by solicitor.

It shall be a violation of this article to falsely state that the person making the solicitation is a member of or a representative of a charitable or sponsor organization, or falsely state or represent that such person is a member of or represents a law enforcement or emergency service organization, or falsely state or represent that such person is part of a governmental agency or body.

(Ord. No. 93-106, § 4.3.20, 12-7-93)

Sec. 42-343. - Withholding proceeds from sponsor.

It shall be a violation of this article to fail to provide complete and timely payment to a charitable or sponsor organization of the proceeds from a solicitation campaign or sales promotion.

(Ord. No. 93-106, § 4.3.21, 12-7-93)

Sec. 42-344. - Failure to display required information on contribution receptacle.

It shall be a violation of this article to fail to display the required name, address, and telephone number on an unattended contribution receptacle.

(Ord. No. 93-106, § 4.3.22, 12-7-93; Ord. No. 07-11, § 4, 2-20-07)

Secs. 42-345—42-355. - Reserved.

ARTICLE VIII. - MOVING

Sec. 42-356. - Short title.

This article shall be known as the "Pinellas County Moving Ordinance".

(Ord. No. 98-18, § 1, 1-27-98)

Sec. 42-357. - Definitions.

For the purposes of this article, the following definitions shall apply:

(1)

Accessorial services shall mean any service performed by a mover which results in a charge to the consumer and is incidental to the transportation service; including, but not limited to: preparation of written inventory; storage, packing, unpacking, or crating of articles; hoisting or lowering; waiting time; overtime loading and unloading; reweighing; disassembly or reassembly; elevator or stair carrying; boxing or servicing of appliances; and furnishing of packing or crating materials. Accessorial services also include services not performed by the mover but by a third party at the request of the consumer or mover, if the charges for such services are to be paid to the mover by the consumer at or prior to the time of delivery.

(2)

Commission shall mean the Board of County Commissioners of Pinellas County, Florida.

(3)

Compensation shall mean money, fee, emolument, quid pro quo, barter, remuneration, pay, reward, indemnification or satisfaction.

(4)

Consumer shall mean any person who utilizes the services of a mover for the transportation and/or shipment of household goods. This term shall include any other person whom the consumer designates in writing.

(5)

Contract for service shall mean a written document prepared by the mover and approved by the consumer in writing, prior to the performance of any service, which authorizes services from the named mover and lists the services and all costs associated with the transportation of household goods and accessorial services to be performed on behalf of the consumer.

(6)

Department shall mean the Pinellas County Department of justice and consumer services.

(7)

Director shall mean the Director of the Pinellas County Department of Justice and Consumer Services or his or her designee.

(8)

Estimate shall mean a written document provided to the prospective consumer which sets forth the total cost and the basis of said costs related to a consumer's move, which shall include, but not be limited to, transportation or accessorial services.

(9)

Household goods shall mean personal effects or other personal property found in a home or other personal residence or other storage facility or other location, where the consumer is the owner or agent of the owner of the items. This definition includes personal property held or found in a storage or warehouse facility which is owned or rented by a consumer or his or her agent. This definition does not include freight or personal property moving to or from a factory or store or other place of business.

(10)

Inventory shall mean a list of all items to be moved by the mover, including a written recitation of any pre-existing conditions to items to be moved.

(11)

Mover shall mean any person who engages in the transportation and/or shipment of household goods for compensation or any person which holds itself out to the general public as engaging in the transportation and/or shipment of household goods for compensation.

(12)

Person shall mean both plural and singular as the context demands and shall include individuals, partnerships, corporations, companies, trusts, societies, associations, and any other legal entities whatsoever.

(13)

Storage facility shall mean a building owned, leased or rented by the mover, in which goods are stored.

(Ord. No. 98-18, § 2, 1-27-98)

Sec. 42-358. - Authority

This article is enacted pursuant to F.S. ch. 125, and under the home rule powers of the county in the interest of the health, peace, safety, and general welfare of the people of the county.

(Ord. No. 98-18, § 3, 1-27-98)

Sec. 42-359. - Penalty for violation of article.

Violations of this article are punishable as provided in section 1-8 of this Code.

(Ord. No. 98-18, § 4, 1-27-98)

Sec. 42-360. - Territory embraced.

All territory within the legal boundaries of the county, including all incorporated and unincorporated areas, shall be embraced by the provisions of this article.

(Ord. No. 98-18, § 5, 1-27-98)

Sec. 42-361. - Purpose and intent.

(a)

The provisions of this article shall be construed liberally to promote the following policies:

(1)

To establish the county law governing the transportation, shipment and affiliated storage of household goods.

(2)

To address moving practices in the county in a manner not inconsistent with federal law and the laws of this state and county relating to consumer protection.

(b)

The provisions of this article shall apply to the operations of any mover engaged in the intra-state transportation of household goods; except that this article shall not be construed to include shipments contracted by the United States, the state, or any local government or political subdivision thereof. The provisions of this article shall only apply to the transportation of household goods originating in the county and terminating in Hillsborough County, Pasco County or Pinellas County; or originating in Hillsborough County, or Pasco County and terminating in Pinellas County.

(c)

It is the intent of this article to secure the satisfaction and confidence of consumers and members of the public when utilizing a mover.

(d)

Nothing in this article shall be construed to remove the authority or jurisdiction of any federal, state or local agency with respect to goods or services regulated or controlled under other provisions of law or ordinance.

(e)

This article does not apply to an act or practice required or specifically permitted by federal or state law.

(Ord. No. 98-18, § 6, 1-27-98)

Sec. 42-362. - Estimates of moving costs.

(a)

A mover shall provide to a prospective consumer a written estimate of the costs which will be charged for the transportation, and accessorial services incidental to the move of said prospective consumer's household goods. No mover shall charge for preparing an estimate unless, prior to preparing the estimate, the mover:

(1)

Clearly and conspicuously discloses in writing to the prospective consumer the amount of the charge for the preparation of the estimate or, if the amount cannot be determined, the complete basis upon which the charge will be calculated; and

(2)

Obtains the prospective consumer's written authorization to prepare an estimate.

(b)

A prospective consumer shall disclose all information relevant to the move of said consumer's household goods prior to receipt of the estimate.

(c)

It is a violation of this article for a mover to request a prospective consumer to waive his or her right to a written estimate, or for a prospective consumer to waive this right.

(d)

The written estimate provided to the prospective consumer shall, at a minimum, include the following:

(1)

The name, address and telephone number of the mover.

(2)

The total cost for transportation and accessorial services to be provided.

(3)

A description of the transportation and accessorial services to be provided.

(4)

An explanation of the basis for which any charges may be assessed for the transportation and accessorial services to be provided.

(5)

Written disclosure of cargo liability insurance coverage the mover actually carries.

(6)

The following in bold capitalized letters of at least 12-point type.

PLEASE READ CAREFULLY

IF YOU HAVE A QUESTION OR COMPLAINT, PLEASE CONTACT THE PINELLAS COUNTY DEPARTMENT OF JUSTICE AND CONSUMER SERVICES, TELEPHONE: (727) 464-6200; (727) 464-6129 (FAX).

ESTIMATE OF TOTAL COST

PURSUANT TO SECTION 507, ET. SEQ., FLORIDA STATUTES AND COUNTY ORDINANCE YOU ARE ENTITLED TO A WRITTEN ESTIMATE OF THE TOTAL COST OF YOUR MOVE. PLEASE REVIEW THIS DOCUMENT TO MAKE SURE THE ESTIMATE IS COMPLETE.

(e)

A copy of the estimate, signed by the mover, shall be delivered to the prospective consumer prior to performing any transportation or accessorial service. In addition, a copy shall be maintained by the mover as part of its records.

(f)

Nothing in this article shall be construed to require a prospective consumer or mover to enter into a contract for service based upon the issuance of an estimate.

(g)

The estimate and disclosure may be provided on the same form as the contract for service.

(h)

No mover shall provide an oral estimate to any prospective consumer without subsequently providing this estimate in written form as required by the article.

(Ord. No. 98-18, § 7, 1-27-98; Ord. No. 02-84, § 1, 10-29-02)

Sec. 42-363. - Contract for service and disclosure statement required.

(a)

Prior to the performance of any service by a mover on behalf of a consumer, the mover shall prepare a written contract for service which shall be authorized and executed by the consumer.

(b)

A contract for service shall clearly and conspicuously disclose, at a minimum, the following:

(1)

The name, telephone number and legal street address of the mover at which employees of the mover are on duty during business hours.

(2)

The name and legal street address of the consumer, including the addresses at which the items are to be picked up and delivered, and, if available, a telephone number where the consumer may be reached.

(3)

The agreed pickup and delivery dates, or the period of time within which pickup, delivery, or the entire move will be accomplished.

(4)

A description of the transportation and accessorial services to be provided during a move.

(5)

A mover shall clearly and conspicuously disclose to the consumer in the contract for service and the estimate which methods of payment the mover will accept.

(6)

Reserved.

(7)

The name and telephone number of any other person who may authorize pickup or delivery of any items to be transported, if the consumer designates such person in writing.

(8)

A statement regarding the mover's limitation of liability, subject to the provisions of section 42-367.

(9)

A brief description of the mover's procedures for complaint handling which shall include an address and telephone number at which the consumer may contact the mover.

(10)

If the cost for services, provided is based on weight, a statement which provides that the consumer has a right to observe any weighing before and after loading.

(11)

Written disclosure of cargo liability insurance coverage the mover actually carries.

(c)

The contract for service provided by a mover to a consumer shall include the following disclosures in bold capitalized letters of at least 12-point type.

PLEASE READ CAREFULLY

IF YOU HAVE A QUESTION OR COMPLAINT, PLEASE CONTACT THE PINELLAS COUNTY DEPARTMENT OF JUSTICE AND CONSUMER SERVICES, TELEPHONE: (727) 464-6200; (727) 464-6129 (FAX).

(1)

CONTRACT FOR SERVICE:

CONTRACT FOR SERVICE: THIS CONTRACT FOR SERVICE IS REQUIRED BY COUNTY ORDINANCE AND MUST INCLUDE ALL OF THE TERMS AND COSTS ASSOCIATED WITH YOUR MOVE.

IN ORDER FOR THE CONTRACT FOR SERVICE TO BE ACCURATE, YOU MUST DISCLOSE ALL INFORMATION RELEVANT TO THE MOVE TO THE MOVER. COUNTY ORDINANCE REQUIRES THAT A MOVER DELIVER YOUR GOODS AND COMPLETE YOUR MOVE UPON PAYMENT OF NO MORE THAN THE MAXIMUM AMOUNT STATED IN THE CONTRACT.

(2)

DAMAGE OR OTHER CLAIM:

PURSUANT TO COUNTY ORDINANCE, YOU HAVE A PERIOD OF UP TO FIFTEEN (15) DAYS AFTER THE COMPLETION OF THE DELIVERY OF THE HOUSEHOLD GOODS TO NOTIFY THE MOVER, IN WRITING, OR ANY CLAIM FOR LOSS, DAMAGE OR DELAY IN RELATION TO THIS MOVE. HOWEVER, BE ADVISED THAT THIS DOES NOT LIMIT ANY OTHER LEGAL REMEDY AVAILABLE TO YOU.

PURSUANT TO SECTION 507, ET. SEQ., FLORIDA STATUTES AND COUNTY ORDINANCE YOU ARE ENTITLED TO A WRITTEN ESTIMATE FOR THE TOTAL COST OF YOUR MOVE. PLEASE REVIEW THIS DOCUMENT TO MAKE SURE THE ESTIMATE IS COMPLETE.

(Ord. No. 98-18, § 8, 1-27-98; Ord. No. 02-84, §§ 2, 3, 10-29-02)

Sec. 42-364. - Charges in excess of written estimate; unlawful charges; refusal to relinquish goods prohibited; payment of charges in excess of written estimate or contract for service.

(a)

It shall be a violation of this article for a mover to fail to release household goods to a consumer based on charges that exceed the written estimate.

(b)

It shall be a violation of this article for a mover to fail to relinquish to a consumer any or all of the consumer's household goods or to fail to complete within the time prescribed by the contract all transportation and accessorial services required to be performed pursuant to the contract for service because the consumer has refused to pay for charges in excess of the amount set forth in section 42-364(a).

(Ord. No. 98-18, § 9, 1-27-98; Ord. No. 02-84, § 4, 10-29-02)

Sec. 42-365. - Inventory.

(a)

A written inventory of the consumer's household goods shall be prepared by the mover when the final destination is a storage facility. The inventory shall consist of all information provided for under section 42-357(10) of this article. The written inventory shall be prepared by the mover, and signed by both the mover and the consumer. No mover shall charge for preparing the inventory unless, prior to preparing said inventory, the mover clearly and conspicuously discloses in writing to the consumer the amount of charge for the preparation of the inventory. It is unlawful for the mover to require the consumer to waive preparation of the written inventory.

(Ord. No. 98-18, § 10, 1-27-98)

Sec. 42-366. - Reasonable dispatch.

(a)

A mover shall transport all shipments on the dates and the time period agreed upon by the mover and the consumer as specified in the contract for service.

(b)

A consumer may seek recourse through filing a complaint with the department of justice and consumer services (pursuant to section 42-368) or in a court of competent jurisdiction if a mover fails to perform either pickup or delivery or any accessorial services as agreed upon in the contract for service and/or the consumer incurs any expenses that would not otherwise have been incurred.

(Ord. No. 98-18, § 11, 1-27-98; Ord. No. 02-84, § 5, 10-29-02)

Sec. 42-367. - Disclosure of movers liability.

(a)

It shall be a violation of this article for a mover to fail to disclose to the consumer the mover's limitation of liability.

(b)

A mover shall offer to the consumer coverage in excess of the limitation of liability as disclosed in the service contract. This additional cost and coverage shall be disclosed to the consumer at time of the execution of the contract prior to the move.

(c)

The rejection or selection of additional valuation shall be made in writing which shall fully advise the consumer of the nature of the limitation of liability. This disclosure shall be in 12-point bold type or in red lettering.

(Ord. No. 98-18, § 12, 1-27-98; Ord. No. 02-84, § 6, 10-29-02)

Sec. 42-368. - Enforcement and penalties; civil and criminal.

(a)

This article shall be enforced by personnel authorized by the department, county code enforcement officials, the police agencies of the various municipalities in the county and by the county sheriff's office. When specifically authorized by the director, this article may be enforced by other county personnel.

(b)

The department of justice and consumer services shall maintain a system by which movers are given citations or written notice of all violations. Department of justice and consumer services personnel shall be permitted to enter the business premises of a mover to ascertain whether the business is in compliance with this article. If department of justice and consumer services personnel are unreasonably refused entry or access to the business premises as stated above, the department of justice and consumer services shall obtain an inspection warrant pursuant to F.S. § 933.20 et seq., in order to ascertain compliance with this article.

(c)

The department of justice and consumer services is authorized to enforce the provisions of this article pursuant to section 42-359 of this article.

(Ord. No. 98-18, § 13, 1-27-98)

Sec. 42-369. - Reserved.

ARTICLE IX. - PUBLIC SUICIDE

Sec. 42-370. - Definitions.

As used in this article:

Actual suicide shall mean self-murder, as that term is used in F.S. § 782.08.

Public suicide shall mean an actual suicide that occurs in a place accessible to, made accessible to, or shared by members of the community.

(Ord. No. 03-81, § 2, 10-21-03)

Sec. 42-371. - Prohibited.

It shall be a violation of this article for any person to commit a public suicide.

(Ord. No. 03-81, § 2, 10-21-03)

Sec. 42-372. - Promotion prohibited.

(a)

No person shall conduct for commercial or entertainment purposes any event that the person knows or reasonably should know includes an actual suicide as a component of the event.

(b)

No person shall promote or publicize for commercial or entertainment purposes any event that the person knows or reasonably should know includes an actual suicide as a component of the event.

(c)

No person shall collect an admission fee or accept anything of value for admission to any event that the person knows or reasonably should know includes an actual suicide as a component of the event.

(d)

No person shall provide a theater, auditorium, club, or other venue for any event that the person knows or reasonably should know includes an actual suicide as a component of the event.

(Ord. No. 03-81, § 2, 10-21-03)

Sec. 42-373. - Penalty.

A violation of this article shall be subject to the penalties set forth in section 1-8.

(Ord. No. 03-81, § 2, 10-21-03)

Sec. 42-374. - Declaratory or injunctive relief.

In addition to the penalties set forth in section 1-8, or in the alternative thereto, the county attorney is authorized to seek declaratory relief, injunctive relief, or any other available relief to enforce any or all of the provisions of this article, including any appeals in connection therewith.

(Ord. No. 03-81, § 2, 10-21-03)

Secs. 42-375—42-400. - Reserved.

ARTICLE X. - MOBILE HOME TRANSITION PROGRAM

Sec. 42-401. - Legislative findings.

The "Whereas" clauses contained in Ordinance No. 05-92 are hereby incorporated as legislative findings in support of this article.

(Ord. No. 05-92, § 1, 12-20-05)

Sec. 42-402. - Qualifying official governmental action (QOGA).

For purposes of this article, official government action is a determination of an application for rezoning or any other official action that would result in the removal or relocation of mobile home owners residing in a mobile home park other than a resident-owned park.

(Ord. No. 05-92, § 2, 12-20-05)

Sec. 42-403. - Applicant defined and responsibilities of the applicant.

(a)

For purposes of this article, "applicant" is defined as an applicant for a QOGA with respect to a property currently used as a mobile home park under F.S. ch. 723. The owner of record of the subject property shall sign such application.

(b)

Applicant's F.S. § 723.083 responsibilities.

(1)

Consistent with subsection 138-077(7) of the Pinellas County Land Development Code, the application shall provide information in support of the necessary 723.083 Florida Statute determination that adequate mobile home parks or other suitable facilities exist for the relocation of the mobile home owners, hereinafter referred to as the determination.

(2)

Supplement after preliminary staff review: If upon initial review by county staff, it is determined that additional information is required to make the requisite 723.083 finding, the applicant may have an additional 30 days to supplement the record.

(c)

Applicant will provide information specified in section 42-405 of this article to establish a replacement housing profile for the mobile home owners residing in the park and determine if adequate mobile home parks or other suitable facilities are available for the relocation of mobile home owners affected by governmental action as required by statute. For purposes of this article, "mobile home owners" shall be defined as those persons who own their coach but rent a lot space within the subject property and are subject to the provisions and protections provided for in F.S. ch. 723.

(d)

Applicant will deposit with the county the supplemental rental assistance payment funds as specified in this article to assure that the identified mobile home parks or other suitable facilities are affordable to mobile home owners within the subject property.

(e)

For each mobile home owner within the subject property who requests rental assistance payments, applicant will identify a replacement unit in a mobile home park or other suitable facility located within ten miles of the subject property. Replacement units must be decent, safe, and sanitary, and meet Pinellas County's housing quality standards. Nothing herein shall prevent a mobile home owner from accepting a replacement unit outside the ten-mile radius if the mobile home owner so chooses.

(f)

No notice of eviction for change of use of property shall be given or effective unless the mobile home park owner shall have first paid to the county an amount equal to the county's actual out-of-pocket cost to qualify mobile home owners and provide initial counseling times the number of owner-occupied mobile homes located in the mobile home park. Such sum shall be used by the county or its designee in determining whether mobile home owners qualify for rental assistance payments hereunder and shall be fully creditable against any sums payable pursuant to sections 42-405 and 42-406. No later than the date the notice of eviction for change of use is given to mobile home owners, the applicant will notify mobile home owners of their rights under this article, including possible eligibility for rental assistance payments if affordable replacement or relocation facilities cannot be identified.

(Ord. No. 05-92, § 3, 12-20-05)

Sec. 42-404. - Board action on section 723.083 finding.

(a)

The board shall make its determination regarding F.S. § 723.083 during the same public hearing where the rezoning/future land use map amendment is considered.

(b)

The board may continue the hearing should it request supplemental information to assist in making the requisite determination.

(c)

Final decision.

(1)

The board shall review all information provided and shall make its decision based on substantial and competent evidence.

(2)

Approval: If the board is satisfied that the evidence indicates that adequate mobile home parks or other suitable facilities exist for the relocation of the eligible displaced mobile home owners, it shall make a finding of such and may move to approve the QOGA.

(3)

Denial: If the board is not satisfied that the evidence indicates the existence of adequate mobile home parks or other suitable facilities for the relocation of the eligible displaced mobile home owners, the finding shall state such and the QOGA may not be approved with reference to F.S. § 723.083, except as provided for within 402-405.

(4)

The board may grant a conditional approval of the QOGA pursuant to section 42-405.

(d)

The granting of such conditional approval pursuant to subsection (c)(4) will provide a presumption that the provisions of F.S. § 723.083 have been satisfied.

(Ord. No. 05-92, § 4, 12-20-05)

Sec. 42-405. - Conditional final decision.

(a)

Upon determining that there is a lack of competent substantial evidence to support an affirmative finding under F.S. § 723.083, the Florida Mobile Home Act, the board may condition approval upon the applicant's willingness to deposit monies into a supplemental rental assistance payment fund for purposes of assuring that rental assistance is available for all eligible mobile home owners for whom affordable mobile home parks or other suitable facilities cannot be identified.

(b)

Any supplemental rental assistance payment funds deposited by the applicant that remain unused will be returned to the applicant as stated in this section.

(c)

To determine if the applicant qualifies for a conditional final approval, the applicant shall be required to provide sufficient information to establish a replacement housing profile for the mobile home owners residing in the park. Required information must include, but is not limited to, the following:

(1)

The total number of mobile homes in the park that are owned by mobile home owners; and

(2)

Monthly rent charged for each space occupied by a mobile home owner; and

(3)

A list of the names and mailing addresses of the present mobile home owners within the subject property. This list should identify those units that are suitable for moving and for which only vacant replacement lots will be identified in subsection (c)(5); and

(4)

Household profile for each owner-occupied mobile home within the park, including number of adults, number of children, and whether pets have been allowed in the park. Replacement units identified per subsection (c)(5) should be suitable for similar household profiles; and

(5)

A list of other mobile home parks or other suitable facilities with vacant units available at the time of application and that are of a similar cost profile to which owners residing in the subject property could reasonably expect to relocate. This list will include, at a minimum, name and address of the park, park

contact name and phone number, the number of vacant spaces available and the cost of those spaces, park guidelines on age and condition of acceptable units, number of rental units available and the cost of those rentals. All parks or other suitable facilities must be located within a ten-mile radius of the subject property and serve the same age, household, and occupancy profiles as the subject property.

(Ord. No. 05-92, § 5, 12-20-05)

Sec. 42-406. - Supplemental rental assistance payment fund.

(a)

Purpose. The supplemental rental assistance payment fund is intended as a resource to assure that affordable mobile home parks or other suitable facilities will be available for mobile home owners who are removed or relocated as a result of a QOGA. Payments from this fund do not provide a relocation payment or any other form of compensation to mobile home owners. If the applicant for rezoning cannot identify adequate mobile home parks or other suitable facilities that are affordable to the impacted mobile home owners, the payment will be used to provide temporary rental assistance to qualified mobile home owners.

(b)

Calculation of deposits. The amount deposited into the supplemental rental assistance payment fund will be calculated by the county or its designee using the following methodology:

(1)

Identify the units occupied by mobile home owners and unit size based on number of bedrooms; and

(2)

Identify the weighted average lot rent for owners in the subject mobile home park; and

(3)

Identify the weighted average rents for similarly sized rental units in Pinellas County; and

(4)

The per-unit amount to be deposited is based on the gap between the weighted average monthly lot rent and the weighted average monthly rent for similarly sized apartments in Pinellas County; and

(5)

The per-unit amount defined in subsection (4) is multiplied by the number of owners in the subject property, who have not voluntarily signed a waiver of their F.S. § 723.083 protections, and by the 24-month maximum assistance period; and

(6)

To determine the total deposit required, the amount calculated in subsection (5) is multiplied by a factor of 1.15 to meet administrative fee requirements.

(c)

Administrative fee. Funds deposited with the county to provide rental assistance payments are subject to a 15 percent nonrefundable fee to cover the cost of program administration.

(d)

Form of payment. Deposits to the supplemental rental assistance payment fund will be made payable to Pinellas County or its designee. The county or its designee will calculate the deposit amount required based on an economic profile derived from information provided by the applicant as described in section 42-405 and other housing cost data. The full supplemental rental assistance payment amount must be deposited prior to issuance of any permits for the site. The deposit may be cash or an irrevocable letter of credit issued by a major financial institution in favor of Pinellas County, in a form approved by the county or its designee and from which solely the county is authorized to draw upon for rental assistance as provided herein as needed. Any cash shall be deposited in an interest-bearing account, with the interest accruing to the benefit of the applicant. Any letters of credit shall be for a period of one year provided, however, that the county may draw on such letter of credit if it is not renewed for an additional year not later than 30 days prior to its expiration. The applicant may substitute cash, in whole or in part, for the letter of credit from time to time. The letter of credit shall be reduced in amount to the extent that the applicant substitutes cash therefor.

(e)

Supplemental rental assistance payments. Rental assistance payments are available for qualified mobile home owners for whom affordable replacement housing has not been identified. The amount of the rental assistance payment shall be sufficient to cover the gap between the rent of the identified eligible unit and the mobile home owner's affordability. Affordability will be based on gross household income, adjusted for household size as defined by the State Housing Initiatives Partnership Program (SHIP), F.S. § 420.907, using the rents published annually for the SHIP program, adjusted for utilities.

(1)

Applications for supplemental rental assistance. Mobile home owners requesting rental assistance will be required to complete an application for rental assistance in a form acceptable to the county or its designee within 90 days following receipt of notice to vacate the property or final approval of the zoning change, whichever is later. Information contained in the application will be used to determine household affordability and housing need, and should include, but is not limited to, the following:

a.

Name, age, total gross household income, places of employment, sources of income, household assets, number of persons in the household, dates of birth, and social security numbers; and

b.

Mailing address, residency status, number of bedrooms in the current mobile home; and

c.

Documentation establishing the applicant as an owner of record for the mobile home per F.S. ch. 723; and

d.

Monthly or weekly costs of pad rental, park utility fees, and other charges collected by the park owner from the mobile home owner; and

e.

Any special needs of the residents of the unit relating to handicapped accessibility; and

f.

Signed forms authorizing verification of income/asset information provided.

(2)

Review of application. Applications will be reviewed by county staff or its designee to determine the affordability and housing needs of the mobile home owners. Failure of mobile home owners to provide timely, accurate, and complete information will make it impossible to determine housing needs and affordability and may render them ineligible for rental assistance. All applications are subject to the Public Records Laws of the State of Florida.

(3)

Housing counseling as a prerequisite. Mobile home owners requesting rental assistance must agree to receive housing counseling services as a prerequisite. County or its designee will provide individual housing counseling services to determine the housing needs and level of affordability of the mobile home owner. Rental assistance payments will be used as a resource only when affordable mobile home parks or other suitable facilities have not been identified by other means. Affordable replacement housing may be located for the mobile home owner without the need for rental assistance. Every attempt will be made to place mobile home owners onto suitable waiting lists and identify other strategies that will remove them from the rental assistance program as expeditiously as practicable.

(4)

Rental assistance payments are made to the lessor. Rental assistance payments will be made to the lessor on behalf of the mobile home owner. No payment will be made directly to any mobile home owner, guardian, or family member of a mobile home owner.

(5)

Term of rental assistance payments. The rental assistance payment benefit period must be consecutive and cannot exceed 24 months.

(6)

Eligibility for rental assistance payments. In order to be eligible for rental assistance payments, mobile home owners must meet the following criteria:

a.

Be an eligible owner of a mobile home as defined in F.S. ch. 723, who was renting a space in the subject

property prior to initiation of the rezoning request, and continuing to rent such space from such date to the filing of a complete application for assistance.

b.

Has not been offered an affordable replacement unit, as defined herein, in another mobile home park or other suitable facility.

c.

Has an affordability gap, using the criteria defined herein, between the cost of the identified replacement unit and the affordable rent as published by the State of Florida's State Housing Initiative Partnership Program for the mobile home owner's household income category.

d.

Is a full-time resident in good standing as evidenced by being current in rents and other fees due to the park owner, unless such rents and other fees are being withheld due to a bona fide order by a court of law pending resolution of legal action.

e.

Has provided complete and accurate information in the application for rental assistance described herein.

f.

Has completed the housing counseling prerequisite and complied with all recommendations provided by the housing counselors.

(f)

Advance of rental assistance payments. If applicant posts a letter of credit pursuant to subsection (d), the county shall provide applicant with a good faith written estimate 20 days prior to commencement of a calendar quarter of the total amount of rental assistance payments and administrative costs anticipated to be required for such quarter, less any funds remaining from prior payments by applicant. The applicant shall advance such estimate amount to the county within ten days of receipt of such estimate, failing which the county may draw such amount under the letter of credit. If within the ten-day period, applicant objects in writing to county's estimate, applicant and county shall meet to try to resolve the matter within 30 days after applicant's objection, failing which the county may draw on the letter of credit.

(g)

Refund to applicant. All rental assistance monies provided by the applicant and any interest earned thereon and not used as rental assistance payments will be returned to the applicant within 90 days following the end of the rental assistance period. The administrative fee is not refundable.

(Ord. No. 05-92, § 6, 12-20-05)

Sec. 42-407. - Alternative mitigation.

An applicant may provide an alternative means of meeting the requirements of F.S. §; 723.083 by addressing

in a manner acceptable to the board any affordability gap, using the criteria defined herein, between the cost of the identified replacement unit and the affordable rent as published by the State of Florida's State Housing Initiative Partnership Program for the mobile home owner's household income category. Any such alternative means shall meet the spirit and intent of this article.

(Ord. No. 05-92, § 7, 12-20-05)

Sec. 42-408. - Areas embraced.

The provisions of this article shall apply to land currently zoned for or grandfathered as mobile home park use and located in the unincorporated areas of Pinellas County. Adequate mobile home parks or other suitable facilities identified by applicant, as described in section 42-405 of this article, may be located in any jurisdiction within a ten-mile radius of the subject property, or other such location as is acceptable by the mobile home owner.

(Ord. No. 05-92, § 8, 12-20-05)

Sec. 42-409. - Reserved.

ARTICLE XI. - SERVICES RELATING TO CREMATION, DISSECTION OR BURIAL AT SEA

Sec. 42-410. - Purpose and intent.

It is the intent of the Pinellas County Board of County Commissioners to establish a fee to be charged by the department for the cremation, dissection, and burial-at-sea of deceased bodies under the care of the Medical Examiner for District Six.

(Ord. No. 07-43, § 1, 9-18-07)

Sec. 42-411. - Fee for medical examiner services.

Every person shall pay a $40.00 fee for services and records provided by the Medical Examiner for District Six relating to the cremation, dissection or burial at sea of a deceased human body. Subsequent changes to this fee shall be made by resolution of the board of county commissioners.

(Ord. No. 07-43, § 1, 9-18-07; Ord. No. 09-52, § 1, 10-20-09)

Sec. 42-412. - Use of collected fees.

All fees collected pursuant to this article shall be used to recover costs previously paid to the medical examiner's office for the provision of services relating to the cremation, dissection or burial at sea.

(Ord. No. 07-43, § 1, 9-18-07)

Secs. 42-413—42-425. - Reserved.

ARTICLE XII. - HUMAN TRAFFICKING

Sec. 42-426. - Title

This article shall be known and may be cited as the human trafficking ordinance.

(Ord. No. 2016-01, § 1, 1-12-16)

Sec. 42-427. - Authority.

This article is enacted pursuant to F.S. § 125.66 and under the home rule powers of the county in the interest of the health, peace, safety and general welfare of the people of Pinellas County and section 2.04(i) of the Pinellas County Charter.

(Ord. No. 2016-01, § 2, 1-12-16)

Sec. 42-428. - Intent and purpose.

It is the purpose and intent of this article to promote the health and general welfare of the residents of Pinellas County through the analysis of any impacts from human trafficking, the effectiveness of existing and emerging regulatory efforts and through consideration of addressing the problems associated with human trafficking within Pinellas County.

(Ord. No. 2016-01, § 3, 1-12-16)

Sec. 42-429. - Definitions.

The following words, phrases, or terms when used in this article shall, unless the content otherwise indicates, have the meanings provided below.

Adult entertainment establishment means adult uses as defined in F.S. § 787.29(3)(a), as may be amended.

Bodywork services means services involving therapeutic touching or manipulation of the body using specialized techniques consistent with F.S. § 787.29, as may be amended.

Human trafficking means transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person regulated pursuant to F.S. ch. 787, and defined in F.S. § 787.06, as may be amended.

Massage services means the manipulation of the soft tissues of the human body with the hand, foot, arm, or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation as provided for and consistent with the terms as defined in F.S. § 787.29 as may be amended.

Specialty salon means any place of business wherein the practice of one or all of the specialties as defined in F.S. § 477.013(6)(a) and (b) are engaged in or carried on.

(Ord. No. 2016-01, § 4, 1-12-16)

Sec. 42-430. - General requirements.

(a)

The employer at each of the following establishments shall display public awareness signs in a conspicuous location that is clearly visible to the public and employees of the establishment:

(1)

Adult entertainment establishments.

(2)

Any business or establishment that offers massage or bodywork services for compensation that is not owned by a health care professional regulated pursuant to F.S. ch. 456, and defined in F.S. § 456.001.

(3)

Any business or establishment operating as a specialty salon.

(b)

The required public awareness sign must be at least 8.5 inches by 11 inches in size, must be printed in at least a 16-point type, and must state substantially the following in English, Spanish and such other language as determined by industry demographic:

"If you or someone you know is being forced to engage in an activity and cannot leave—whether it is prostitution, housework, farm work, factory work, retail work, restaurant work, or any other activity—call the National Human Trafficking Resource Center at 1-888-373-7888 or text INFO or HELP to 233-733 to access help and services. Victims of slavery and human trafficking are protected under United States and Florida law." Posted Pursuant to Section 787.29, Florida Statutes and Pinellas County Code Section (Section #42-430).

(Ord. No. 2016-01, § 5, 1-12-16)

Sec. 42-431. - Enforcement.

(a)

Pinellas County Consumer Protection and any law enforcement agency in Pinellas County are authorized to enforce the provisions of this article.

(b)

Any law enforcement officer or code enforcement officer who is authorized by the head of that department shall, at any reasonable hour, have access to and shall have the right to inspect the premises of all permit holders under this article for compliance with any or all of the applicable codes, statutes, ordinances, and regulations in effect in the county.

(c)

It is unlawful to violate any provision of this article and any violation hereof shall be deemed a noncriminal violation, punishable by a fine only as provided in F.S. § 775.083 and section 1-8 of the Pinellas County Code.

(Ord. No. 2016-01, § 6, 1-12-16)

Chapter 46 - COURTS[1]
Footnotes:
--- (**1**) ---

Cross reference— Clerk of the circuit court, § 2-71 et seq.

State Law reference— Judicial system, Fla. Const. art. V; circuit courts generally, F.S. ch. 26; Pinellas County to be part of sixth judicial circuit, F.S. § 26.021(6); county courts, F.S. ch. 34.

ARTICLE I. - IN GENERAL

Secs. 46-1—46-25. - Reserved.

ARTICLE II. - COURT COSTS AND SERVICE CHARGES[2]

Footnotes:
--- (**2**) ---

Cross reference— Additional assessment of certain traffic offenses to fund police standards council, § 74-34.

Sec. 46-26. - Imposed on persons found guilty of misdemeanor involving illegal use of alcohol or drugs.

(a)

Pursuant to the authority of F.S. § 939.017(1)(a) and other applicable law, there is hereby imposed a cost of $15.00 to be charged, in addition to any other costs, against any person found guilty of any misdemeanor involving the unlawful use of drugs or alcohol under the laws of the state.

(b)

In accordance with F.S. § 939.017(1)(b), the $15.00 additional cost imposed by this section is to be collected by the clerk of the county court in the same manner as other costs and fines are collected. The clerk shall retain $1.00 as a fee for collection and shall forward $14.00 to the state treasurer for deposit to the credit of the department of health and rehabilitative services for dissemination back to the county for allocation to local alcohol and drug abuse treatment and prevention programs.

(c)

Allocation of funds received by the county pursuant to this section to any specific local alcohol and drug abuse programs shall be in accordance with guidelines and criteria to be set by the department of health and rehabilitative services and as implemented by the board of county commissioners.

(Ord. No. 88-52, §§ 1—3, 11-22-88)

Cross reference— Alcoholic beverages, ch. 6; health and sanitation, ch. 66; drunkeness from use of drugs, § 86-102; social services, ch. 102.

Sec. 46-27. - Assessment for criminal education programs.

(a)

There is hereby assessed by the county, court costs in the amount of $2.00, in addition to any fine or any other penalty, against every person convicted for violation of a state penal or criminal statute or convicted for violation of a municipal or county ordinance, and from every bond estreature or forfeited bail bond related to

such penal statutes or penal ordinances when the violation of the state penal or criminal statute or county ordinance occurred in the unincorporated area of the county and when the violation of a state penal or criminal statute or the conviction for violation of a state penal or criminal statute or municipal or county ordinance is established as a result of enforcement by the county sheriff's department. No such assessment shall be made against any person convicted for violation of any state statute, municipal ordinance or county ordinance relating to the parking of vehicles.

(b)

The court costs assessed in subsection (a) of this section shall be collected by the courts and remitted to the board of county commissioners for expenditures for criminal justice education degree programs and training courses, including basic recruit training, for officers and support personnel of the county sheriff's department, as authorized by law.

(Ord. No. 86-46, §§ 1, 2, 6-24-86)

Cross reference— Law enforcement, ch. 74; additional assessment of certain traffic offenses to fund police standards council, § 74-35.

State Law reference— Authority for above fee, F.S. § 943.25(13).

Sec. 46-28. - Legal aid, citizen's dispute settlement and mediation-arbitration services.

(a)

Pursuant to F.S. §§ 28.241, 28.2401 and 34.041, the service charges for filing of each civil action or proceeding in the circuit civil, probate, and county civil courts shall be in the amounts set forth below:

Claims under small claims rules $12.00

County civil court 12.00

Circuit civil court 20.00

Probate court 18.00

These amounts shall be collected by the clerk of the above-named courts in addition to any statutory service charge collected.

(b)

The additional service charges provided for in this section shall be used for the court system in establishing and maintaining legal aid/citizen dispute services in the county. The board of county commissioners shall budget from the general revenue fund such amounts in addition to those provided for in this section as may be deemed necessary to provide legal aid/citizen dispute services. The clerk shall, on a monthly basis, turn over funds collected under this section to the finance division of the board of county commissioners, which shall distribute such funds monthly in proportionate amounts as set by the board of county commissioners to designated legal aid/citizen dispute agencies.

(c)

In addition to the service charges being collected pursuant to F.S. § 44.108, a service charge of no more than:

(1)

Five dollars shall be levied on any circuit court civil proceeding commenced in the county, which shall be deposited in the county's mediation-arbitration account fund under the supervision of the chief judge of the sixth judicial circuit;

(2)

Five dollars shall be levied on any county court civil proceeding commenced in the county, which shall be deposited in the mediation-arbitration account fund of the county, under the supervision of the chief judge of the sixth judicial circuit; and

(3)

Forty-five dollars shall be levied on any petition for modification of a final judgment of dissolution of marriage filed in the county, which shall be deposited in the court's family mediation account fund under the supervision of the chief judge of the sixth judicial circuit.

One dollar of each service charge collected pursuant to subsections (c)(1), (2) and (3) of this section shall be forwarded to the office of the state courts administration. The remainder of each service charge collected pursuant to each such subsection shall be used to fund, respectively, mediation and arbitration services, county civil mediation services, and family mediation services.

(Ord. No. 75-1, §§ 1, 2, 1-7-75; Ord. No. 76-25, § 1, 11-16-76; Ord. No. 77-21, §§ 1, 2, 8-18-77; Ord. No. 78-16, § 2, 7-18-78; Ord. No. 79-25, § 1, 10-2-79; Ord. No. 87-59, §§ 1, 2, 10-27-87; Ord. No. 90-81, § 1, 10-16-90; Ord. No. 92-92, § 1, 12-8-92; Ord. No. 95-6, § 1, 1-24-95)

Sec. 46-29. - Law library.

(a)

The clerk of the circuit court shall add to the service charges provided for by F.S. §§ 28.241 and 28.2401, for each suit, action or proceeding instituted in the circuit court the sum of $29.50. In the event the filing fee exceeds the fee cap set out in F.S. §§ 28.241, the clerk shall reduce this charge to the amount necessary to remain within the cap. The clerk of court shall deposit such sums in the general revenue fund of the county.

(b)

Pursuant to the authority provided by F.S. § 34.041, the clerk of the court shall add the following sums to the service charges provided for by that law upon institution of any civil suit, action or proceeding in such court and shall deposit such additional sums into the general revenue fund of the county:

County civil court $25.00

Small claims 20.00

(c)

The board of county commissioners shall budget from the general revenue fund such funds as are necessary

to furnish, condition, equip and maintain the county law libraries.

(d)

The term "suit, action or proceeding" as used in this section shall be construed to apply to civil actions and shall not be construed to include criminal actions, action for estreature of bail bonds, habeas corpus proceedings or appellate proceedings from any inferior court.

(Laws of Fla. ch. 61-2668, §§ 1, 2, 5; Laws of Fla. ch. 69-1492, §§ 1, 2; Ord. No. 82-2, § 3, 1-12-82; Ord. No. 87-56, § 1, 9-22-87; Ord. No. 92-93, § 1, 12-8-92; Ord. No. 02-67, 8-20-02)

Editor's note— Laws of Fla. ch. 61-2668 assumed ordinance status pursuant to Laws of Fla. ch. 78-596, § 4(14).

Sec. 46-30. - Court facility fees.

(a)

Pursuant to the authority provided for in F.S. §§ 28.241, 28.2401 and 34.041, the clerk of the circuit civil and county civil courts shall add the following sums to the service charges provided by such statutes upon the institution of any civil suit, action or proceeding in such courts and shall deposit such additional sums into the general revenue fund of the county:

Circuit civil court $50.00

Probate court 50.00

County civil court 40.00

Claims under small claims rules 30.00

(b)

Such amounts as are received under this section which are in excess of the service charges fixed by statute for the applicable courts shall be expended by the county to maintain or otherwise provide facilities for the use of the courts in Pinellas County.

(Ord. No. 82-2, § 4, 1-12-82; Ord. No. 84-35, § 1, 12-19-84; Ord. No. 87-56, § 2, 9-22-87; Ord. No. 92-93, § 2, 12-8-92)

Sec. 46-31. - Teen court.

(a)

Additional mandatory court costs for teen court. Pursuant to F.S. § 938.19, the circuit and county court shall assess a sum of $3.00, against every person who pleads guilty or nolo contendere to, or is convicted of, regardless of adjudication, a violation of a state criminal statute or a municipal ordinance or county ordinance or who pays a fine or civil penalty for any violation of F.S. ch. 316. Any person whose adjudication is withheld pursuant to the provisions of F.S. §§ 318.14(9) or (10), shall also be assessed such cost.

The $3.00 assessment for court costs shall be assessed in addition to any fine, civil penalty, or other court

costs and shall not be deducted from the proceeds of that portion of any fine or civil penalty which is received by a municipality in the county or by the county in adherence with F.S. §§ 316.660 and 318.21.

The $3.00 assessment shall specifically be added to any civil penalty paid for a violation of F.S. ch. 316, whether such penalty is paid by mail, paid in person without request for hearing, or paid after hearing and determination by the court. However, the $3.00 assessment shall not be made against a person for a violation of any state statutes, county ordinance, or municipal ordinance relating to the parking of vehicles, with the exception of a violation of the handicapped parking laws.

The clerk of the circuit court shall collect the respective $3.00 assessments for court costs in this section, and shall remit the same to the teen court monthly, less five percent, which shall be retained as fee income of the office of the clerk of the circuit court.

(b)

Expenditure and management of funds budgeted for teen court. The chief judge, in accordance with the provisions of this section and by issuance of whatever orders deemed appropriate, shall have authority to provide for the expenditure of funds remitted to the teen court in accordance with F.S. § 938.19.

(Ord. No. 99-83, §§ 1, 2, 9-21-99)

Sec. 46-32. - Additional court costs in criminal and delinquency cases.

(a)

Pursuant to F.S. § 939.185, an additional court cost of $65.00 shall be imposed by the court when a person pleads guilty or nolo contendere, or is convicted of, or adjudicated delinquent for, any felony, misdemeanor, delinquent act, or criminal traffic offense under Florida Statutes. Funds received from the additional court cost shall be distributed as follows:

(1)

Twenty-five percent shall be remitted to fund innovations to supplement funding for the state court system in the county consistent with F.S. §§ 29.004 and 29.008(2)(a)2.

(2)

Twenty-five percent shall be remitted to legal aid programs in the county consistent with F.S. § 29.008(3).

(3)

Twenty-five percent shall be remitted to fund law libraries in the county.

(4)

Twenty-five percent shall be remitted to alternative juvenile programs in Pinellas County.

(b)

The funds collected pursuant to subsections (1), (3) and (4) above shall be expended as provided by the board of county commissioners in consultation with the chief judge.

(c)

The court shall order payment of these additional court costs in all matters subject to this section, but may defer payment if the person against whom the cost is imposed is indigent.

(Ord. No. 04-40, § 1, 6-15-04; Ord. No. 05-60, § 1, 9-6-05; Ord. No. 07-37, § 2, 8-21-07)

Sec. 46-33. - Surcharge in non-criminal traffic cases.

(a)

Pursuant to F.S. § 318.18(13)(a), every person who pays a fine or civil penalty for any violation of a non-criminal traffic infraction pursuant to F.S. Ch. 318 and every person who pleads guilty or nolo contendere or is convicted, regardless of adjudication, of a violation of a non-criminal traffic infraction or a criminal violation of F.S. § 318.17, shall be assessed a surcharge of up to $30.00. A non-criminal traffic infraction is defined in F.S. § 318.14(1). The court shall not waive this surcharge.

(b)

The court shall order payment of this additional court cost in all matters subject to this section and the clerk of court shall add this surcharge to all payments of fines or civil penalties for any violation of a non-criminal traffic infraction or a criminal violation of F.S. § 318.17.

(c)

The funds collected pursuant to this section shall be used to fund state court facilities. Funds collected pursuant to this section shall be expended as provided by the board of county commissioners in consultation with the chief judge.

(Ord. No. 04-39, § 1, 6-15-04; Ord. No. 09-40, § 1, 5-19-09)

Sec. 46-34. - Additional court costs in criminal, criminal traffic, delinquency, and local ordinance violations cases.

(a)

Pursuant to F.S. § 938.19, an additional court cost of $3.00 shall be imposed by the court when a person pleads guilty or nolo contendere; or is convicted, regardless of adjudication, or adjudicated delinquent for a violation of a criminal law, or a delinquent act or a municipal or county ordinance, or who pays a fine or civil penalty for any violation of the Florida Uniform Traffic Control Law, F.S. ch. 316. Any person whose adjudication is withheld under F.S. § 318.14(9) or (10) shall also be assessed the cost. Funds received from the additional court cost shall be distributed to fund teen court programs in Pinellas County.

(b)

The funds shall be expended as provided by the board of county commissioners in consultation with the Chief Judge of the Sixth Judicial Circuit.

(c)

The court shall order payment of this additional court cost in all matters subject to this section.

(Ord. No. 05-61, § 1, 9-6-05; Ord. No. 07-37, § 1, 8-21-07; Ord. No. 08-14, § 1, 3-11-08)

Secs. 46-35—46-50. - Reserved.

Chapter 50 - ELECTIONS[1]

Footnotes:
--- (**1**) ---

Charter reference— General powers of county, § 2.01.

Cross reference— Board of county commissioners, § 2-26 et seq.; officers and employees, § 2-51 et seq.; clerk of the circuit court, § 2-71 et seq.; county sheriff, § 74-61 et seq.; election of board of commissioners of Indian Rocks fire district, § 114-40; election of commissioners of Palm Harbor special fire control district, § 114-85; election of commissioners of greater Seminole area special recreation district, § 114-174.

State Law reference— The Florida Election Code, F.S. chs. 97—106.

Sec. 50-1. - Adoption of uniform dates for election and commencement of terms of municipal officers authorized.

Notwithstanding any local law or municipal charter to the contrary, any municipality in Pinellas County may, by ordinance, change the dates for election and the date for the commencement of the term of municipal officers in conformity with the provisions of this section. Such ordinance:

(1)

Shall provide for municipal primary elections to be held on the second Tuesday in February and municipal general elections to be held on the second Tuesday in March of the same year.

(2)

Shall provide for the commencement of the term of municipal officers elected at such elections to commence on [a] date, to be fixed by such ordinance, within 30 days after the date of the general election at which such officers are elected.

(3)

Shall not change the length of the terms of municipal officers. However, such ordinance may extend or shorten the term of office of those municipal officers holding office on the effective date of the ordinance, provided no extension of a term of office results in a term of office that exceeds four years.

(Laws of Fla. ch. 83-502, § 1)

Editor's note— The act contained in the above section retains its status as a special act as it was adopted after the Charter. The source of the section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in the history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used.

The catchline has been added or adjusted as necessary to accurately reflect the contents of the section. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Chapter 54 - EMERGENCY SERVICES[1]

Footnotes:
--- (**1**) ---

Charter reference— General powers of county, § 2.01.

Cross reference— Civil emergencies, ch. 34.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g).

ARTICLE I. - IN GENERAL

Sec. 54-1. - Prohibition of false residential detection alarms.

(a)

Legislative authority. This section is adopted pursuant to article VIII, section 1, under the state constitution and F.S. § 125.01(1)(t) and (1)(w).

(b)

Prohibition. It shall be unlawful for any electrical and/or mechanical burglar, holdup, intrusion, smoke or fire alarm in a residential dwelling to be falsely activated due to negligence or improper maintenance by the party responsible for or having custody of the same or due to negligence in the design, manufacture, distribution or installation of the same and causing response by a law enforcement agency on more than four occasions during any 12-month period.

(c)

Exemptions. Any person or entity required by law to possess and maintain any such electrical and/or mechanical burglar, holdup, intrusion, smoke or fire alarm is exempt from the provisions of this section. In addition, this section shall not be applicable to those electrical and/or mechanical burglar, holdup, intrusion, smoke or fire alarms installed and put into service within 30 days preceding the false activation.

(d)

Penalty. Violations of this section are punishable as provided in section 1-8.

(e)

Areas embraced. All territory within the legal boundaries of the county, including all incorporated areas, shall be embraced by the provisions of this section except those areas embraced by subsection 54-2(g), unless

specifically excluded by municipal ordinance or in conflict with municipal ordinance to the extent of such conflict.

(Ord. No. 82-20, §§ 1—7, 7-13-82; Ord. No. 09-6, § 1, 2-3-09)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Cross reference— Fire prevention and protection, ch. 62; law enforcement, ch. 74.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g).

Sec. 54-2. - Unlawful false alarms resulting from the improper use of alarm systems.

(a)

[Definitions.] When used in this section, the following terms shall have meanings ascribed to them below unless another meaning is clearly evident from the context in which they are used:

Automatic telephone dialing device or digital alarm communicator system means an alarm system which automatically sends a pre-recorded voice message or coded signal over telephone lines, by direct connection or otherwise, indicating the existence of the emergency situation that the alarm system is designed to detect.

Enforcement official means the sheriff or his designated representative(s).

False alarm means the activation of a security alarm system resulting in the response and arrival of the sheriff's office when a situation requiring a response by the sheriff's office does not exist and:

(1)

Which is caused by mechanical failure, malfunction, improper maintenance or installation of the alarm system, regardless of whether the alarm user is at fault; or the negligent or intentional activation of the alarm system; and

(2)

Is not caused by unlawful entry, attempted unlawful entry, or robbery. A presumption exists that the alarm was not caused by unlawful activity if the law enforcement officer responding to the alarm finds no evidence of criminal activity, attempted criminal activity or an emergency at the premises.

Fee means the assessment of costs imposed pursuant to this article to defray the expense of responding to a false alarm.

Premises means any building, structure or combination of buildings and structures including the curtilage thereof which is used for residential, commercial or any other purpose. At the option of the responsible party, out buildings, separate or detached buildings may be deemed separate premises for the purpose of registration.

Registration year means 12 continuous months of days beginning on the date of registration. Alarm registrations shall be renewed annually at the conclusion of the registration year.

Responsible party means any person or entity that owns or controls the premises in which an alarm system is

installed, including, but not limited to, a person or entity that leases, operates, occupies or manages the premises.

Security alarm system means any mechanical, electrical or radio controlled device which is designed to be used for the detection of any unauthorized entry into a building, structure or facility, or for alerting others of the commission of an unlawful act at or within a building, structure or facility, or both, which emits a sound or transmits a signal or message when activated. Without limiting the generality of the foregoing, alarm systems shall be deemed to include audible alarms at the site of the installation of the detection device, proprietary alarms, and automatic telephone direct dial devices or digital communicator systems. Excluded from the definition of "security alarm systems" are devices which are designed or used to register alarms that are audible, visible or perceptible, in or attached to any motor vehicle, or auxiliary devices installed by telephone companies to protect telephone systems from damage or disruption of service.

(b)

Responsibility for security alarm activation, owner response, security alarm malfunction, corrective action, and fees.

(1)

The responsibility for false alarms shall be borne by the responsible party for the premises. In the absence of the specific assignment of responsibility for the alarm, the person or persons occupying or controlling the premises on which the alarm is located at the time of the false alarm will be held liable.

(2)

Every person who owns, operates or leases any alarm system as defined herein, whether existing or to be installed in the future, shall, within 30 days of the effective date of this article or installation thereafter, register the alarm by notifying the sheriff on forms to be provided, of the following:

a.

The type, make, and model of the alarm system;

b.

Whether the alarm is installed in a residential or commercial premises;

c.

The name, address, and telephone number of the owner or lessee of the alarm system;

d.

The names, addresses, and telephone numbers of no less than two persons to be notified in the event of alarm activation;

e.

The name, address, and 24-hour telephone number for any monitoring service for the alarm system.

The responsible person shall provide to the sheriff's office any changes in the information required by subsections (b)(2)a through e within 15 days of such change.

(3)

When responding to an alarm at which there are no persons on the premises, and there is evidence of a break-in, attempted break-in, tampering with the security alarm system, or circumstances which the deputy reasonably believes requires the presence of the responsible party, the responsible party or authorized representative will be contacted and required to respond to the premises immediately, for the purposes of conducting a security check of the premise and resetting the alarm system.

(4)

Each false alarm more than 24 hours apart for which the sheriff's office makes a separate response is subject to a separate fee assessment.

(5)

No person shall be held liable under this section for any false alarm transmitted under a reasonable mistake of fact that a crime was being or had been committed.

(c)

Fees for multiple security alarm malfunctions or for false alarms.

(1)

For registered users, no fee shall be assessed under this section for the first two false alarms at the same premises responded to by the sheriff's office during the registration year. Thereafter, the following fees shall be paid by the responsible party for each false alarm during the registration year as set forth below:

False Security Alarm or Alarm
Malfunction Fee Schedule

Number of Alarms	Fee per Alarm
Three	$ 30.00
Four	$100.00
Five	$200.00
Six	$250.00
Seven and above	$300.00

For non-registered users, the following fee schedule applies:

Number of Alarms	Fee per Alarm
One	$ 80.00

Two	$160.00
Three	$320.00
Four and above	$500.00

(2)

All fees assessed in the carrying out of this section shall be assessed to the responsible party and considered a bill owed by the responsible party, payable to the sheriff's office. Each fee shall be paid within 30 calendar days from the date of the receipt of the written notification of the fee. The fees are separate and apart from any fines that may be assessed for a violation of this ordinance.

(d)

Appeals and failure to pay assessed fees.

(1)

The responsible party may request a hearing within 30 calendar days of the date of receipt of any notice of false alarm or fee assessment to contest the validity of any notice of false alarm or fee assessment. The request for a hearing shall be in writing directed to Pinellas County Sheriff's Office, Attention: SHARP.

(2)

The sheriff or designee will immediately schedule the hearing to occur on the next available hearing date. If the requesting party cancels or requests to continue the hearing with less than three business days' notice, a $25.00 fee will be assessed unless the reason for cancellation is that the fee has been paid. The hearing shall be conducted by an independent hearing officer. The responsible party shall be given notice of the hearing and shall have the opportunity to present evidence, cross-examine any witness, and to be represented by counsel. The formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. Within ten calendar days of the hearing, the hearing officer shall issue a written determination affirming or denying the initial determination that a false alarm existed, and advising the responsible party of the action(s) required. If the hearing officer affirms the violation, $50.00 in costs will be assessed in addition to the fee set forth above. The hearing officer will also make a determination whether the violation should be punishable under section 1-8 if the amount is not paid within 30 days. The written determination shall be final and conclusive, subject to judicial review by common law certiorari in the circuit court for Pinellas County.

(3)

The responsible party shall have 30 calendar days from the date of the written determination to satisfy the requirements set forth in the written determination. The failure to satisfy the requirements set forth in the written determination is a violation of this section is punishable as provided in section 1-8.

(4)

If the hearing officer determines that the alarm was activated by severe weather conditions which includes, but is not limited to, hurricanes, tornadoes, or lightning strikes in the proximity of the premises, the hearing

officer shall determine that alarm was not a false alarm. However, within 15 calendar days from the date the hearing officer issues the written determination, the responsible party may be required to present the sheriff's office written evidence from a licensed alarm technician certifying the alarm system is operating properly.

(5)

Where the responsible party fails to request an appeal under this section and fails to pay the assessed fine within 45 days, the sheriff's office will notify the responsible party of their right to appear at a hearing to show cause why the violation should not be punishable as provided in section 1-8. Such hearing shall be conducted before the hearing officer who will make a written determination of whether the violation of this section will be governed by section 1-8. Where the hearing officer determines that the violation shall be governed by section 1-8, the sheriff's office will issue the ordinance violation to the responsible party pursuant to that section.

(e)

Newly installed alarm systems. Except for the application requirements of subsection (b)(2), the provisions of this section shall not apply to any newly installed alarm system for a period of 30 days from the date of the installation.

(f)

Testing alarm systems. Notwithstanding any other provision of this chapter, it shall not be a violation of this section to test an alarm system pursuant to the testing procedures of the contracted alarm monitoring provider, or, in the absence of such provider, under the following conditions:

(1)

Where there is no visual, audio, electronic or other indication of the alarm which can be seen, heard, or received beyond the boundaries of the property upon which the test is occurring; or

(2)

Where there is a visual, audio, electronic, or other indication of the alarm which can be seen, heard, or received beyond the boundaries of the property upon which the test is occurring, and one of the following two precautions are observed:

a.

Adequate measures are taken to ensure that anyone seeing, hearing, or receiving the indication of an alarm will not report it either directly or indirectly to the sheriff's office as an alarm requiring assistance of the sheriff's office; or

b.

The sheriff's office is notified that the test is to occur and is instructed not to respond by the responsible party.

(g)

Territory embraced. This section shall be effective within the unincorporated areas of Pinellas County and those incorporated areas contracting with the Pinellas County Sheriff for law enforcement services, including

Belleair Beach, Belleair Bluffs, Belleair Shores, Dunedin, Indian Rocks Beach, Madeira Beach, N. Redington Beach, Oldsmar, Redington Beach, Safety Harbor, Seminole, South Pasadena and St. Pete Beach.

(Ord. No. 09-6, § 2, 2-3-09; Ord. No. 14-01, 1-14-14)

Secs. 54-3—54-25. - Reserved.

ARTICLE II. - EMERGENCY MEDICAL SERVICES AUTHORITY[2]

Footnotes:
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Editor's note—The act contained in this article retains its status as a special act. See charter § 5.02. The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

The provisions of Laws of Fla. ch. 80-585 were approved at an election held October 7, 1980.

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 54-26. - Created.

There is hereby created a countywide emergency medical services authority, hereinafter called the "authority." The governing body of the authority and its membership shall be the Board of County Commissioners of Pinellas County. Four members of the authority shall constitute a quorum. The chairperson of the Emergency Medical Services Advisory Council shall be an ex officio member of the authority without voting privileges. The authority shall keep a record of its transactions, resolutions, findings, determinations, recommendations and orders, which record shall be a public record.

(Laws of Fla. ch. 80-585, § 1; Laws of Fla. Ch. 2001-305, § 1)

Sec. 54-27. - Powers and duties.

The authority shall have the following powers and duties:

(1)

To employ and compensate such personnel, consultants, and technical and professional assistants as it may deem necessary and which shall include an emergency medical services medical director.

(2)

To make and enter into contracts and agreements.

(3)

To hold public hearings and sponsor public forums.

(4)

To sue and be sued in its own name.

(5)

To accept and use funds, grants, and services from the federal, state, county, or municipal governments, or any agency thereof.

(6)

To receive and disburse all funds collected through ad valorem taxation as authorized in section 54-32.

(7)

To receive and disburse all additional funds which from time to time may be appropriate from the general funds of Pinellas County.

(8)

To prepare an annual budget to be approved or disapproved and to be certified by the board of county commissioners using the same fiscal year as that of the county and to cause an annual audit of the authority to be made to determine how funds provided to the various emergency medical services have been expended.

(9)

To establish uniform standards which shall be equal to or stricter than those provided in F.S. ch. 401, insofar as it relates to emergency medical services and the Department of Health EMS Rules, Chapter 10D-66, as they exist and may hereafter be amended, and to provide for the enforcement of same. The authority has the power to establish levels of service for all emergency medical services that must be met by EMS providers; provided that levels of service on or after the effective date of this article may not be lower than levels of service as of January 1, 1989, without the consent of the affected EMS providers; and provided further that an EMS provider may not be required to increase its level of service to a level of service established by the authority that results in the authority reducing the payment of reimbursable costs to EMS providers because the total reimbursable costs would exceed the 1.5 millage authorized by this article.

(10)

The authority shall, by resolution, provide for designation of districts in the special taxing district within the territorial boundaries of Pinellas County. The authority may thereupon provide for an ad valorem assessment within the designated districts based upon the needs of such designated districts but not to exceed a maximum of 1.5 mills.

(11)

To impose and collect reasonable fees and charges for the provision of emergency medical services, which fees and charges shall be in addition to and not in lieu of the ad valorem taxes authorized by this article.

(12)

To establish uniform standards for, and issue certificates for, paratransit services for persons who require wheelchair or stretcher transport.

(Laws of Fla. ch. 80-585, § 2; Laws of Fla. ch. 89-424, § 1; Laws of Fla. ch. 94-416, § 1; Laws of Fla. ch. 2001-305, § 2)

Sec. 54-28. - Provision of emergency medical services.

The authority shall make provision for EMS in any designated districts. This may be done on a contract management basis where new services are to be provided. However, where EMS are already being provided, full reimbursement shall be made by the authority to the EMS provider for the reasonable and customary cost of said services, such cost to be defined by the authority. The firm receiving said management contract will operate under the direction of the EMS medical director, carrying out such policies and programs as the authority deems necessary. In determining reimbursable costs pursuant to this section, where EMS are already being provided, the authority may take into consideration the standards and levels of service established pursuant to section 54-27 and may reimburse the EMS providers for reasonable actual costs incurred in providing EMS in accordance with the standards and levels of service established by the authority. However, neither the authority nor the board of county commissioners may be required to pay or budget for the payment of reimbursable costs to the EMS providers if that payment would cause the annual budget of the authority to exceed the 1.5 millage authorized by this article. If budget requests approved by the authority for the new fiscal year exceed the total estimated revenue available, including ad valorem tax revenue generated by 1.5 mills, the authority shall:

(1)

Calculate the percentage of each provider's share of the total requested and approved increases in the authority's budget for the new fiscal year.

(2)

Calculate the revenue available for funding increases by subtracting the approved authority budget for the current fiscal year from the total estimated revenue available for the new fiscal year.

(3)

Multiply the percentage calculated in subsection (1) for each provider requesting an increase, by the amount calculated in subsection (2), and add the resulting amount to that provider's approved budget for the current fiscal year. This amount will be the total budgeted for that provider for the new fiscal year.

(Laws of Fla. ch. 80-585, § 3; Laws of Fla. ch. 89-424, § 3; Laws of Fla. ch. 2001-305, § 3)

Sec. 54-29. - Limitation on abolishment of services.

No existing municipal emergency medical services department within Pinellas County may be abolished without the express consent of the governing body of that department.

(Laws of Fla. ch. 80-585, § 4)

Sec. 54-30. - Advisory council.

There is hereby also created an emergency medical services advisory council, hereinafter called "the council," to consist of no fewer than 15 nor more than 24 members. Members shall be proposed by the present EMS advisory council and ratified by the authority. Members shall constitute a broad spectrum of county representation and shall include members of the emergency medical services system and four mayors (or each mayor's designee, who shall be an elected official from the respective city) to be appointed by the Pinellas County Council of Mayors. The term of appointment shall be for two years; however, there is no limit on the number of terms an individual may serve. The director of emergency medical services for Pinellas County shall be a nonvoting member of the council. It shall be the responsibility of this council to evaluate the county's emergency medical services system from a qualitative point of view, to review the operation of EMS on a countywide basis, to recommend requirements and programs for the contract management firm and monitor performance of same, to review and evaluate studies commissioned by the authority upon the authority's request, and to make such recommendations as may be necessary to the authority on needs, problems and opportunities relating to emergency medical services, including the financing and establishment of a trauma center or centers, and to carry out such other duties as may be required to ensure the delivery of good, countywide EMS at reasonable cost.

(Laws of Fla. ch. 80-585, § 5; Laws of Fla. ch. 2001-305, § 4)

Sec. 54-31. - Election regarding special taxing district.

The emergency medical services authority may call an election within all of Pinellas County for the approval of the establishment of a countywide special taxing district to provide emergency medical services. Such election is to be held in the manner prescribed by law for elections to issue bonds. The question on the ballot shall be worded in substantially the following form:

EMERGENCY MEDICAL SERVICES

Shall there be created an emergency medical services district covering the entirety of Pinellas County to provide a comprehensive emergency medical services system: The services to be provided shall include but not be limited to the operation of emergency rescue vehicles, communications, and trained paramedics necessary for a complete emergency rescue capability throughout the entire county. All real property within said special taxing district shall be subject to ad valorem real property tax sufficient to pay the cost of providing this service but not to exceed a maximum of 1.5 mills.

FOR A COUNTYWIDE EMERGENCY MEDICAL SERVICES DISTRICT

AGAINST A COUNTYWIDE EMERGENCY MEDICAL SERVICES DISTRICT

(Laws of Fla. ch. 80-585, § 6)

Sec. 54-32. - Ad valorem tax levied.

Upon the approval of the emergency medical services special taxing district as provided in section 54-31, the emergency medical services authority shall cause to be levied an ad valorem tax not to exceed 1.5 mills on all real estate within Pinellas County sufficient to pay the costs of the emergency medical services as determined by the emergency medical services authority.

(Laws of Fla. ch. 80-585, § 7)

Sec. 54-33. - Use of sales tax to fund system.

If the legislature of the State of Florida, in this session, or in any subsequent session, amends the law to authorize an additional discretionary sales tax, then the county commission shall have the option, at its discretion, of directing that all or some portion of the revenues collected from said sales tax shall be used to fund the emergency medical services system in lieu of the ad valorem property tax. If the legislature amends the law, and the county commission directs the use of the sales tax, the ballot in section 54-31 shall be revised accordingly.

(Laws of Fla. ch. 80-585, § 8)

Secs. 54-34—54-55. - Reserved.

ARTICLE III. - EMERGENCY MEDICAL SERVICES AND TRANSPORTATION[3]

Footnotes:
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State Law reference— Emergency medical transportation services, F.S. § 401.2101 et seq.

Sec. 54-56. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Advanced life support (ALS) means those emergency medical services as defined by F.S. § 401.23(1).

Ambulance means any vehicle which is equipped to provide advanced life support services, whether privately or publicly owned, which is designed, constructed, reconstructed, maintained, equipped, or operated for, and is used for or intended to be used for air, land, or water transportation of patients.

Ambulance driver means a person who is qualified as provided in F.S. § 401.281 to drive ambulances.

Ambulance service means all transports of patients by an ambulance in the county.

Approved rate schedule means those fees for ambulance services rendered which have been established by the EMS authority.

Certificate of public convenience and necessity means that certificate issued by the board of county commissioners pursuant to F.S. § 401.25(2)(d) or pursuant to Laws of Fla. ch. 80-585 (compiled as art. II of this chapter).

Contractor means that person selected by the authority, pursuant to the request for proposal process, which is awarded the right to provide all ambulance services in the county, except those specifically exempted by this article.

County EMS system means that network of organizations and individuals established to provide emergency medical services to citizens of the county, including citizen CPR training, public education, control center

operations, first responder services, all ambulance services, and medical quality control and research.

EMS advisory council means that council established in accordance with Laws of Fla. ch. 80-585.

EMS authority or authority means the board of county commissioners.

Executive director. The "executive director" of the EMS authority is the director of the county EMS administration.

First responder means any municipality which has signed a standardized first responder agreement with the EMS authority and which has been issued a certificate of public convenience and necessity, or an alternative supplier with which the EMS authority may contract for first responder services.

First responder agreement means that standardized contract which has been negotiated by the EMS authority with first responders in the county. The standard first responder agreement has been set forth verbatim in the rules and regulations adopted and promulgated by the EMS authority concurrently with the passage of this article.

Helicopter rescue unit means any rotary wing aircraft equipped to provide advanced life support services and transportation, and which has received a certificate of public convenience and necessity from the EMS authority.

Medical control board means an 11-member board, appointed by the authority, consisting of four licensed physicians specializing in emergency medicine, selected from among the emergency department directors (or their designee) from the acute-care receiving facilities in the county, four administrators from hospitals which are members of Bay Area Hospital Council, Inc., one emergency physician appointed by the county medical society, one emergency physician appointed by the county osteopathic society, and one physician from a trauma center.

Medical director means a licensed physician, or a corporation, association, or partnership composed of physicians which employs a licensed physician for the purpose of providing medical direction to the county EMS system.

Paramedic means a person who is certified to perform advanced life support, as defined by F.S. § 401.23(1), and who is certified by both the state and by the medical control board.

Patient means an individual who is ill, sick, injured, wounded or otherwise incapacitated and is in need of or is at risk of needing medical care during transport to or from a health care facility.

Physician means a practitioner licensed under the provisions of F.S. ch. 458 or 459.

Provider means:

(1)

The contractor awarded the contract by competitive request for proposal to provide ambulance services within the county;

(2)

All first responder services which have signed a first responder agreement and which have received a

certificate of public convenience and necessity;

(3)

All helicopters used for medical transportation which have received a certificate of public convenience and necessity;

(4)

All specialized mobile intensive care units which are employed for interhospital transport services and which have received a certificate of public convenience and necessity; and

(5)

All wheelchair services which have received a certificate of public convenience and necessity.

Prudent net worth means unreserved fund balance of not less than 25 percent of the authority's then current total annual budget, including, but not limited to, operating expenses, contractual payments for first responder services, contractual payments to the provider for ambulance services, replacement fund deposits, overhead and all other budgeted costs. The percentage of prudent net worth as a percentage of the authority's then current annual operating budget should be measured as of October 1 each fiscal year.

Response time means the total of elapsed time between the receipt of a request for an ambulance by the contractor until the actual arrival of its ambulance at the scene.

Sound business financial management practices means employment of a business structure and financial management practices in which the functions of fee-for-service billings for ambulance service, and patient accounts management, are the responsibility of the EMS authority and are not a responsibility of the contractor.

Special event means any public event located in the county for which ambulance service is arranged in advance, and for which an ambulance is hired directly by the sponsor of the event, and the only payment for which is by the sponsor of the event, and for which no fee for transport will be charged to the patient.

Subscription membership program means a contract which allows county residents to annually fix price and prepay uninsured portions of medically necessary ambulance services.

Wheelchair vehicle means any privately or publicly owned land, air or water vehicle which is designed, constructed, reconstructed, maintained, equipped or operated, and is used or intended to be used, for transportation of a person in a reclining or nonreclining wheelchair, and whose condition is such that the person does not need and is not likely to need medical attention during transport, and which has received a certificate of public convenience or necessity.

Wheelchair vehicle service means the transport of persons in a wheelchair vehicle when such persons are not in need of medical care and are not likely to need medical care.

(Ord. No. 88-12, § 1, 5-3-88; Ord. No. 91-12, § 1, 2-26-91; Ord. No. 94-2, § 1, 1-11-94; Ord. No. 11-52, § 1, 12-20-11)

Cross reference— Definitions generally, § 1-2.

Sec. 54-57. - Penalty for violation of article.

Violations of this article are punishable as provided in section 1-8.

Sec. 54-58. - Territory embraced.

All territory within the legal boundaries of the county, including all unincorporated and incorporated areas, shall be embraced by the provisions of this article.

(Ord. No. 88-12, § 12, 5-3-88)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 54-59. - Exemptions from article.

(a)

The following vehicles and/or services are exempt from all provisions of this article:

(1)

A privately owned vehicle not ordinarily used in the business of transporting persons who are sick, injured, wounded, incapacitated or helpless.

(2)

A vehicle rendering service as an ambulance in the event of a major catastrophe or emergency when ambulances with permits based in the locality of the catastrophe or emergency are incapacitated or insufficient in number to render the service needed.

(3)

Any ambulance owned or operated by the federal or state government.

(4)

Any transport to a location within the county, which transport originated from a point outside the county.

(5)

Mutual aid calls.

(6)

First responder transports, pursuant to a first responder agreement.

(b)

The following vehicles and/or services are exempt from this article, so long as all services rendered are provided by an advanced life support (ALS) ambulance operated by a provider which has obtained a certificate of public convenience and necessity from the EMS authority for the provision of all such services:

(1)

A vehicle under the direct supervision of a licensed physician used as an integral part of a private industrial safety, emergency or disaster plan within a privately owned or controlled area, which vehicle may from time to time be used to transport persons in need of medical attention, but which does not routinely transport patients.

(2)

Special events coverage.

(3)

Interhospital transports on a contracted basis of nondischarged patients for diagnostic or treatment services not available at the contracting hospital.

(4)

Specialized mobile-intensive care services which require on-board clinical capabilities which exceed those of a conventionally equipped and staffed advanced life support ambulance.

(Ord. No. 88-12, § 2, 5-3-88)

State Law reference— Similar provisions, F.S. § 401.33.

Sec. 54-60. - Medical control board.

(a)

The medical control board shall be responsible for recommending to the EMS authority a medical director for the county EMS system.

(b)

The medical control board shall adopt, by resolution, such rules and regulations as are necessary and/or proper to implement this article, provided that such standards shall not be less stringent than those standards required by the current rules and regulations, or by first responder agreements between the authority and first responders. All rules and regulations proposed by the medical control board shall be submitted for review and comment to the EMS advisory council. The EMS authority may require a hearing before the EMS authority and, pursuant thereto, may amend, alter or revoke any rule or regulation of the medical control board, before or after its adoption. Rules and regulations to be promulgated by the medical control board shall include:

(1)

Minimum personnel standards for ambulance crew members, first responder personnel, control center personnel, and wheelchair service drivers;

(2)

Certification provisions for ambulance drivers, paramedics, dispatchers, and wheelchair service drivers;

(3)

In-service training;

(4)

On-board equipment and supplies;

(5)

Medical protocols for first responders and ambulance service providers;

(6)

Radio protocols;

(7)

Mass-casualty protocols;

(8)

Transport protocols;

(9)

Helicopter services and protocols therefor;

(10)

Protocols for interaction by first responder services and ambulance personnel;

(11)

Requirements for uniformity of equipment and supplies;

(12)

Standards governing the training and conduct of on-line medical control physicians;

(13)

Standards for control center operations (i.e., telephone protocols, prearrival instructions and protocols for requesting first responder services);

(14)

Standards for recordkeeping and reporting;

(15)

Standards for wheelchair vehicle services; and

(16)

Procedures for issuance, renewal, suspension, and revocation of certifications of ambulance drivers, paramedics, dispatchers or of wheelchair vehicle service drivers, which procedures shall contain due process provisions; all such provisions shall be approved, in advance, by the county attorney.

(Ord. No. 88-12, § 3, 5-3-88; Ord. No. 91-12, § 2, 2-26-91)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 54-61. - Medical director.

The medical director shall serve as the medical director for the county EMS system. The medical director shall be appointed by, and serve at the pleasure of, the authority. The medical director, if he is an individual, or in the case of a corporation, the licensed physician hired by the medical director, shall be board certified in emergency medicine by the American Board of Emergency Medicine or by the American Osteopathic Board of Emergency Medicine. The medical director shall carry out the protocols adopted by the medical control board, and shall present to the authority an annual report, written and oral, on the clinical progress of the county EMS system. The medical director shall not receive or accept any remuneration, financial or otherwise, from any provider.

(Ord. No. 88-12, § 4, 5-3-88; Ord. No. 91-12, § 3, 2-26-91; Ord. No. 96-10, § 1, 1-9-96)

State Law reference— Medical directors, F.S. § 401.265.

Sec. 54-62. - EMS authority, duties and responsibilities.

(a)

The EMS authority shall provide the county with advanced life support ambulance service, such service to comply with all applicable state laws and rules, as well as all rules, regulations, standards and response times as the EMS authority or the medical control board may from time to time promulgate.

(b)

The EMS authority shall provide such ambulance service by the award of a contract to a provider after a competitive request for proposal process. Such competitive request for proposals shall be conducted for the selection of a contractor no less frequently than every 11 years. The contract awarded to the contractor shall require the contractor to provide all ambulance services in Pinellas County, except for those exempted in section 54-59 of this article.

(c)

The EMS authority shall set and adjust an approved rate schedule. The approved rate schedule shall be uniform throughout the county and shall be applicable regardless of whether the transport for which a fee is charged is performed by the contractor or by a first responder.

(d)

The EMS authority shall implement a subscription membership program, unless otherwise prohibited by law.

(e)

The EMS authority shall determine reasonable and customary costs for provision of EMS services in the county, including first responder services. As part of that determination process, the authority shall promulgate rules and regulations which recite the policies for funding the provision of first responder services. Such rules and regulations shall set forth the complete standardized first responder agreement which has been prepared for presentation to all first responders. They shall also contain a provision offering each existing municipal first responder the annual option to continue operating under its standardized first responder agreement, subject to the annually revised compensation level, and a provision that if such existing first responder elects not to exercise its option to continue operating at the new compensation level, the authority shall determine the authority's costs of alternative methods of providing first responder services. In the event that such alternative method of providing first responder services exceeds the level of funding provided in the standardized agreement, the authority shall offer to the municipal first responder service which refused to continue operating under its first responder agreement a right of first refusal to provide first responder services at the alternative cost level as determined by the authority under this subsection. Provided, however, that this right of first refusal shall apply to the proferred agreement in its entirety, and shall not apply to selected first responder stations or units within the provider's jurisdiction.

(f)

The EMS authority shall issue certificates of public convenience and necessity to providers.

(g)

The EMS authority shall be responsible for hiring a medical director.

(Ord. No. 88-12, § 5, 5-3-88; Ord. No. 91-12, § 4, 2-26-91)

Sec. 54-63. - EMS advisory council.

The EMS advisory council shall review and comment upon all rules, regulations and procedures that are adopted by the medical control board; provided that such rules, regulations and procedures may be adopted on an emergency basis by the medical control board, without prior review by the EMS advisory council, if in the opinion of the medical director an emergency exists which requires prompt action by the medical control board.

(Ord. No. 88-12, § 1, 5-3-88)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 54-64. - Fiscal policy guidelines.

The board of county commissioners hereby directs that the following fiscal policy guidelines shall govern the financial operations of the county EMS system:

(1)

Objectives. The aim of these policies is to establish a long range financial plan for the county EMS system, which plan shall achieve the following objectives:

a.

To establish sound business controls and long term cost containment incentives throughout the county EMS system;

b.

To provide adequate funding to upgrade all EMS components to state-of-the-art levels, and to maintain that progress in future years;

c.

To provide for long term financial stability sufficient to sustain quality EMS operations far into the future;

d.

To reduce the county EMS system's excessive dependence upon local tax support by developing a more balanced approach to EMS funding; and

e.

To provide the board of county commissioners with a wider range of EMS financing options than have been available in the past.

(2)

Methods. To achieve the objectives listed in subsection (1) of this section, the following fiscal policy guidelines shall guide the financial management of the county EMS system:

a.

The EMS authority shall adopt sound business financial management practices.

b.

A long range financial management plan shall be developed that is capable of meeting the objectives of subsection (1) of this section and achieving a prudent net worth.

c.

At such time as the authority's prudent net worth level has been achieved, a financial report shall be prepared annually, disclosing financial options available to the authority, which shall include, but not be limited to:

1.

Reduction in the approved rate schedule, or reduction in the rate of automatic rate adjustment;

2.

A reduction in the EMS millage level;

3.

A reduction in the subscription program fee; or

4.

Combinations of option 1, 2 or 3, above.

d.

At such time as the authority's prudent net worth level has been achieved, and based upon the financial report received by the authority under subsection (2)d of this section, the authority shall thereafter annually adjust its approved rate schedule, and/or subsidy level, so that the authority maintains as closely as possible an ongoing prudent net worth.

(Ord. No. 88-12, § 6, 5-3-88; Ord. No. 11-52, § 2, 12-20-11)

Sec. 54-65. - Municipalities not to require additional license, permit or payment of fees, except occupational license.

A municipality shall not require a provider holding a certificate of public convenience and necessity under this article to obtain any municipal license certificate or permit, nor require the payment of any fees, for the right to engage in any service pursuant to this article, except an occupational license authorized by general law.

(Ord. No. 88-12, § 7, 5-3-88)

Sec. 54-66. - Violations.

It shall be a violation of this article:

(1)

To perform duties as an ambulance driver, attendant (EMT or paramedic), or dispatcher without a current license issued by the medical control board.

(2)

To permit a person to work as an ambulance driver, attendant or dispatcher without a current license issued by the medical control board.

(3)

To use, or cause to be used, any ambulance service other than the providers authorized to operate in the county by virtue of a certificate of public convenience and necessity, or by contract with the authority.

(4)

For any person to provide ambulance service within the county, except for the contractor which contracts with the EMS authority and such other providers which hold certificates of public convenience and necessity.

(5)

To use, or cause to be used, any wheelchair service other than a wheelchair service authorized to operate in the county by virtue of a certificate of public convenience and necessity.

(6)

For any person to provide wheelchair vehicle service within the county without a certificate of public convenience and necessity.

(7)

To knowingly give false information to induce the dispatch of an ambulance or helicopter rescue unit.

(Ord. No. 88-12, § 8, 5-3-88)

Secs. 54-67—54-90. - Reserved.

ARTICLE IV. - EMERGENCY "911" SYSTEM[4]

Footnotes:

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Editor's note—Ord. No. 95-74, adopted Oct. 24, 1995, did not specifically amend this Code; hence, inclusion of §§ 1—7 as ch. 54, art. IV, §§ 54-91—54-97, was at the discretion of the editor.

Sec. 54-91. - Definitions.

Unless the context or use indicates another meaning or intent, the following words and terms as used in this article shall have the following meanings:

Alternative local exchange telecommunications company means any company certified by the Florida Public Service Commission to provide local exchange telecommunications services in the county on or after July 1, 1995.

Local exchange telecommunications company means any company certificated by the commission to provide local exchange telecommunications service in this state on or before June 30, 1995.

Telecommunications company includes every corporation, partnership, and person and their lessees, trustees, or receivers appointed by any court whatsoever, and every political subdivision in the state, offering two-way telecommunications service to the public for hire within this state by the use of a telecommunications facility. The term "telecommunications company" includes alternative local exchange telecommunications companies and local exchange telecommunications companies.

Telecommunications facility includes real estate, easements, apparatus, property, and routes used and operated to provide two-way telecommunications service to the public for hire within this state.

(Ord. No. 95-74, § 1, 10-24-95)

Sec. 54-92. - Findings.

(a)

The legislature of the state has found and declared that it is in the public interest to shorten the time required for a citizen to request and receive emergency aid.

(b)

For the purpose of reducing the response time to situations requiring law enforcement, fire, medical, rescue and other emergency services, the legislature provided for and established a single, primary three-digit emergency number to provide citizens with rapid direct access to public safety agencies by dialing the telephone number "911."

(c)

In order to assist counties in the state in implementing and providing "911" service, the legislature authorized the imposition of a "911" fee to be paid by the local exchange subscribers within the boundaries of the county.

(Ord. No. 95-74, § 2, 10-24-95)

Sec. 54-93. - "911" fee established.

There is hereby established and imposed [a fee] of $0.30 per month per line (up to a maximum of 25 access lines per account bill rendered) to be paid by the local subscribers within the county served by the county's "911" system as reimbursement for costs attributable to the establishment and/or provision of "911" service. Any adjustment to this fee may be made by a resolution of the board of county commissioners.

(Ord. No. 95-74, § 3, 10-24-95; Ord. No. 96-65, § 1, 8-13-96)

Sec. 54-94. - Use of "911" fee.

Proceeds from the "911" fee shall be used for expenditures as provided by law.

(Ord. No. 95-74, § 4, 10-24-95)

Sec. 54-95. - Method of payment.

Any telecommunications company providing "911" service or equipment to the county, shall, insofar as is practical, spread the payment of charges for the provision of "911" service over such period as the "911" service is in operation. Such telecommunications company shall bill said charges pro rata to the local exchange subscribers served by the "911" system within the county, on an individual access line basis, at a rate of $0.30 per month per line (up to a maximum of 25 access lines per account bill rendered).

(Ord. No. 95-74, § 5, 10-24-95)

Sec. 54-96. - Manner of collection and administrative expense.

Telecommunications companies collecting the fee established and imposed by this article shall remit monthly all fees imposed and collected by this article to the board of county commissioners, less an administrative fee equal to one percent of the fees so collected each month.

(Ord. No. 95-74, § 6, 10-24-95)

Sec. 54-97. - Compliance information.

Each telecommunications company shall provide to the county, a list of the names, addresses and telephone

numbers of any and all subscribers who have identified to the telecommunications company their refusal to pay the "911" fee.

(Ord. No. 95-74, § 7, 10-24-95)

Sec. 54-98. - Handling calls received by 911 center.

(a)

The board of county commissioners may by resolution make provision for the handling of calls received by the 911 center.

(b)

In providing for the handling of such calls for assistance the board may consider the following:

(1)

The nature of the call for assistance,

(2)

Whether or not the request involves an agency with county-wide jurisdiction,

(3)

Requests by the various jurisdictions having authority,

(4)

The impact that such responses will have upon multiple agencies,

(5)

Such other considerations which are appropriate and set forth in the resolution at the time of adoption.

(Ord. No. 11-53, § 2, 12-20-11)

Secs. 54-99—54-120. - Reserved.

ARTICLE V. - EMERGENCY ACCESS TO GATED DEVELOPMENTS

Sec. 54-121. - Findings.

(a)

It is vital to the public health, safety and welfare of the citizens of Pinellas County that law enforcement and emergency vehicles gain timely entry into developments with access limited by security gates.

(b)

Currently, each gated development has its own unique method of providing access to emergency vehicles, including remote control devices, keys, cards and emergency phone numbers.

(c)

Due to the growing prevalence of gated developments in the area, it has become burdensome and confusing for emergency personnel to carry different access devices for all of the gated developments in the area.

(d)

The consequences of delay or confusion over how to gain entry into a particular development could be tragic.

(e)

It is in the interest of public health, safety and welfare to ensure that gated developments provide a uniform method of access by law enforcement and emergency vehicles which will reduce confusion and shorten response times to emergencies, thereby potentially saving lives.

(Ord. No. 98-4, § 1, 1-6-98)

Sec. 54-122. - Definitions.

Unless the context otherwise requires, the terms used herein shall have the following meanings ascribed to them:

Authority having jurisdiction means the authority which has jurisdiction for providing fire protection for a specific address in an area of the county.

Emergency vehicle means any marked or unmarked police cars or vans, fire trucks, fire staff vehicles, ambulances and ambulance staff vehicles, and rescue units.

Emergency vehicle access system means an access system meeting the requirements of section 54-124 hereof.

Gated development means any residential development which may be fenced and has a secured gate, at the roadway entrance to the facility, preventing free access by the public.

Residential development means those occupancies in which sleeping accommodations are provided for normal residential purposes and include all buildings designed to provide sleeping accommodations.

Residential development does not include individual homes or one- and two-family occupancies with individual gates.

(Ord. No. 98-4, § 2, 1-6-98)

Sec. 54-123. - Uniform emergency access to gated developments.

Each new or existing residential development, access to which is limited by security gate or gates which are not attended on a 24-hour basis, shall install an emergency vehicle access system.

(Ord. No. 98-4, § 3, 1-6-98)

Sec. 54-124. - Emergency vehicle access system.

An emergency vehicle access system shall consist of an armored lock box which either contains a key or an

electric switch to open the gate. The lock box shall be a cast metal or welded box unit, shall be manufactured to withstand severe weather conditions, and may be opened only by a non-reproducible key. The lock box shall be located on a sturdy post or other structure along the roadway so that the lock box is visible and accessible by the emergency vehicle driver of both sedan automobiles and/or fire/rescue units. The lock box and the location of the lock box must be approved by the authority having jurisdiction.

All gates shall be equipped with uninterrupted power supplies (UPS) or a manual override which will permit the gate to be opened if the electrical power is interrupted.

(Ord. No. 98-4, § 4, 1-6-98)

Sec. 54-125. - Time for compliance.

Existing gated developments shall have one year from the effective date of this article to install an emergency vehicle access system. Gated developments developed after the effective date of this article shall install an emergency vehicle access system prior to or concurrent with installation of a security gate. For the purpose of this article, a development shall be considered an existing development if it has obtained construction plan approval prior to the effective date of this article.

(Ord. No. 98-4, § 5, 1-6-98)

Sec. 54-126. - Applicability.

This article shall apply in both the incorporated and unincorporated areas of Pinellas County, Florida.

(Ord. No. 98-4, § 6, 1-6-98)

Sec. 54-127. - Approval, maintenance and inspections.

Subject to the provisions of section 54-125 above, no security gate required to incorporate an emergency vehicle access system shall be installed prior to, or maintained absent, obtaining written certification from the county fire coordinator or the fire chief or designate of the authority having jurisdiction that it meets the requirements of this article. Each emergency vehicle access system shall be maintained in working condition at all times so that timely access by law enforcement and emergency vehicles is insured during an emergency. Authorized emergency personnel may conduct inspections at any reasonable time to insure reliable operation of a system.

(Ord. No. 98-4, § 7, 1-6-98)

Sec. 54-128. - Minimum access.

The provisions of this article are intended to insure a minimum level of access to emergency vehicles during emergencies and shall not be construed to guarantee the safety of a gated development during an emergency.

(Ord. No. 98-4, § 8, 1-6-98)

Sec. 54-129. - Enforcement.

The responsibility and authority for administering this article in the municipalities shall be vested in the respective municipal fire departments and in the county's office of fire coordination. Responsibility and authority for administering this article in the unincorporated area of the county shall be vested in the county's

office of fire coordination and in the fire department serving the fire control district covering the particular area.

(Ord. No. 98-4, § 9, 1-6-98)

Secs. 54-130—54-150. - Reserved.

ARTICLE VI. - COMMUNITY AUTOMATED EXTERNAL DEFIBRILLATOR PROGRAM

Sec. 54-151. - Title and citation.

This article shall be known and may be cited as the "Community Automated External Defibrillator Program Ordinance" for Pinellas County.

(Ord. No. 00-48, § 1, 6-27-00)

Sec. 54-152. - Findings and purpose.

The Board of County Commissioners of Pinellas County, Florida, is empowered to provide ambulance services and emergency medical services through its EMS authority. Pursuant to Article VIII of the Constitution of the State of Florida, the board of county commissioners further finds it has the authority to exercise broad home rule powers and, as such, finds it is in the best interest of the citizens of Pinellas County to enact this article.

It is the purpose of this article to create the community automated external defibrillator program which will establish guidelines for use, training, and data collection, as well as requirements and procedures for implementing and using all existing and new AEDs in the community.

(Ord. No. 00-48, § 2, 6-27-00)

Sec. 54-153. - Applicability.

Notwithstanding any provisions of any other county zoning or other ordinances to the contrary, this article shall apply to, and be enforced in, the incorporated as well as the unincorporated areas of the county.

Hospitals, as defined in F.S. § 395.002(12), are exempt from the provisions of this article.

(Ord. No. 00-48, § 3, 6-27-00)

Sec. 54-154. - Requirements and procedures.

The following shall be the requirements and procedures for use, training, and data collection of the AED program:

(1)

No AED shall be used in the incorporated or unincorporated area of Pinellas County without first complying with the requirements and procedures set forth in this section.

(2)

The purchase or implementation of an AED may occur only after a written notification is made to the Pinellas

County Emergency Medical Services Authority by the individual, entity, organization, or company purchasing an AED. The written notification must contain the facility or business name, street address, specific location of the AED, the appropriate annual number of people who work, live at, or visit the location, facility, or business, the total number of persons trained or to be trained in the use of the AEDs, and name of manufacturer, and model number, and description, including color of each AED.

(3)

Prior to implementing an AED, the individual, organization, or company will obtain and send to EMS proof of standardized training for all intended users of the AED. The training will consist of a class provided by a nationally-recognized, or locally-approved by the medical control board, training organization, including, but not limited to, the American Heart Association, the American Red Cross, and the National Safety Council, following a standardized curriculum. The standardized curriculum shall include, at a minimum:

a.

Signs and symptoms of sudden cardiac arrest;

b.

Cardiopulmonary resuscitation; and

c.

Proper use, maintenance, and inspection of AEDs.

(4)

The owner of the AED will ensure that the use of the AED follows the policies and procedures developed and authorized by the Pinellas County EMS Medical Control Board.

(5)

Recertification of users, maintenance, and inspection of the AED is the responsibility of the owner and shall be done on a periodic basis. Recertification of users will consist of a class which will review the techniques for using the AED following a standardized curriculum. Recertification training shall be provided as in paragraph (3) above.

(6)

EMS may conduct a quality assurance review after use of an AED that includes gathering clinical data and information from the person that used the AED and from the AED itself.

(7)

Any person who uses an AED is required to contact EMS by calling 9-1-1 immediately prior to, or immediately upon use of, the AED.

(8)

The owner and user of the AED will not withhold consent to the quality assurance review by EMS after the

use of an AED or the retrieval of clinical data from the device itself.

(Ord. No. 00-48, § 4, 6-27-00)

Chapter 58 - ENVIRONMENT[1]
Footnotes:
--- (**1**) ---

Charter reference— General powers of county, § 2.01.

Cross reference— Fresh water conservation board, § 2-251 et seq.; water and navigation control authority, § 2-271 et seq.; health and sanitation, ch. 66; natural resources, ch. 82; solid waste, ch. 106; Pinellas Park water management district, § 114-131 et seq.; waterways, ch. 130; Honeymoon Island, setback line for coastal construction on certain portions of land, § 130-2; floodplain management, ch. 158; environmental and natural resource protection, ch. 166; flood damage prevention, § 170-101 et seq.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g); environmental control, F.S. ch. 403; local pollution control programs, F.S. § 403.182.

ARTICLE I. - IN GENERAL

Secs. 58-1—58-25. - Reserved.
ARTICLE II. - ENVIRONMENTAL ENFORCEMENT[2]

Footnotes:
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Editor's note—The act contained in this article retains its status as a special act as it was enacted after the charter. See charter § 5.02. The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Sec. 58-26. - Short title.

This article may be known as the "Pinellas County Environmental Enforcement Act."

(Laws of Fla. ch. 90-403, § 1)

Sec. 58-27. - Definitions.

As used in this article, the following words and phrases have the following meanings, unless some other meaning is plainly indicated:

(1)

Board means the board of county commissioners of Pinellas County.

(2)

County means Pinellas County.

(3)

Person includes any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, or public officer or any other entity whatsoever, or any combination of such, jointly or severally.

(4)

Pollution means the presence in the air, soil, or waters of the county of any substance, contaminant, noise, or manmade or man-induced alteration of the chemical, physical, biological, or radiological integrity of the air, soil, or water in a quantity or at a level that is or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, or that unreasonably interferes with the enjoyment of life or property, including outdoor recreation.

(Laws of Fla. ch. 90-403, § 3)

Cross reference— Definitions generally, § 1-2.

Sec. 58-28. - Civil penalty; assessment of damages; joint and several liability.

(a)

The board may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any pollution, or any degradation, alteration, or elimination, of or to the air, water, soil, natural resources, or animal or plant life of the county, caused by any violation of the ordinances, rules, or regulations adopted by the board and to impose and recover a civil penalty for each such violation in an amount of not more than $10,000.00 for each offense. Each day during any portion of which such violation occurs constitutes a separate offense.

(b)

A person who causes pollution or degradation, alteration, or elimination of or to the air, water, soil, natural resources, or animal or plant life of the county is liable to the county for such damages and the reasonable costs and expenses that the county incurs in investigating the source of the pollution or damage, in restoring the air, water, or animal or plant communities to their former condition, and in enforcing this article, whether by consent order, civil action, or otherwise.

(c)

Whenever two or more persons cause pollution or damage to the air, water, soil, natural resources, or animal

or plant life of the county in violation of any ordinance, rule, or regulation adopted by the board so that the damage is indivisible, each violator is jointly and severally liable for such damage and for the reasonable costs and expenses incurred in investigating the source of discharge or damage, in controlling and abating the source and the pollutant, and in restoring the air, water, or property, including the animal, plant, and aquatic life, to its former condition; however, if the damage is divisible and may be attributed to a particular violator or violators, each violator is liable only for the damage attributable to his violation.

(Laws of Fla. ch. 90-403, § 4; Laws of Fla. ch. 2005-294, § 4)

Sec. 58-29. - Declaration of legislative intent.

The legislature finds and declares that the reasonable control and regulation of activities that are causing or may reasonably be expected to cause pollution or damage to the air, water, soil, natural resources, or animal or plant life in Pinellas County is necessary for the protection and preservation of the public health, safety, and welfare. The legislature, through F.S. ch. 187, the state comprehensive plan, and F.S. ch. 163, pt. II (F.S. § 153.3161 et seq.), the local government comprehensive planning and land development regulation act, mandates that each county, through the preparation and adoption of a comprehensive plan, preserve and enhance present advantages; encourage the most appropriate use of land, water, and natural resources consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land and water within its jurisdiction. The legislature further finds that the conservation and coastal management elements of the Pinellas County comprehensive plan mandate the protection of marine and estuarine habitats, surface waters, endangered and threatened species, and native vegetation and its associated wildlife. The legislature further finds that the penalty and investigative authority of the board of county commissioners of Pinellas County, pursuant to F.S. ch. 125, is inadequate for the investigation and enforcement of local environmental ordinances and regulations. It is the intent and purpose of this article to provide the board of county commissioners of Pinellas County with the power and authority to impose and recover a civil penalty for, to have limited rights of entry for monitoring, investigating, and analyzing, and to order emergency orders for, infractions of ordinances of Pinellas County, in order to effectively enforce, for the citizens of and visitors to that county, standards that will ensure the protection, enhancement, and restoration of the air, water, soil, natural resources, and animal and plant life of that county.

(Laws of Fla. ch. 90-403, § 2)

Sec. 58-30. - Construction of article.

The provisions of this article must be liberally construed in order to effectively carry out the purposes of this article in the interest of the public health, safety, and general welfare. The provisions of this article are not intended and may not be construed as superseding or conflicting with any statutory provisions relating to, or rules adopted by, the department of health and rehabilitative services, the department of environmental regulation, the department of natural resources, or the Southwest Florida Water Management District, but must be construed as implementing and assisting the enforcement thereof.

(Laws of Fla. ch. 90-403, § 8)

Sec. 58-31. - Applicability of article.

This article applies to the unincorporated area of the county and to the incorporated area of the county to the extent permitted by Fla. Const. art. VIII, § 1(g) and the Home Rule Charter for Pinellas County (Laws of Fla.

ch. 80-590), as amended.

(Laws of Fla. ch. 90-403, § 9)

Sec. 58-32. - Emergency order.

If a violation of any ordinance, rule, or regulation adopted by the board pertaining to the regulation of air, water, soil, noise, natural resources, or animal or plant life in the county creates an immediate health or safety hazard, threatens immediate serious damage to the public health, or threatens or causes irreparable injury or damage to the air, water, soil, natural resources, or animal or plant life or property, the board may order immediate cessation of the operations causing such condition. Any person who receives such an order for cessation of operations shall immediately comply with the requirements of the order. It is unlawful for any person to fail or refuse to comply with an emergency order issued and served pursuant to this section.

(Laws of Fla. ch. 90-403, § 7)

Sec. 58-33. - Pollution recovery fund created; purpose; maintenance; source and disposition of moneys.

(a)

There is hereby created the Pinellas County pollution recovery fund for the purpose of:

(1)

Mitigating the impact of damage resulting from violations of ordinances, rules, and regulations adopted by the board pertaining to the regulation of the air, water, soil, noise, natural resources, and animal and plant life of the county;

(2)

Acquiring, protecting, restoring, and maintaining land in the county for the purpose of creating or enhancing habitats having unique or significant ecological value;

(3)

Purchasing plants for placement on and constructing capital improvements on public properties, and providing for their maintenance, for the purposes set forth in this article; and

(4)

Making other expenditures that advance the purposes set forth in this article.

(b)

The Pinellas County pollution recovery fund must be kept, maintained, and identified by the board solely for the purposes set forth in this article. The finance director of the county is authorized to establish the Pinellas County pollution recovery fund and to receive and disburse moneys from the fund in accordance with the provisions of this article.

(c)

The Pinellas County pollution recovery fund consists of the following moneys:

(1)

All moneys recovered by the board in any action against, or settlement or consent order with, any person who has polluted or engaged in an activity in violation of any ordinance, rule, or regulation adopted by the board pertaining to the regulation of the air, water, soil, noise, natural resources, or animal or plant life of the county or in an activity tending to pollute the air, soil, or water of the county. However, any moneys specified in this paragraph which are required to be deposited in alternative funds or trusts pursuant to federal, state, or local law may not be deposited in the Pinellas County pollution recovery fund.

(2)

All moneys offered to and accepted by the county for the Pinellas County pollution recovery fund in the form of federal, state, or other governmental grants, allocations, or appropriations, as well as foundation or private grants and donations.

(d)

Unless otherwise restricted by the terms and conditions of a particular grant, gift, appropriation, or allocation, all interest earned on the investment of moneys of the Pinellas County pollution recovery fund accrue to that fund and may be disbursed only for projects authorized consistent with this article. The moneys in the Pinellas County pollution recovery fund may be invested only in accordance with the laws pertaining to the investment of county funds.

(Laws of Fla. ch. 90-403, § 5)

Sec. 58-34. - Inspections.

(a)

Any duly authorized representative of the board may at any reasonable time enter and inspect any property, premises, or place, except a building that is used exclusively for a private residence, if the board has reason to believe that:

(1)

Degradation, alteration, or elimination of or to the air, water, soil, natural resources, or animal or plant life of the county is being caused by any violation of the ordinances, rules, and regulations adopted by the board; or

(2)

A possible source of pollution or a condition of a permit granted pursuant to an ordinance, rule, or regulation adopted by the board pertaining to the regulation of the air, water, soil, noise, natural resources, or animal or plant life of the county is not in compliance with the provisions of such ordinance, rules, regulation, or permit.

(b)

A person may not refuse reasonable entry or access to any authorized representative of the board who requests entry for purposes of inspection and who presents appropriate credentials; nor may a person obstruct,

hamper, or interfere with any such inspection. The owner or operator of the property, premises, or place must be provided a report, if requested, setting forth all facts found which relate to the status of his compliance.

(c)

An inspection pursuant to subsections (a) and (b) may be conducted only after:

(1)

Consent for the inspection is received from the owner, operator, or person in charge of the property, premises, or place; or

(2)

The appropriate inspection warrant [has been] issued by a judge of a county court or circuit court having jurisdiction of the place or thing to be searched.

(Laws of Fla. ch. 90-403, § 6)

Secs. 58-35—58-55. - Reserved.

ARTICLE III. - HAZARDOUS MATERIALS RELEASES

Sec. 58-56. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

CFR means the Code of Federal Regulations.

Costs, as used in connection with an emergency response pursuant to section 58-62, shall include, but not be limited to, the cost of operating and maintaining equipment associated with the emergency response; the cost of materials used in the response; the cost of contract labor and materials; and legal and professional costs.

County warning point means the centralized point provided by the division for receipt and dissemination of warnings and emergency information from the public, private businesses, and local, state or federal agencies.

Department means the county's department of civil emergency services, or any successor department or agency of the county responsible for civil emergency services.

Division means the division of emergency management of the department, or any successor department or division of the county responsible for emergency management.

Emergency response personnel means any public employee, including, but not limited to, any firefighter, or emergency response personnel, who responds to any condition caused, in whole or part, by a hazardous material that jeopardizes or could jeopardize public health or safety or the environment.

Environment means any surface water, groundwater, drinking water supply, land surface or subsurface strata, or ambient air within the county.

Facility means:

(1)

Any building, equipment, structure, installation, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft; or

(2)

Any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located.

Florida substance list means the compilation of toxic substances established by the secretary of the state department of labor and employment security and which are subject to the provisions of F.S. ch. 442, as amended.

Hazardous material means any material that, because of its quantity, concentration, or physical chemical characteristics, poses significant present or potential hazard to human health and safety or to the environment if released into the workplace or environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste and toxic substances.

Hazardous substance means any substance or chemical product for which one of the following applies:

(1)

The manufacturer or producer is required to prepare an MSDS for the substance or product pursuant to any applicable federal law or regulation.

(2)

The substance is listed as an extremely hazardous substance in appendices A and B of 40 CFR 355.

(3)

The substance is listed in the title III list of lists.

Hazardous waste or extremely hazardous waste means any material or substance identified in 40 CFR 261.

MSDS means a material safety data sheet prepared pursuant to the regulations of the Occupational Safety and Health Administration of the United States Department of Labor.

Person means any individual, trust, firm, corporation, joint stock company, partnership, association, municipality or other public entity.

Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment.

Threatened release means the condition creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property or the environment.

Title III list of lists means the Consolidated List of Chemicals Subject to Reporting Under Title III of the

Superfund Amendments and Reauthorization Act (SARA) of 1986, published by the United States Environmental Protection Agency.

Toxic substance means any chemical substance or mixture in a gaseous, liquid, or solid state, which substance or mixture causes a significant risk to safety or health during, or as a proximate result of, any customary or reasonably foreseeable handling or use; which is listed in the state substance list; and which is manufactured, produced, used, applied, or stored in the workplace.

(Ord. No. 89-65, § 2, 12-12-89)

Cross reference— Definitions generally, § 1-2.

Sec. 58-57. - Authority.

This article is enacted pursuant to Fla. Const. art. VIII, § 1(g), the Charter of Pinellas County, F.S. ch. 125 and F.S. ch. 252, pt. I (F.S. § 252.31 et seq.).

(Ord. No. 89-65, § 1, 12-12-89)

Sec. 58-58. - Penalty for violation of article.

Violations of this article are punishable as provided in section 1-8.

(Ord. No. 89-65, § 7, 12-12-89)

Sec. 58-59. - Territory embraced.

This article shall be effective in the incorporated as well as unincorporated areas of the county; however, to the extent that this article conflicts with a municipal ordinance, the municipal ordinance shall prevail.

(Ord. No. 89-65, § 8, 12-12-89)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 58-60. - Administrative authority.

The department is hereby designated as the county agency responsible for administration and enforcement of this article.

(Ord. No. 89-65, § 3, 12-12-89)

Sec. 58-61. - Prohibition; notification.

(a)

No person shall release or cause or permit the release of hazardous materials into the environment.

(b)

The owner or operator of a facility shall, upon discovery, immediately notify the county of any release or threatened release of a hazardous material to the county warning point by dialing 911. Each facility shall provide all state, city or county fire or public health or safety personnel and emergency response personnel

with access to the facility at which a release has occurred or is threatened to occur.

(Ord. No. 89-65, § 4, 12-12-89)

Sec. 58-62. - Cleanup or abatement; liability for costs.

(a)

The division is authorized to clean up or abate, or cause to be cleaned up or abated, the effects of any hazardous material unlawfully released upon or onto property or facilities within the county. The following described persons shall be jointly and severally liable to the county for the payment of all costs incurred by the county as a result of such mitigation or abatement activity:

(1)

Any person whose negligent or willful act or omission proximately caused such release;

(2)

The person who owned or had custody or control of the hazardous substance or the material at the time of such release, without regard to fault or proximate cause; and

(3)

The person who owned or had custody or control of the container which held such hazardous material or substance at the time of or immediately prior to such release, without regard to fault or proximate cause.

(b)

The county may institute suit in a court of competent jurisdiction to recover the costs for the mitigation or abatement necessitated by a release of hazardous materials. All sums recovered by the county pursuant to this section shall be deposited into the fund or funds from which such sums were expended.

(Ord. No. 89-65, § 5, 12-12-89)

Sec. 58-63. - Verification and supervision of cleanup or abatement.

In the event that any person undertakes, either voluntarily or upon order of the division, to clean up or abate the effects of any hazardous substance or material unlawfully released into the environment, the division may take such action as is necessary to supervise or verify the adequacy of the cleanup or abatement. The persons described in section 58-62(a) of this article shall be liable to the county for all costs incurred as a result of such supervision or verification.

(Ord. No. 89-65, § 6, 12-12-89)

Secs. 58-64—58-85. - Reserved.

ARTICLE IV. - AIR QUALITY

DIVISION 1. - GENERALLY

Sec. 58-86. - Title.

The title of this article is the "Pinellas County Comprehensive Air Quality Ordinance."

(Ord. No. 95-27, § 1, 4-18-95)

Sec. 58-87. - Authority.

This article is adopted in compliance with and pursuant to chapter 78-601, Laws of Florida, Rule 62-209, Florida Administrative Code, and F.S. §§ 125.275 and 403.182. Upon adoption of this article, municipalities within Pinellas County, Florida, are hereby preempted, pursuant to the above authority, from adoption of any ordinance pertaining to air quality.

(Ord. No. 95-27, § 2, 4-18-95)

Sec. 58-88. - Statement of intent.

(a)

The board of county commissioners finds that the growth in the amount, complexity, and concentration of air pollution in the county brought about by increasing urbanization, industrial development, and the increasing number and use of motor vehicles has resulted in mounting dangers to the public health and welfare, including injury to the public health, injury to agricultural crops and livestock, and damage to and deterioration of property.

(b)

It is the intent of the board of county commissioners to provide for the protection and enhancement of the air quality of the county in order to protect human health and safety and to prevent injury to plant and animal life and to property, foster the comfort and convenience of the citizens of the county, promote the economic and social development of this county, and facilitate the enjoyment of the natural attractions of this county. To these ends, it is the purpose of this article to provide for a coordinated program of air pollution prevention, abatement, and control in the county.

(c)

It is the intent of the board of county commissioners to provide the authority for the compliance and enforcement activities regarding this article and for any air quality permits issued by the department of environmental protection under chapter 62-210, Florida Administrative Code. It is not the intention of the board of county commissioners to perform compliance or enforcement activities on facilities owned or operated by the county.

(d)

It is the intent of the board of county commissioners as a department of environmental protection (DEP) approved local air program to act as the DEP's agent within the county to the extent that the department has delegated various state air program activities to the county.

(e)

It is the intent of the board of county commissioners to enter into and maintain a general operating agreement with DEP and an air program specific operating agreement with the Division of Air Resources Management, Southwest District office to specify the extent to which various air program activities have been delegated to

the county.

(f)

It is the intent of the board of county commissioners to adopt by general reference the body of federal law governing air pollution abatement and prevention that is more specifically set forth in various sections throughout this article. The purpose and effect of any provisions of federal law adopted here in relation to Pinellas County shall be determined by the context in which it is applied. Procedural and substantive requirements in the incorporated federal laws are binding as a matter of county ordinance where the context so provides.

(Ord. No. 95-27, § 3(1.050), 4-18-95; Ord. No. 08-35, § 1, 6-17-08)

Sec. 58-89. - Definitions—General.

As used in this article, the following words and phrases have the following meanings, unless some other meaning is plainly indicated:

Board means the board of county commissioners of Pinellas County.

County means Pinellas County.

Person includes any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, or public officer or any other entity whatsoever, or any combination of such, jointly or severally.

Pollution means the presence in the air, soil, or waters of the county of any substance, contaminant, noise, or manmade or man-induced alteration of the chemical, physical, biological, or radiological integrity of the air, soil, or water in a quantity or at a level that is or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, or that unreasonably interferes with the enjoyment of life or property, including outdoor recreation.

(Ord. No. 95-27, § 3(1.100), 4-18-95; Ord. No. 97-5, § 1, 1-28-97; Ord. No. 98-10, § 1, 1-6-98; Ord. No. 00-15, § 1, 2-8-00; Ord. No. 01-19, § 1, 4-3-01)

Sec. 58-90. - Powers and duties of the board.

The board shall have the following powers and duties:

(1)

To hold hearings relating to the administration and enforcement of this article.

(2)

To issue complaints against any person violating any provision of this article and to enforce the same by appropriate administrative and judicial proceedings.

(3)

To require records relating to the emissions of any air pollutant source.

(4)

To secure or contract for necessary scientific, technical, administrative and operational services, including laboratory facilities.

(5)

To encourage voluntary cooperation by persons and affected groups to achieve the purposes of this article.

(6)

To encourage and conduct studies, investigations and research relating to air contamination or air pollution and its causes, effects, prevention, abatement and control.

(7)

To determine by means of field studies, inspections, monitoring and samplings, the emission rates of any air pollutant source in the county.

(8)

To advise, consult, contract, and cooperate with agencies of the state, local governments, industries, other states, interstate or interlocal agencies, and the federal government and with interested persons or groups to achieve the purposes of this article.

(9)

To require from any person, reports containing information as may be necessary to determine the location, size and height of contaminant outlets, processes employed, fuels used, and the nature and time periods or duration of emissions, and such other information as is relevant to any air pollutant source.

(10)

To provide for the delegation of the power and duties of the board of employees of the county department of environmental management for the performance of any act or duty necessary or incidental to the determination of compliance with this article or rules and regulations promulgated thereto.

(11)

To hold conferences for the settlement or simplification of issues.

(12)

To establish, maintain and operate air quality monitoring stations and other devices and methodologies designed to measure air pollution. This shall include the authority to condemn easements in order to provide access or to locate air quality monitoring stations and other devices designed to measure air pollution.

(13)

To receive and administer grants or other funds from public and private agencies, including the state and federal government for the purpose of carrying out any functions of this article.

(14)

To adopt rules and regulations reasonably necessary for the implementation, administration and enforcement of this article.

(15)

To establish and collect reasonable fees to cover operating expenses related to the administration and enforcement of this article.

(Ord. No. 95-27, § 3(1.110), 4-18-95)

Sec. 58-91. - Rules and regulations.

The board may study and promulgate appropriate rules and regulations reasonably necessary for the implementation of the intent of this article and for its enforcement, administration and interpretation regarding effective and continuing control and regulation of air quality within the county in accordance with the standards set forth herein.

(Ord. No. 95-27, § 3(1.120), 4-18-95)

Sec. 58-92. - Prohibitions, violation, penalty, remedy and intent.

(a)

It shall be a violation of this article, and it shall be prohibited:

(1)

To cause pollution, except as otherwise provided in this article, so as to harm or injure human health or welfare, animal, plant, or aquatic life or property.

(2)

To fail to obtain any permit required by this article or by rule or regulation, order, permit, compliance schedule or certification adopted or issued by the department or board pursuant to their lawful authority.

(3)

To make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this article, or to falsify, tamper with, or render inaccurate any monitoring device or method required to be maintained under this article or by any permit, rule, regulation, or order issued under this article.

(b)

Whoever commits a violation specified in subsection (a) above is liable to the county for any damages caused and for civil and criminal penalties, remedies and relief, available to the department of environmental protection in F.S. ch. 403.

(c)

In addition to subsection (a) above, any person, organization, society, association or corporation, or any agent or representative thereof, who shall violate any provision of this article shall be subject, upon conviction in a court of competent jurisdiction, to a fine not exceeding the sum of $500.00, or imprisonment in the county jail not exceeding 60 days, or by such fine and imprisonment. Each day during any portion of which such violation occurs constitutes a separate offense.

(Ord. No. 95-27, § 3(1.130), 4-18-95)

Sec. 58-93. - Air pollution recovery trust fund.

All money collected pursuant to subsection 58-92(b) and section 58-96 shall be deposited into the county air pollution recovery trust fund and used only for air pollution control programs relating to the control of emissions, air quality monitoring, facility inspections, and other such purposes consistent with the requirements under this article and F.S. § 403.165. Interest earned by the investment of all monies from the air pollution recovery trust fund shall be used for purposes consistent with this section.

(Ord. No. 95-27, § 3(1.140), 4-18-95)

Sec. 58-94. - Right of entry, inspections.

(a)

The authorized representatives, agents or employees of the director may enter and inspect any property, premises or place, including improvements thereon, except a building which is used exclusively for a private residence, within the limits of the county, for the purpose of inspecting the same to determine whether a violation of this article is occurring, or to verify achievement of the terms and conditions of a compliance order as provided by section 58-96 herein. Inspections conducted pursuant to this section shall be limited to obtaining that information which is reasonably necessary for the above purposes and shall be conducted in such a manner as to assure minimal interference with normal business operations of the pollutant source. No person shall refuse reasonable entry or access to any authorized representative of the director who requests entry for purposes of inspection and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with any such inspection. The owner or operator of the premises shall receive a report, if requested, setting forth all facts found which relate to compliance status.

(b)

An inspection pursuant to subsection 58-94(a) may be conducted only after:

(1)

Consent for the inspection is received from the owner, operator, or person in charge; or

(2)

The appropriate inspection warrant as provided in this section is obtained.

(c)

(1)
An inspection warrant as authorized by this Ordinance may be issued by a judge of any county court or circuit court of this state which has jurisdiction of the place or thing to be searched.

(2)

Upon proper affidavit being made, an inspection warrant may be issued under the provisions of this article:

a.

When it appears that the properties to be inspected may be connected with or contain evidence of the violation of any of the provisions of this article or any rule properly promulgated thereunder; or

b.

When the inspection sought is an integral part of a larger scheme of systematic routine inspections which are necessary to, and consistent with, the continuing efforts of the director to ensure compliance with the provisions of this article and any rules adopted thereunder.

(3)

The judge shall, before issuing the warrant, have the application for the warrant duly sworn to and subscribed by a representative of the board; and he may receive further testimony from witnesses, supporting affidavits, or depositions in writing to support the application. The affidavit and further proof, if had or required, shall set forth the facts tending to establish the grounds specified in subsection 58-94(c)(2) or the reasons for believing that such grounds exist.

(4)

Upon examination of the application and proofs submitted and if satisfied that cause exists for the issuing of the inspection warrant, the judge shall thereupon issue a warrant, signed by him with the name of his office, to any board representative, which warrant will authorize the representative forthwith to inspect the property described in the warrant.

(Ord. No. 95-27, § 3(1.150), 4-18-95)

Sec. 58-95. - Confidentiality.

(a)

Any information obtained, required, or discovered as a result of inspection, testing or sampling pursuant to this article, which is designated by the owner thereof to be a "trade secret," as defined by F.S. § 812.081, shall not be disclosed by the director or board, provided that the owner of such information provides a written notice to the director specifying the information which is to be considered a "trade secret" as defined above.

(b)

Nothing herein shall be construed to prevent the use of such information by board employees or representatives of the department of environmental protection directly involved in the analysis of such information as it relates to an air pollutant source.

(c)

Nothing herein shall be construed to prohibit the release of information designated a "trade secret" pursuant to the requirements of F.S. ch. 119, relating to the public records.

(d)

Nothing herein shall be construed to prohibit the release of emissions data pursuant to the requirements of F.S. § 403.111.

(e)

Prior to the release of any information designated a "trade secret," the board shall notify the owner of such information in writing of the identity of any person who requests same pursuant to the provisions of F.S. ch. 119, relating to public records, in order to permit such owner to take appropriate steps to maintain such trade secret. In no event shall the director withhold such information for any period of time in excess of 10 working days from the date of said request.

(Ord. No. 95-27, § 3(1.170), 4-18-95)

Sec. 58-96. - Consent order.

(a)

The director is authorized to enter into an agreement, referred to as a consent order, with any person for the purpose of specifying a plan of preventive or corrective action to assure or achieve full compliance with the provisions of this article.

(b)

The consent order shall set forth the emission limitation(s) specific to the pollutant source which is the subject of the agreement. The consent order shall authorize inspection, sampling or testing of air pollutant source by agents or employees of the director to verify achievement of the terms and conditions set forth therein. A consent order may include, but shall not be limited to, the following phases:

(1)

Review and acceptance by the director of final control technology plans for the pollutant source.

(2)

Acquisition of pollution control equipment or component parts for process modification to achieve compliance with the emission limitation(s) set forth herein.

(3)

Initiation of on-site construction or installation of air pollution control equipment or component parts for process modification.

(4)

Completion of on-site construction or installation of air pollution control equipment or component parts for process modification.

(5)

Achievement of final compliance with all provisions of this article.

(6)

Payment of a monetary settlement.

(Ord. No. 95-27, § 3(1.170), 4-18-95)

Sec. 58-97. - Enforcement.

The board shall have the judicial and administrative remedies specified in chapter 78-601, Laws of Florida, provided in F.S. ch. 125, and available to the department of environmental protection in F.S. ch. 403. The board shall not perform compliance and enforcement activities on facilities owned or operated by the county.

(Ord. No. 95-27, § 3(1.180), 4-18-95)

Sec. 58-98. - Area embraced.

All territory within the legal boundaries of the county, including all incorporated and unincorporated areas, are embraced by the provisions of this article.

(Ord. No. 08-35, § 13, 6-17-08)

Sec. 58-99. - Reserved.

DIVISION 2. - PERMITS AND PRECONSTRUCTION REVIEW

Sec. 58-100. - Permits for air pollution sources.

That body of federal law governing air pollution abatement and prevention by requiring permits and preconstruction review for air pollution sources, including nonattainment areas and Title V sources; public notice and comment, and administrative permit corrections; reporting requirements; air quality models; policies for stack heights; prevention of significant deterioration; sulfur storage and handling facilities; plantwide applicability limits; and operations and maintenance plans, except as these may be modified elsewhere in this Code or by state regulation, are hereby adopted and incorporated by reference in this Code.

(Ord. No. 08-35, § 2, 6-17-08)

Sec. 58-101. - Purpose and scope—Permits.

All provisions contained in Rules 62-204.100(4), 62-210.100, 62-212.100, and 62-213.100, Florida Administrative Code, as they may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(2.210.100), 4-18-95; Ord. No. 97-5, § 2, 1-28-97; Ord. No. 00-15, § 2, 2-8-00; Ord. No. 03-63, § 1, 8-28-03)

Sec. 58-102. - Definitions—Permits.

(a)

All provisions contained in Rules 62-204.200 and 62-210.200, Florida Administrative Code, as they may be

amended from time to time, are adopted and hereby incorporated by reference, except as may be modified herein. References to the department are to be replaced by references to Pinellas County only with regards to compliance and enforcement provisions.

(b)

The following specific definitions shall apply to this article:

(1)

Objectionable odor shall mean any odor present in the outdoor atmosphere which by itself or in combination with other odors, is or may be harmful or injurious to human health or welfare, which unreasonably interferes with the comfortable use and enjoyment of life or property, or which creates a nuisance odor.

(2)

Nuisance odor shall mean any use of any property, facilities, equipment, processes, products or compounds, or the commission of any acts, intentional or accidental, that cause or materially contribute to the emission into the outdoor air of dust, fume gas, mist, odor, smoke or vapor, or any combination thereof of a character and in a quantity as to be detectable within a 90-day period by five persons not living in the same household, as verified by the director, at any point beyond the property limits of the premises occupied or used by the person responsible for the source thereof, so as to interfere with their health, repose of safety, or cause severe annoyance or discomfort, or tends to lessen normal food and water intake, or produces irritation of the upper respiratory tract, or produces symptoms of nausea, or is offensive or objectionable to normal persons because of inherent chemical or physical properties, or causes injury or damage to real property, personal property or human, animal or plant life of any kind, or is detrimental or harmful to the health, comfort, living conditions, welfare and safety of the inhabitants of the county, or which unreasonably interferes with the comfortable use and enjoyment of life or property or the conduct of business.

(Ord. No. 95-27, § 3(2.210.200), 4-18-95; Ord. No. 97-5, § 3, 1-28-97; Ord. No. 00-15, § 3, 2-8-00; Ord. No. 03-63, § 2, 8-28-03)

Sec. 58-103. - Permits required.

(a)

All provisions contained in Rules 62-210.300, and 62-210.310, Florida Administrative Code, as they may be amended from time to time, are adopted and hereby incorporated by reference.

(b)

No air pollution source may be constructed, modified or operated in the county in violation of any conditions specified on the permit, or certification authorizing the activity or as may be incorporated by reference within the conditions of the permit authorizing the activity. Violation of any such permit or certification condition is a violation of this article.

(Ord. No. 95-27, § 3(2.210.300), 4-18-95; Ord. No. 97-5, § 4, 1-28-97; Ord. No. 03-63, § 1, 8-28-03; Ord. No. 08-35, § 3, 6-17-08)

Sec. 58-104. - Public notice and comment.

All provisions contained in Rule 62-210.350, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(2.210.350), 4-18-95; Ord. No. 97-5, § 5, 1-28-97; Ord. No. 03-63, § 4, 8-28-03)

Sec. 58-104.1. - Administrative permit corrections.

All provisions contained in Rule 62-210.360, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 97-5, § 6, 1-28-97; Ord. No. 03-63, § 5, 8-28-03)

Sec. 58-105. - Reports.

All provisions contained in Rule 62-210.370, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(2.210.370), 4-18-95; Ord. No. 97-5, § 7, 1-28-97; Ord. No. 03-63, § 6, 8-28-03)

Sec. 58-106. - Reserved.
Sec. 58-107. - Air quality models.

All provisions contained in Rule 62-204.220(4), Florida Administrative Code, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(2.210.500), 4-18-95; Ord. No. 97-5, § 9, 1-28-97; Ord. No. 03-63, § 7, 8-28-03)

Sec. 58-108. - Stack height policy.

All provisions contained in Rule 62-210.550, Florida Administrative Code, pertinent to the county, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(2.210.550), 4-18-95; Ord. No. 03-63, § 8, 8-28-03)

Sec. 58-109. - Circumvention.

All provisions contained in Rule 62-210.650, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(2.210.650), 4-18-95; Ord. No. 97-5, § 10, 1-28-97; Ord. No. 03-63, § 9, 8-28-03)

Sec. 58-110. - Excess emissions.

All provisions contained in Rule 62-210.700, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(2.210.700), 4-18-95; Ord. No. 97-5, § 11, 1-28-97; Ord. No. 03-63, § 10, 8-28-03)

Sec. 58-111. - Forms.

All provisions contained in Rule 62-210.900, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(2.210.900), 4-18-95; Ord. No. 97-5, § 12, 1-28-97; Ord. No. 03-63, § 11, 8-28-03)

Sec. 58-111.1. - Notification form for air general permits.

All provisions contained in Rule 62-210.920, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 97-5, § 13, 1-28-97; Ord. No. 03-63, § 12, 8-28-03)

Sec. 58-112. - Purpose and scope—Preconstruction review.

All provisions contained in Rule 62-212.100, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(2.212.100), 4-18-95; Ord. No. 97-5, § 14, 1-28-97; Ord. No. 03-63, § 13, 8-28-03)

Sec. 58-113. - Reserved.
Sec. 58-114. - General preconstruction review requirements.

All provisions contained in Rule 62-212.300, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(2.212.300), 4-18-95; Ord. No. 97-5, § 15, 1-28-97; Ord. No. 03-63, § 14, 8-28-03)

Sec. 58-115. - Prevention of significant deterioration (PSD).

All provisions contained in Rules 62-204.260 and 62-212.400, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(2.212.400), 4-18-95; Ord. No. 97-5, § 16, 1-28-97; Ord. No. 03-63, § 15, 8-28-03; Ord. No. 06-57, § 1, 7-25-06)

Sec. 58-116. - Reserved.
Sec. 58-117. - Preconstruction review for nonattainment areas.

All provisions contained in Rule 62-212.500, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(2.212.500), 4-18-95; Ord. No. 97-5, § 17, 1-28-97; Ord. No. 03-63, § 16, 8-28-03)

Sec. 58-118. - Reserved.
Sec. 58-119. - Sulfur storage and handling facilities.

All provisions contained in Rule 62-212.600 Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(2.212.600), 4-18-95; Ord. No. 97-5, § 18, 1-28-97; Ord. No. 03-63, § 17, 8-28-03)

Sec. 58-120. - Actual plantwide applicability limits (PALs).

All provisions contained in Rule 62-212.720 Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 06-57, § 2, 7-25-06)

Sec. 58-121. - Purpose and scope—Title V permits.

All provisions contained in Rule 62-213.100, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(2.215.100), 4-18-95; Ord. No. 97-5, § 19, 1-28-97; Ord. No. 03-63, § 18, 8-28-03)

Sec. 58-122. - Reserved.
Sec. 58-123. - Title V—Air general permits.

(a)

All provisions contained in Rule 62-213.300, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(b)

No air pollution source may be constructed, modified or operated in the county in violation of any conditions specified on the permit, or certification authorizing the activity or as may be incorporated by reference within the conditions of the permit authorizing the activity. Violation of any such permit or certification condition is a violation of this article.

(Ord. No. 95-27, § 3(2.215.220), 4-18-95; Ord. No. 97-5, § 20, 1-28-97; Ord. No. 03-63, § 19, 8-28-03)

Secs. 58-124—58-126. - Reserved.
Sec. 58-127. - Title V—Permit forms and instructions.

All provisions contained in Rule 62-213.900, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(2.215.900), 4-18-95; Ord. No. 97-5, § 21, 1-28-97; Ord. No. 03-63, § 20, 8-28-03)

Sec. 58-128. - Operation and maintenance plan.

(a)

An operation and maintenance (O&M) plan for pollution control equipment shall be submitted to the director for any source of pollution which is required by department permit pursuant to chapters 62-17, 62-210 or 62-213 Florida Administrative Code, to utilize a pollution control device, or that utilizes a pollution control device to meet an applicable standard. The O&M plan shall be submitted with the application for an operating permit, or general permit of such source and control device. The O&M plan shall include, but is not limited to:

(1)

Operating parameters of the pollution control device;

(2)

Time table for the routine maintenance of the pollution control device as specified by the manufacturer;

(3)

Time table for routine periodic observations of the pollution control device sufficient to ensure proper operation;

(4)

A list of the type and quantity of the required spare parts for the pollution control device which are stored on the premises of the permit applicant;

(5)

A record log which will indicate, at a minimum:

a.

When maintenance was performed;

b.

What maintenance was performed;

c.

Who performed said maintenance and observations; and

d.

Acceptable parameter ranges for each operational check.

(b)

An O&M plan for pollution control devices for pollution sources under a department permit pursuant to chapter 62-210 or 62-213, Florida Administrative Code, prior to the adoption of this article shall be submitted to the director upon:

(1)

Renewal of such permit; or

(2)

Violation of a specific or general emission limitation of a department permit.

(Ord. No. 95-27, § 3(2.230), 4-18-95; Ord. No. 97-5, § 22, 1-28-97; Ord. No. 00-15, § 4, 2-8-00; Ord. No. 01-19, § 2, 4-3-01)

Secs. 58-129—58-134. - Reserved.
DIVISION 3. - GASOLINE VAPOR CONTROL

Sec. 58-135. - Gasoline vapor controls.

That body of federal law governing air pollution abatement and prevention by providing testing methods to ascertain the operational status of vapor control devices on gasoline tanker trucks and similar gasoline storage vehicles or facilities, except as these may be modified elsewhere in this Code or by state regulation are hereby adopted and incorporated by reference in this Code.

(Ord. No. 08-35, § 4, 6-17-08)

Sec. 58-136. - Purpose—Gasoline vapor control.

All provisions pertaining to stage I, contained in Rule 62-252.100, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(3.252.100), 4-18-95; Ord. No. 97-5, § 23, 1-28-97; Ord. No. 03-63, § 21, 8-28-03)

Sec. 58-137. - Definitions—Gasoline vapor control.

All provisions contained in Rule 62-252.200, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference, except for the definition for gasoline dispensing facility.

(1)

Gasoline dispensing facility: Any site where gasoline is dispensed to motor vehicles, boats, or airplanes from stationary storage.

(Ord. No. 95-27, § 3(3.252.200), 4-18-95; Ord. No. 97-5, § 24, 1-28-97; Ord. No. 03-63, § 22, 8-28-03)

Sec. 58-138. - Gasoline dispensing facilities—Stage I vapor recovery.

(a)

All provisions pertaining to stage I vapor controls, contained in Rule 62-252.300, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference, except for 62-252.300(1) which is modified to read:

(1)

Applicability. The emission limiting standards and control technology requirements as set forth in Rule 62-252.300(3), shall apply to all gasoline dispensing facilities, as follows:

a.

All new facilities (built after 1/31/90).

b.

All existing facilities (built prior to 2/1/90) with monthly gasoline throughput of greater than 10,000 gallons but less than 20,000 gallons from the date of July 1, 1979. Monthly gasoline throughput shall be based on the highest gasoline throughput for any single month.

c.

Once stage I equipment is installed it is required to be utilized and maintained.

d.

During periods of nondelivery, all delivery and vapor lines to gasoline storage tank(s) shall be sealed with vapor-tight caps or seals.

(Ord. No. 95-27, § 3(3.252.300), 4-18-95; Ord. No. 97-5, § 25, 1-28-97; Ord. No. 03-63, § 23, 8-28-03)

Sec. 58-139. - Reserved.
Sec. 58-140. - Gasoline tanker trucks.

All provisions contained in Rule 62-252.500, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(3.252.500), 4-18-95; Ord. No. 97-5, § 26, 1-28-97; Ord. No. 03-63, § 24, 8-28-03)

Sec. 58-141. - Reserved.
Sec. 58-142. - Forms—Gasoline vapor control.

All provisions contained in Rule 62-252.900, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(3.252.900), 4-18-95; Ord. No. 97-5, § 27, 1-28-97; Ord. No. 03-63, § 25, 8-28-03)

Secs. 58-143, 58-144. - Reserved.
DIVISION 4. - ASBESTOS REMOVAL

Sec. 58-145. - Asbestos removal.

That body of federal law governing air pollution abatement and prevention by providing standards for the removal of asbestos, providing definitions and for applicability, for notification procedures and providing a national emission standard for asbestos, except as these may be modified elsewhere in this Code or by state regulation, are hereby adopted and incorporated by reference in this Code.

(Ord. No. 08-35, § 5, 6-17-08)

Sec. 58-146. - Purpose—Asbestos removal.

All provisions contained in Rules 62-204.100(4) and 62-257.100(2) and (4), Florida Administrative Code, as they may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(4.257.100), 4-18-95; Ord. No. 97-5, § 28, 1-28-97; Ord. No. 00-15, § 5, 2-8-00; Ord. No. 03-63, § 26, 8-28-03)

Sec. 58-147. - Definitions.

(a)

All definitions contained in Rules 62-204.200 and 62-257.200, Florida Administrative Code, as they may be amended from time to time, are adopted and hereby incorporated by reference, except as may be modified herein. References to the department are to be replaced by references to Pinellas County only with regards to compliance and enforcement provisions.

(b)

The following specific definitions shall apply to this article:

(1)

"Demolition activities" shall begin upon official receipt of the required written demolition notification.

(2)

"Owner or operator", means any person or entity who owns, leases, operates, controls, or supervises either the asbestos removal project, or the site of the asbestos removal project. It shall include, but is not limited to, owners, consultants, contractors, and subcontractors. Consultants are included, when performing asbestos surveys, supervising renovation or demolition operations, or providing written notification.

(Ord. No. 95-27, § 3(4.257.200), 4-18-95; Ord. No. 97-5, § 29, 1-28-97; Ord. No. 00-15, § 6, 2-8-00; Ord. No. 03-63, § 27, 8-28-03)

Sec. 58-148. - Applicability and notification procedure.

All provisions contained in Rule 62-257.301(1), Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(4.257.300), 4-18-95; Ord. No. 97-5, § 30, 1-28-97; Ord. No. 03-63, § 28, 8-28-03)

Sec. 58-149. - National emission standard for asbestos.

(a)

All provisions contained in subparagraph 62-204.800(10)(b)8, Florida Administrative Code, are adopted and hereby incorporated by reference, except as may be modified herein.

(b)

Water from a decontamination chamber unit or waste load out shall be filtered through a five micron or less filter, and bagging of shower water is prohibited.

(c)

All regulated asbestos containing material (RACM) shall be removed from nonexempt structures prior to any demolition activity.

(d)

Prior to the commencement of any renovation or demolition operation, facility owners or operators must have a written asbestos survey report. The report shall conform to the following standards:

(1)

All affected areas of the facility shall be inspected for asbestos containing material, and;

(2)

For demolition operations, this report will be included with any written notifications, and for renovation operations, this report will be maintained on-site at all times during renovation operations, and;

(3)

The selection of samples, the number of samples, and the accuracy of the report for the asbestos survey, shall be the responsibility of the individual issuing the report, and;

(4)

The report shall specify the specific location where the suspect asbestos containing material was found, and;

(5)

The report shall specify the quantity of asbestos containing material found on pipes (linear feet), and on other facility components (square feet), and;

(6)

The report shall describe the component that is coated, or covered with asbestos containing material, and;

(7)

The report shall show the percent, by area, asbestos content of any asbestos containing material which are analyzed, and for samples, consisting of two or more distinct layers or materials, each layer should be treated separately and the results reported by layers, and;

(8)

The report shall describe the method used to determine the presence of all asbestos containing material. If suspect asbestos containing material is not collected or analyzed, the report must state that the material is presumed to be asbestos containing; and

(9)

The report shall state the type of operation (renovation, or demolition) the inspection is for, and;

(10)

The report shall clearly describe the affected areas of the facility the inspection covers, and;

(11)

The report shall contain the signature of the individual issuing the report, name of the individual performing the inspection, and the date of the inspection. For licensed asbestos consultants, the report will also include the legal seal and signature, and license number, and;

(12)

The report shall classify any asbestos containing, and any suspect asbestos containing material as either friable, Category I or Category Il nonfriable asbestos containing material, and;

(13)

For demolition operations, the report shall clearly describe any areas of the affected facility not inspected, and state specific reason(s) for not inspecting the area(s), and further state that those portions of the facility, which have not been inspected, will not be demolished until inspected for asbestos, and;

(14)

The survey shall clearly denote the source of the sampling protocol employed (such as AHERA 40 CFR 763.86) and/or any limitations incorporated in the survey, and whether the intent of the survey was for NESHAP compliance.

(e)

All workers and supervisors performing asbestos removal must have proof of his/her asbestos training, a copy of the license under which they are performing asbestos removal, and a photo identification of themselves. The employer is responsible for insuring these documents are available, and on-site during all regulated asbestos renovations or demolitions.

(f)

For renovation and demolition operations, which includes the collection, processing, packing, or transporting of any regulated asbestos containing material (RACM):

(1)

Any RACM must be adequately wet.

(2)

There shall be no visible emissions to the outside air of any RACM.

(g)

For the manufacturing, fabrication, and spraying operations, no visible emissions shall be discharged to the outside air during the collection, processing, packing, or transporting of any asbestos containing material (ACM) generated by the source.

(h)

The requirements of subsections (f) and (g) of this section do not apply if an alternative emission control and waste treatment method has received prior written approval by the director.

(Ord. No. 95-27, § 3(4.257.350), 4-18-95; Ord. No. 97-5, § 31, 1-28-97; Ord. No. 98-10, § 2, 1-6-98; Ord. No. 03-2, § 1, 1-7-03; Ord. No. 03-63, § 29, 8-28-03)

Secs. 58-150. - Reserved.
Sec. 58-151. - Reserved.

Editor's note— Ord. No. 08-35, § 6, adopted June 17, 2008, repealed § 58-151, which pertained to forms and derived from Ord. No. 95-27, § 3(4.25.900), adopted April 18, 1995; Ord. No. 97-5, § 32, adopted Jan. 28, 1997; and Ord. No. 03-63, § 30, adopted Aug. 28, 2003.

Secs. 58-152—58-160. - Reserved.
DIVISION 5. - AMBIENT AIR QUALITY STANDARDS

Secs. 58-161—58-175. - Reserved.
DIVISION 6. - STATIONARY SOURCES—EMISSION STANDARDS

Sec. 58-176. - Emission standards for stationary sources.

That body of federal law which governs air pollution abatement and prevention by establishing emission standards for stationary sources of air pollution, providing general pollution emission limiting standards and prescribing the proper testing methods to detect and quantify air pollutants emitted from the various sources, more specifically described in this division, except as these rules may be modified elsewhere in this Code or by state regulation, are hereby adopted and incorporated by reference in this Code.

(Ord. No. 08-35, § 7, 6-17-08)

Sec. 58-177. - Purpose—Stationary sources, emissions standards.

All provisions contained in Rules 62-204.100(4) and 62-296.100, Florida Administrative Code, as they may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 00-15, § 7, 2-8-00; Ord. No. 03-63, § 31, 8-28-03)

Sec. 58-178. - General pollution emission limiting standards.

All provisions contained in Rule 62-296.320, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.320), 4-18-95; Ord. No. 97-5, § 33, 1-28-97; Ord. No. 03-63, § 32, 8-28-03)

Secs. 58-179, 58-180. - Reserved.
Sec. 58-181. - Incinerators.

All provisions contained in Rule 62-296.401, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.401), 4-18-95; Ord. No. 97-5, § 34, 1-28-97; Ord. No. 03-63, § 33, 8-28-03)

Sec. 58-182. - Sulfuric acid plants.

All provisions contained in Rule 62-296.402, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.402), 4-18-95; Ord. No. 97-5, § 35, 1-28-97; Ord. No. 03-63, § 34, 8-28-03)

Sec. 58-183. - Phosphate processing.

All provisions contained in Rule 62-296.403, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.403), 4-18-95; Ord. No. 97-5, § 36, 1-28-97; Ord. No. 03-63, § 35, 8-28-03)

Sec. 58-184. - Kraft (Sulfate) pulp mills and tall oil plants.

All provisions contained in Rule 62-296.404, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.404), 4-18-95; Ord. No. 97-5, § 37, 1-28-97; Ord. No. 03-63, § 36, 8-28-03)

Sec. 58-185. - Fossil fuel steam generators with more than 250 million Btu per hour heat input.

All provisions contained in Rule 62-296.405, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.405), 4-18-95; Ord. No. 97-5, § 38, 1-28-97; Ord. No. 03-63, § 37, 8-28-03)

Sec. 58-186. - Fossil fuel steam generators with less than 250 million Btu per hour heat input, new and existing emissions units.

All provisions contained in Rule 62-296.406, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.406), 4-18-95; Ord. No. 97-5, § 39, 1-28-97; Ord. No. 03-63, § 38, 8-28-03)

Sec. 58-187. - Portland cement.

All provisions contained in Rule 62-296.407, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.407), 4-18-95; Ord. No. 97-5, § 40, 1-28-97; Ord. No. 03-63, § 39, 8-28-03)

Sec. 58-188. - Nitric acid plants.

All provisions contained in Rule 62-296.408, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.408), 4-18-95; Ord. No. 97-5, § 41, 1-28-97; Ord. No. 03-63, § 40, 8-28-03)

Sec. 58-189. - Sulfur recovery plants.

All provisions contained in Rule 62-296.409, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.409), 4-18-95; Ord. No. 97-5, § 42, 1-28-97; Ord. No. 03-63, § 41, 8-28-03)

Sec. 58-190. - Carbonaceous fuel burning equipment.

All provisions contained in Rule 62-296.410, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.410), 4-18-95; Ord. No. 97-5, § 43, 1-28-97; Ord. No. 03-63, § 42, 8-28-03)

Sec. 58-191. - Sulfur storage and handling facilities.

All provisions contained in Rule 62-296.411, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.411), 4-18-95; Ord. No. 97-5, § 44, 1-28-97; Ord. No. 03-63, § 43, 8-28-03)

Sec. 58-192. - Dry cleaning facilities.

All provisions contained in Rule 62-296.412, Florida Administrative Code, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.412), 4-18-95; Ord. No. 97-5, § 45, 1-28-97; Ord. No. 03-63, § 44, 8-28-03)

Sec. 58-193. - Synthetic organic fiber production.

All provisions contained in Rule 62-296.413, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.413), 4-18-95; Ord. No. 97-5, § 46, 1-28-97; Ord. No. 03-63, § 45, 8-28-03)

Sec. 58-194. - Concrete batching plants.

All provisions contained in Rule 62-296.414, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.414), 4-18-95; Ord. No. 97-5, § 47, 1-28-97; Ord. No. 03-63, § 46, 8-28-03)

Sec. 58-195. - Soil thermal treatment facilities.

All provisions contained in Rule 62-296.415, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.415), 4-18-95; Ord. No. 97-5, § 48, 1-28-97; Ord. No. 03-63, § 47, 8-28-03)

Sec. 58-195.1. - Volume reduction, mercury recovery and mercury reclamation.

All provisions contained in Rule 62-296.417, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 97-5, § 49, 1-28-97; Ord. No. 03-63, § 48, 8-28-03)

Sec. 58-196. - Reasonably available control technology.

All provisions contained in Rule 62-296.500, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.500), 4-18-95; Ord. No. 97-5, § 50, 1-28-97; Ord. No. 03-63, § 49, 8-28-03)

Sec. 58-197. - Can coating.

All provisions contained in Rule 62-296.501, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.501), 4-18-95; Ord. No. 97-5, § 50, 1-28-97)

Sec. 58-198. - Coil coating.

All provisions contained in Rule 62-296.502, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.502), 4-18-95; Ord. No. 97-5, § 52, 1-28-97; Ord. No. 03-63, § 51, 8-28-03)

Sec. 58-199. - Paper coating.

All provisions contained in Rule 62-296.503, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.503), 4-18-95; Ord. No. 97-5, § 53, 1-28-97; Ord. No. 03-63, § 52, 8-28-03)

Sec. 58-200. - Fabric and vinyl coating.

All provisions contained in Rule 62-296.504, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.504), 4-18-95; Ord. No. 97-5, § 54, 1-28-97; Ord. No. 03-63, § 53, 8-28-03)

Sec. 58-201. - Metal furniture coating.

All provisions contained in Rule 62-296.505, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.505), 4-18-95; Ord. No. 97-5, § 55, 1-28-97; Ord. No. 03-63, § 54, 8-28-03)

Sec. 58-202. - Surface coating of large appliances.

All provisions contained in Rule 62-296.506, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.506), 4-18-95; Ord. No. 97-5, § 56, 1-28-97; Ord. No. 03-63, § 55, 8-28-03)

Sec. 58-203. - Magnetic wire coating.

All provisions contained in Rule 62-296.507, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.507), 4-18-95; Ord. No. 97-5, § 57, 1-28-97; Ord. No. 03-63, § 56, 8-28-03)

Sec. 58-204. - Petroleum liquid storage.

All provisions contained in Rule 62-296.508, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.508), 4-18-95; Ord. No. 97-5, § 58, 1-28-97; Ord. No. 03-63, § 57, 8-28-03)

Sec. 58-205. - Bulk gasoline plants.

All provisions contained in Rule 62-296.509, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.509), 4-18-95; Ord. No. 97-5, § 59, 1-28-97; Ord. No. 03-63, § 58, 8-28-03)

Sec. 58-205.1. - Bulk gasoline terminals.

All provisions contained in Rule 62-296.510, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.510), 4-18-95; Ord. No. 97-5, § 60, 1-28-97; Ord. No. 03-63, § 59, 8-28-03)

Sec. 58-205.2. - Solvent metal cleaning.

All provisions contained in Rule 62-296.511, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.511), 4-18-95; Ord. No. 97-5, § 61, 1-28-97; Ord. No. 03-63, § 60, 8-28-03)

Sec. 58-205.3. - Cutback asphalt.

All provisions contained in Rule 62-296.512, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.512), 4-18-95; Ord. No. 97-5, § 62, 1-28-97; Ord. No. 03-63, § 61, 8-28-03)

Sec. 58-205.4. - Surface coating of miscellaneous metal parts and products.

All provisions contained in Rule 62-296.513, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.513), 4-18-95; Ord. No. 97-5, § 63, 1-28-97; Ord. No. 03-63, § 62, 8-28-03)

Sec. 58-205.5. - Surface coating of flat wood paneling.

All provisions contained in Rule 62-296.514, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.514), 4-18-95; Ord. No. 97-5, § 64, 1-28-97; Ord. No. 03-63, § 63, 8-28-03)

Sec. 58-205.6. - Petroleum liquid storage tanks with external floating roofs.

All provisions contained in Rule 62-296.516, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.516), 4-18-95; Ord. No. 97-5, § 65, 1-28-97; Ord. No. 03-63, § 64, 8-28-03)

Sec. 58-205.7. - Graphic arts systems.

All provisions contained in Rule 62-296.515, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.700), 4-18-95; Ord. No. 97-5, § 66, 1-28-97; Ord. No. 03-63, § 65, 8-28-03)

Sec. 58-205.8. - Reasonably available control technology (RACT)—Requirements for major VOC and NOx emitting facilities.

All provisions contained in Rule 62-296.570, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.701), 4-18-95; Ord. No. 97-5, § 67, 1-28-97; Ord. No. 03-63, § 66, 8-28-03)

Sec. 58-205.9. - Reasonably available control technology (RACT)—Lead.

All provisions contained in Rule 62-296.600, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.702), 4-18-95; Ord. No. 97-5, § 68, 1-28-97; Ord. No. 03-63, § 67, 8-28-03)

Sec. 58-205.10. - Lead processing operations in general.

All provisions contained in Rule 62-296.601, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.703), 4-18-95; Ord. No. 97-5, § 69, 1-28-97; Ord. No. 03-63, § 68, 8-28-03)

Sec. 58-205.11. - Primary lead-acid battery manufacturing operations.

All provisions contained in Rule 62-296.602, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.704), 4-18-95; Ord. No. 97-5, § 70, 1-28-97; Ord. No. 03-63, § 69, 8-28-03)

Sec. 58-205.12. - Secondary lead smelting operations.

All provisions contained in Rule 62-296.603, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.705), 4-18-95; Ord. No. 97-5, § 71, 1-28-97; Ord. No. 03-63, § 70, 8-28-03)

Sec. 58-205.13. - Electric arc furnace equipped secondary steel manufacturing operations.

All provisions contained in Rule 62-296.604, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.706), 4-18-95; Ord. No. 97-5, § 72, 1-28-97; Ord. No. 03-63, § 71, 8-28-03)

Sec. 58-205.14. - Reasonably available control technology (RACT) particulate matter.

All provisions contained in Rule 62-296.700, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.707), 4-18-95; Ord. No. 97-5, § 73, 1-28-97; Ord. No. 03-63, § 72, 8-28-03)

Sec. 58-205.15. - Portland cement plants.

All provisions contained in Rule 62-296.701, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.708), 4-18-95; Ord. No. 97-5, § 74, 1-28-97; Ord. No. 03-63, § 73, 8-28-03)

Sec. 58-205.16. - Fossil fuel steam generators.

All provisions contained in Rule 62-296.702, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.709), 4-18-95; Ord. No. 97-5, § 75, 1-28-97; Ord. No. 03-63, § 74, 8-28-03)

Sec. 58-205.17. - Carbonaceous fuel burners.

All provisions contained in Rule 62-296.703, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.710), 4-18-95; Ord. No. 97-5, § 76, 1-28-97; Ord. No. 03-63, § 75, 8-28-03)

Sec. 58-205.18. - Asphalt concrete plants.

All provisions contained in Rule 62-296.704, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.711), 4-18-95; Ord. No. 97-5, § 77, 1-28-97; Ord. No. 03-63, § 76, 8-28-03)

Sec. 58-205.19. - Phosphate processing operations.

All provisions contained in Rule 62-296.705, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.712), 4-18-95; Ord. No. 97-5, § 78, 1-28-97; Ord. No. 03-63, § 77, 8-28-03)

Sec. 58-205.20. - Glass manufacturing process.

All provisions contained in Rule 62-296.706, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.800), 4-18-95; Ord. No. 97-5, § 79, 1-28-97; Ord. No. 03-63, § 78, 8-28-03)

Sec. 58-205.21. - Electric arc furnaces.

All provisions contained in Rule 62-296.707, Florida Administrative Code, as it may be amended from time

to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.810), 4-18-95; Ord. No. 97-5, § 80, 1-28-97; Ord. No. 03-63, § 79, 8-28-03)

Sec. 58-205.22. - Sweat or pot furnaces.

All provisions contained in Rule 62-296.708, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 95-27, § 3(6.296.820), 4-18-95; Ord. No. 97-5, § 81, 1-28-97; Ord. No. 03-63, § 80, 8-28-03)

Sec. 58-205.23. - Lime kilns.

All provisions contained in Rule 62-296.709, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 97-5, § 82, 1-28-97; Ord. No. 03-63, § 81, 8-28-03)

Sec. 58-205.24. - Smelt dissolving tanks.

All provisions contained in Rule 62-296.710, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 97-5, § 83, 1-28-97; Ord. No. 03-63, § 82, 8-28-03)

Sec. 58-205.25. - Materials handling, sizing, screening, crushing and grinding operations.

All provisions contained in Rule 62-296.711, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 97-5, § 84, 1-28-97; Ord. No. 03-63, § 83, 8-28-03)

Sec. 58-205.26. - Miscellaneous manufacturing process operations.

All provisions contained in Rule 62-296.712, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 97-5, § 85, 1-28-97; Ord. No. 03-63, § 84, 8-28-03)

Sec. 58-205.27. - Standards of performance for new stationary sources and emission guidelines.

That body of federal law governing air pollution abatement and prevention by providing standards of performance for new stationary sources and emission guidelines, which may generally be described or referred to from time to time in Rules 62-204.800(8) and 62-204.800(9), Florida Administrative Code, and except as modified elsewhere herein, is adopted and hereby incorporated by reference in this Code.

(Ord. No. 97-5, § 86, 1-28-97; Ord. No. 00-15, § 8, 2-8-00; Ord. No. 01-19, § 3, 4-3-01; Ord. No. 02-55, § 1, 7-9-02; Ord. No. 03-2, § 2, 1-7-03; Ord. No. 03-63, § 85, 8-28-03; Ord. No. 04-38, § 1, 6-15-04; Ord. No. 05-24, § 1, 4-5-05; Ord. No. 05-76, § 1, 11-15-05; Ord. No. 06-57, § 3, 7-25-06; Ord. No. 08-35, § 8, 6-17-08)

Sec. 58-205.28. - National emissions standards for hazardous air pollutants.

That body of federal law governing air pollution abatement and prevention by providing national standards for general hazardous air pollutant emissions, which may be referred to in general from time to time in Rules 62-204.800(10) and 62-205.800(11), Florida Administrative Code, except as may be modified herein, are adopted and hereby incorporated by reference.

(Ord. No. 97-5, § 87, 1-28-97; Ord. No. 98-10, § 3, 1-6-98; Ord. No. 00-15, § 9, 2-8-00; Ord. No. 03-2, § 3, 1-7-03; Ord. No. 03-63, § 86, 8-28-03; Ord. No. 04-38, § 1, 6-15-04; Ord. No. 05-24, § 2, 4-5-05; Ord. No. 08-35, § 9, 6-17-08)

Sec. 58-205.29. - National volatile organic compound emission standards for consumer and commercial products.

That body of federal law governing air pollution abatement and prevention by providing national volatile organic compound emission standards for consumer and commercial products, which may be referred to in general from time to time in Rule 62-204.800(7), Florida Administrative Code, are adopted and hereby incorporated by reference in this Code.

(Ord. No. 97-5, § 88, 1-28-97; Ord. No. 98-10, § 4, 1-6-98; Ord. No. 00-15, § 10, 2-8-00; Ord. No. 01-19, § 4, 4-3-01; Ord. No. 03-2, § 4, 1-7-03; Ord. No. 03-63, § 87, 8-28-03; Ord. No. 04-38, § 1, 6-15-04; Ord. No. 05-24, § 3, 4-5-05; Ord. No. 05-76, § 2, 11-15-05; Ord. No. 06-57, § 4, 7-25-06; Ord. No. 08-35, § 11, 6-17-08)

DIVISION 7. - STATIONARY SOURCES—EMISSION MONITORING

Sec. 58-205.30. - Emission monitoring of stationary sources of air pollutants.

That body of federal law governing air pollution abatement and prevention by requiring monitoring of emissions from stationary sources of air pollutants, requiring general compliance testing, providing compliance testing methods and supplementary testing processes, providing federally approved efficiency testing procedures for capturing volatile organic compounds, providing federal standards for continuous monitor performance and exceptions and approval of alternate procedures and requirements is hereby adopted and incorporated by reference in this Code.

(Ord. No. 03-2, § 5, 1-7-03; Ord. No. 03-63, § 88, 8-28-03; Ord. No. 08-35, § 11, 6-17-08)

Sec. 58-205.31. - Purpose—Stationary sources, emissions monitoring.

All provisions contained in Rule 62-297.100, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 00-15, § 11, 2-8-00; Ord. No. 03-63, § 89, 8-28-03)

Sec. 58-205.32. - General compliance test requirements.

All provisions contained in Rule 62-297.310, Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 97-5, § 89, 1-28-97; Ord. No. 03-63, § 90, 8-28-03)

Secs. 58-205.33—58-205.37. - Reserved.

Sec. 58-205.38. - Compliance test methods.

All provisions contained in Rule 62-297.401 Florida Administrative Code are adopted and hereby incorporated by reference.

(Ord. No. 97-5, § 90, 1-28-97; Ord. No. 00-15, § 12, 2-8-00; Ord. No. 03-63, § 91, 8-28-03)

Secs. 58-205.39—58-205.43. - Reserved.
Sec. 58-205.44. - Supplementary test procedures.

All provisions contained in Rule 62-297.440 Florida Administrative Code are adopted and hereby incorporated by reference.

(Ord. No. 97-5, § 91, 1-28-97; Ord. No. 00-15, § 13, 2-8-00; Ord. No. 03-2, § 6, 1-7-03; Ord. No. 03-63, § 92, 8-28-03)

Sec. 58-205.45. - EPA voc capture efficiency test procedures.

All provisions contained in Rule 62-297.450 Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 97-5, § 92, 1-28-97; Ord. No. 03-63, § 93, 8-28-03)

Sec. 58-205.46. - Reserved.
Sec. 58-205.47. - EPA continuous monitor performance.

All provisions contained in Rule 62-297.520 Florida Administrative Code are adopted and hereby incorporated by reference.

(Ord. No. 97-5, § 93, 1-28-97; Ord. No. 00-15, § 14, 2-8-00; Ord. No. 03-63, § 94, 8-28-03)

Sec. 58-205.48. - Reserved.
Sec. 58-205.49. - Exceptions and approval of alternate procedures and requirements.

All provisions contained in Rule 62-297.620 Florida Administrative Code, as it may be amended from time to time, are adopted and hereby incorporated by reference.

(Ord. No. 97-5, § 94, 1-28-97; Ord. No. 03-63, § 95, 8-28-03)

Sec. 58-205.50. - Reserved.

Editor's note— Ord. No. 08-35, § 13, adopted June 17, 2008, renumbered the former § 58-205.50 as § 58-98.

ARTICLE V. - OPEN BURNING[3]

Footnotes:
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Cross reference— Fire prevention and protection, ch. 62.

Sec. 58-206. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Air pollution means the presence in the outdoor atmosphere of the state of any one or more substances or contaminants in quantities which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, or unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

Approved fuel means that fuel approved for use by the state department of environmental protection.

Excessive visible emissions means air pollutants emitted in such quantity as to obscure an observer's view to a degree equal to or greater than no. 2 (or 40 percent opacity) on the Ringelmann Smoke Chart as published in the U.S. Bureau of Mines Information Circular No. 7718.

Forced draft means an adequate current of air, blown or forced by a fan or other mechanical means, which is directed or arranged in relation to the open burning in such a manner as to increase the temperature of the fire and to reduce or minimize the resultant pollution.

Land clearing operation means the uprooting or clearing of vegetation in connection with construction for buildings and rights-of-way, mineral operations, control of weeds, or enhancement of property value, but does not include site preparation; i.e., fires for the growing, raising, or harvesting of crops, timbers, or wildlife.

Open burning means any outdoor fire or open combustion or material which produces or may produce air pollution.

Outdoor heating device means any apparatus, machine, equipment, or other contrivance in which is burned any type of fuel capable of producing air pollution, used outdoors for the purpose of giving protection from cold or frost.

Sunset means official sunset as set forth by the U.S. Naval Observatory (tables are available at National Weather Services offices).

(Ord. No. 76-18, § 2, 9-21-76)

Cross reference— Definitions generally, § 1-2.

Sec. 58-207. - Penalty for violation of article.

Except as otherwise provided by law or ordinance, a person convicted of a violation of this article shall be punished by a fine not to exceed $500.00 or by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment. With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense.

(Ord. No. 06-62, § 4, 8-1-06)

Sec. 58-208. - Areas embraced.

All territory within the legal boundaries of the county, including all incorporated and all unincorporated areas, shall be embraced by the provisions of this article.

(Ord. No. 76-18, § 11, 9-21-76)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 58-209. - Declaration of intent.

(a)

The board of county commissioners finds and declares that the open burning of materials outdoors and the use of outdoor heating devices result in or contribute to air pollution. The board further finds that regulation of open burning and outdoor heating devices will reduce air pollution significantly.

(b)

It is the intent of the board of county commissioners to require that open burning be conducted in a manner, under conditions and within certain periods that will reduce or eliminate the deleterious and noisome effect of air pollution caused by open burning.

(Ord. No. 76-18, § 1, 9-21-76)

Sec. 58-210. - Prohibitions.

(a)

Any open burning not specifically allowed by this article is prohibited. No person shall ignite, cause to be ignited, permit to be ignited, suffer, allow, burn, conduct or maintain any prohibited open burning.

(b)

No person shall use or operate any outdoor heating device or burn any unapproved fuel for cold or frost protection except as provided in this article.

(Ord. No. 76-18, § 3, 9-21-76)

Sec. 58-211. - Limitations.

Nothing in this article may be construed to allow open burning which causes or constitutes a hazard to air traffic, which artificially reduces visibility on public roadways to less than 500 feet, or which violates other laws, rules, regulations, or ordinances.

(Ord. No. 76-18, § 4, 9-21-76)

Sec. 58-212. - Agricultural and silvicultural fires.

Open burning in connection with agricultural, silvicultural or forestry operations related to the growing, harvesting or maintenance of crops or in connection with wildlife management is allowed between the hours of 9:00 a.m. and one hour before sunset, provided that permission is secured from the division of forestry of the department of agricultural and consumer services prior to burning. The division of forestry may allow

open burning at other times when there is reasonable assurance that atmospheric and meteorological conditions in the vicinity of the burning will allow good and proper diffusion and dispersement of air pollutants, and ready control of such fires within the designated boundaries.

(Ord. No. 76-18, § 5, 9-21-76)

Sec. 58-213. - Burning for cold or frost protection.

Open burning or the use of outdoor heating devices for frost or cold protection in connection with agricultural or citrus operations is allowed, provided the fuel and the device used have approval from the state department of environmental protection prior to use.

(Ord. No. 76-18, § 6, 9-21-76)

Sec. 58-214. - Land clearing.

(a)

Open burning of wooden material or vegetation generated by a land clearing operation (except for agricultural, silvicultural, or forestry operations) or the demolition of a structure is allowed provided one of the following alternatives is satisfied:

(1)

The open burning is 50 yards or more from any occupied building or public highway and is performed between 9:00 a.m. (standard time) and one hour before sunset;

(2)

At other times when:

a.

The open burning is 50 yards or more from any occupied building or public highway and a forced draft system is used; or

b.

The open burning is 500 yards or more from any occupied building or public highway.

(b)

Permit required.

(1)

The applicant shall apply to the fire chief, or his authorized representative, of the fire control district wherein the open burning will take place and the fire chief or his authorized representative shall be responsible to issue and deny permission to burn.

(2)

The fire chief, or his representative, if permission to burn is granted, shall issue a written permit which shall be kept at the burn site by the applicant and shall be presented upon demand by law enforcement or fire personnel.

(3)

The permit may be revoked for failure to comply with the provisions of this section, or, if so determined by the fire chief or his authorized representative, the open burn is creating a public nuisance due to smoke, flying ash, air traffic or road traffic hazard.

(4)

The division of forestry and the fire control district affected shall be notified each day before the open burn is started.

(5)

The application for approval shall contain:

a.

The name, address, and telephone number of the applicant;

b.

The exact location of the requested open burning;

c.

Name of the person in charge of the open burn.

(6)

A reasonable fee may be imposed by the issuing fire department or fire control district as necessary to pay for the administrative expense associated with the preparation and issuance of the permit.

(Ord. No. 76-18, § 7, 9-21-76; Ord. No. 80-10, § 1, 3-18-80)

Sec. 58-215. - Industrial, commercial, municipal, and research open burning.

(a)

Open burning in connection with industrial, commercial, or municipal operations is prohibited, except when the open burning is the only feasible method of operation and prior approval is obtained from the board of county commissioners and the state department of environmental protection, or when an emergency exists which requires immediate action to protect human health and safety.

(b)

Open burning and the use of outdoor heating devices which are essential to a research project are allowed provided prior approval is obtained from the board of county commissioners and the state department of environmental protection.

(c)

The application for approval under this section shall include the following:

(1)

The name, address, and telephone number of the person submitting the application;

(2)

The type of business or activity involved;

(3)

A description of the proposed equipment and operating practices, the type, quantity, composition and amount of air contaminants to be released to the atmosphere;

(4)

The schedule of burning operations, if known;

(5)

The exact location of the requested open burning;

(6)

If applicable, reasons why no method other than open burning is feasible; and

(7)

Evidence that the proposed open burning has been approved by the fire control authority which has jurisdiction.

(d)

The board of county commissioners shall approve operations or research projects under this section only on specified conditions which protect the ambient air from pollutants and contaminants to the greatest extent, and may limit the approval to a specified time.

(Ord. No. 76-18, § 8, 9-21-76)

Sec. 58-216. - Permitted open burning.

(a)

A campfire or other fire will be allowed that is used solely for recreational purposes, for ceremonial occasions, for outdoor noncommercial preparation of food, or on cold days for warming of outdoor workers, as long as excessive visible emissions are not emitted.

(b)

Open burning for the flaring of waste gases is allowed for reasons of safety, as long as excessive visible emissions are not emitted.

(c)

Open burning is allowed for the instruction and training of organized firefighters or industrial employees under the supervision of the appropriate public control official.

(Ord. No. 76-18, § 9, 9-21-76)

Sec. 58-217. - Open burning for recreational purposes.

(a)

Definitions. [The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:]

Approved means acceptable to the authority having jurisdiction.

Approved solid fuel means the solid fuel being of clean dry wood or charcoal.

Authority having jurisdiction (AHJ) means an organization, office, or individual responsible for enforcing the requirements of a code or ordinance, or for approving equipment, materials, an installation, or a procedure.

Campfire means a small outdoor fire consisting of approved solid fuel and intended for recreation or cooking but not including a fire intended or used for the disposal of waste, construction material, yard debris and rubbish.

Clean wood means natural wood which has not been painted, varnished or coated with similar material; is not pressure treated with preservatives; and does not contain resins or glues as in plywood or composite wood products.

Construction and demolition waste means building waste material, including but not limited to roofing material, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging, and rubbish that results from construction, renovation, remodeling, repair and demolition operations.

Cooking fire means the noncommercial, residential burning of materials not exceeding three feet (0.9 m) in diameter and two feet (0.6 m) in height, other than rubbish in which the fuel burned is contained in an outdoor cooker, a barbecue grill, or a barbecue pit for the purpose of preparing food.

Extinguished means the absence of any visible flames, smoke or emissions.

Fire ring means a cleared area on the ground a minimum of 15 feet from a structure, no less than five feet in diameter outside of the burn area where a fire is made of untreated wood, charcoal or other fuels as defined herein. For purposes of this section, a fire ring includes a chimenea or other elevated fireplace used for containing a recreational fire.

Garbage means all kitchen and table food waste, animal or vegetative waste that is attendant or which results from the storage, packaging, preparation, cooking or handling of food materials.

Grill means a device used for cooking where a combustion source is elevated off of the ground and food

cooked over open flame.

Listed means equipment, materials, or services included in a list published by an organization that is acceptable to the authority having jurisdiction and concerned with evaluation of products or services, that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services, and whose listing states that either the equipment, material, or service meets appropriate designated standards or has been tested and found suitable for a specified purpose.

Land clearing debris means uprooted or cleared vegetation resulting from a land clearing operation, including any untreated wood generated by the land clearing operation (e.g., untreated fence posts).

Open burning means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the outdoor atmosphere without passing through a stack or chimney.

Recreational fire means a fire outside an enclosed structure used for cooking or as a source of heat or light. A recreational fire is one which is located inside a container such as a grill; a portable fire place or a designated fire ring, and the total fuel area does not exceed three feet (0.9 92 m) in diameter and two feet (0.6 m) in height.

Treated wood means wood coated or infused with paint, glue, filler, pentachlorophenol, creosote, tar, asphalt, chromated copper arsenate (CCA), or other wood preservatives or treatments.

Yard waste means vegetative matter resulting from landscaping and yard maintenance operations and other such routine property clean-up activities. It includes materials such as leaves, shrub trimmings, grass clippings, palm fronds, and brush. It does not include land clearing debris or tree cutting debris.

(b)

Prohibitions. All recreational fires are limited to using clean burning charcoal, coal, manufactured fire logs or untreated dry wood as fuels. The burning of treated wood, yard waste, paper, garbage or other waste material is prohibited.

(c)

Exclusions. This section does not prohibit the use of grills, camp stoves or similar devices designed for cooking, fueled by LP gas, butane, naphthalene or other liquid fuel and which are not used to burn yard waste or other material.

(d)

Enforcement. Law enforcement and the fire departments having jurisdiction, either by ordinance, special act or agreement, shall have authority to enter upon the premises where such burning is taking place and enforce this section. Further the fire department having jurisdiction shall have the authority to either require the extinguishment of any fire not in compliance with this section or which, in the opinion of the fire personnel present creates a threat to public health or safety or may extinguish the fire themselves. Penalties shall be as provided in section 1-8 of the Pinellas County Code.

(Ord. No. 11-33, §§ 1—4, 8-23-11)

Secs. 58-218—58-235. - Reserved.

ARTICLE VI. - STORMWATER AND SURFACE WATER POLLUTION[4]

Footnotes:
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Editor's note—Ord. No. 06-13, § 1, adopted Feb. 7, 2006, amended Art. VI in its entirety to read as herein set out. Former Art. VI, §§ 58-236—58-246, pertained to stormwater pollution and derived from Ord. No. 93-81, §§ 1—11, adopted Sept. 28, 1993; Ord. No. 97-37, § 1—5, adopted June 3, 1997; and Ord. No. 03-24, §§ 1—9, adopted Apr. 15, 2003.

Cross reference— Fresh water conservation board, § 2-251 et seq.; waterways, ch. 130; drainage requirements for site development, § 154-51 et seq.; floodplain management, ch. 158; management and storage of surface waters, § 166-111 et seq.; flood damage prevention, § 170-101 et seq.

Sec. 58-236. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the Federal Clean Water Act Amendments to the Federal Water Pollution Control Act, enacted by Congress in 1972, and commonly known as the Clean Water Act.

Authorized official means any employee or agent of the county authorized by the county administrator to administer or enforce the provisions of this article.

Best management practices or BMPs as stated in FAC 62-621.300(4)(a) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Construction means any on-site activity which will result in soil disturbance, including but not limited to the building, assembling, expansion, modification or alteration of the existing property, the erection of buildings or other structures, or any part thereof, or land clearing.

County administrator means the county administrator of Pinellas County, Florida, or an authorized official.

Discharge means any direct or indirect introduction of any solid, liquid or gaseous matter into the separate storm sewer system or to any receiving waters of the county. This includes discharges from non point sources, diffuse runoff, leaching and atmospheric deposition.

FDEP means the Florida Department of Environmental Protection.

Illicit discharge means any discharge that is not composed entirely of stormwater except discharges identified as authorized exceptions pursuant to subsection 58-244(c) of this article.

NPDES means the National Pollutant Discharge Elimination System; a program established by the Environmental Protection Agency under the Clean Water Act.

NPDES permit means an NPDES permit issued by FDEP, together with all conditions attached thereto.

Non-point sources (NPS) means diffuse runoff without a single point of origin that flows over the surface of the ground by stormwater and is then introduced to surface or ground waters. NPSs include, but are not limited to, atmospheric deposition and runoff, or leaching from agricultural lands, urban areas, unvegetated lands, onsite sewage treatment and disposal systems, and construction sites.

Person includes any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, or public officer or any other entity whatsoever, or any combination of such, jointly or severally.

Receiving waters of the county means surface waters of the county including but not limited to open channels, ponds, streams, creeks, lakes, swamps, wetlands located in Pinellas County, as well as marine waters extending three leagues, or nine miles from the coastline.

Separate storm sewer system or MS4 as stated in FAC 62-624.200(8) means a system of conveyances used for collecting, storing, and transporting stormwater regardless of ownership. Such conveyances may include but are not limited to roads with stormwater systems, storm drains, catch basins, curbs, gutters, ditches, constructed channels, or ponds.

Site of industrial activity means any area or facility used for manufacturing, processing or raw materials storage, or storage of finished products.

Stormwater means any surface runoff and drainage of water from land surfaces, including the surfaces of buildings and other hardened surfaces on the land, but does not include any industrial or commercial process water, sediment or contaminants introduced into water as a result of activities conducted on the site.

SWFWMD means the Southwest Florida Water Management District.

(Ord. No. 06-13, § 1, 2-7-06; Ord. No. 13-33, § 1, 12-10-13)

Cross reference— Definitions generally, § 1-2.

Sec. 58-237. - Intent.

This article is adopted by the county for the purpose of maintaining efficient, economic and safe operation of the separate storm sewer system, and for the protection of the health, safety, and general welfare of the public within unincorporated county. This article is intended to prevent and abate pollution through the regulation and control of connections and discharges to the separate storm sewer system or receiving waters of the county and to limit the use of the separate storm sewer system to the collection, conveyance, treatment, and disposal of stormwater through appropriate regulation and enforcement. The prohibitive discharge standards contained in this article were developed under the authority of section 5 of the act and 40 CFR 122, applicable FDEP, SWFWMD regulations and applicable home rule power.

(Ord. No. 06-13, § 1, 2-7-06)

Sec. 58-238. - Penalty for violation of article.

Failure to comply with the requirements of this article or any permit or approval granted or authorized under this article shall be punished as provided in section 1-8.

(Ord. No. 06-13, § 1, 2-7-06)

Sec. 58-239. - Civil remedies.

(a)

Abatement. In addition to the penalties provided in section 58-238 the board of county commissioners is hereby authorized to institute any appropriate action or proceeding, including suit for injunctive relief, in order to prevent, clean-up, or abate violations of this article.

(b)

Additional penalties. The board of county commissioners is also authorized in accordance with the Pinellas County Environmental Enforcement Act (compiled in article II of this chapter) to impose and recover a civil penalty for each violation of this article in an amount not more than $10,000.00 for each offense. If a violation of this article is continued, each day of such violation shall constitute a separate offense.

(Ord. No. 06-13, § 1, 2-7-06)

Sec. 58-240. - Areas embraced.

The provisions of this article shall embrace all unincorporated areas within the legal boundaries of Pinellas County, Florida, as well as receiving waters of the county.

(Ord. No. 06-13, § 1, 2-7-06)

Sec. 58-241. - Inspections and monitoring.

(a)

Authority for inspections. Whenever necessary to make an inspection to enforce any provisions of this article, or regulation or permit issued under this article, or whenever an authorized official has reasonable cause to believe there exists any condition constituting a violation of any of the provisions of this article, or regulation or permit issued under this article, any authorized official may enter any property, building or facility at any reasonable time to inspect the same or to perform any duty related to enforcement of the provisions of this article or any regulations or permits issued under this article; provided, that:

(1)

If such property, building or facility is occupied, such authorized official shall first present proper credentials and request permission to enter; and

(2)

If such property, building or facility is unoccupied, such authorized official shall make a reasonable effort to locate the owner or other person having charge or control of the property, building or facility, and shall request permission to enter.

Any request for permission to enter made under this section shall state that the owner or person in control has the right to refuse entry, and that in such event that entry is refused, the authorized official may enter to make inspection only upon issuance of an inspection warrant by a court of competent jurisdiction. If the owner or

person in control refuses permission to enter after such request has been made, the authorized official is hereby authorized to seek assistance from any court of competent jurisdiction in obtaining entry. Routine or area-wide inspections shall be based upon such reasonable selection processes as may be necessary to carry out the purposes of this article, including but not limited to random sampling and sampling in areas with evidence of stormwater contamination, non-stormwater discharges, or similar factors.

(b)

Authority for monitoring and sampling. Any authorized official may install and maintain such devices as are necessary to conduct sampling or monitoring of discharges to the separate storm sewer system. During any inspections made to enforce the provisions of this article, or regulations or permits issued under this article, any authorized official may take any samples deemed necessary.

(c)

Requirements for monitoring. The county administrator may require any person engaging in any activity or owning any property, building or facility, including but not limited to a site of industrial activity, to undertake reasonable monitoring of any discharge to the separate storm sewer system and to furnish periodic reports.

(d)

State inspections. As part of the NPDES program, FDEP officials may also at any given time, request permission to inspect any site or facility for NPDES compliance.

(Ord. No. 06-13, § 1, 2-7-06)

Sec. 58-242. - Administrative order.

The county administrator may issue an order to any person to immediately eliminate any connection or cease any illicit discharge to the separate storm sewer system, determined by the county administrator or authorized official to be in violation of any provision of this article, or in violation of any regulation or authorization issued under this article.

(Ord. No. 06-13, § 1, 2-7-06)

Sec. 58-243. - NPDES permits.

Any person who by Florida State Statutes is required to hold an NPDES permit, which authorizes discharge to the county's separate storm sewer system, shall provide a copy of such permit to the county administrator or designee no later than 60 calendar days after the effective date of this article or 60 calendar days after issuance of the permit.

(Ord. No. 06-13, § 1, 2-7-06)

Sec. 58-244. - Prohibited discharges.

(a)

General prohibitions. Except as set forth under subsection (c) of this section or in accordance with a valid NPDES permit, any discharge to the separate storm sewer system or to any receiving waters of the county that is not composed entirely of storm water is prohibited.

(b)

Specific prohibitions. In addition to the general prohibitions set forth in subsection (a) of this section, any discharge to the separate storm sewer system or to any receiving waters of the county containing any chemicals, petroleum products, automotive fluids of any kind, sewage, industrial waste, sediment, construction or building materials, yard waste or other waste materials, or containing any materials in violation of federal, State, county, municipal, or other laws, rules, regulations, orders or permits, or which causes or contributes to a violation of State water quality standards contained in Chapter 62, Florida Administrative Code, in the waters of the United States, is prohibited.

(c)

Authorized exceptions. The following discharges are exempt from the general prohibition set forth under subsection (a) of this section provided they meet state water quality standards as provided in Rule 62-302, F.A.C., flows from firefighting, water line flushing and other contributions from potable water sources, landscape irrigation and lawn watering, irrigation water, diverted stream flows, rising groundwaters, direct infiltration of groundwater to the separate storm sewer system, uncontaminated pumped groundwater, foundation and footing drains, water from crawl space pumps, uncontaminated air conditioning condensation, springs, individual residential car washing, non-particulate filter backwash from residential swimming pools, flows from riparian habitats and wetlands, and discharges permitted under a valid NPDES permit.

(Ord. No. 06-13, § 1, 2-7-06)

Sec. 58-245. - Spills and dumping; notification.

Any person who is responsible for any discharge to the separate storm sewer system or any receiving waters of the county in violation of this article shall immediately notify the county. Such person shall also take immediate action to ensure the containment and cleanup of such discharge and shall confirm such telephone notification in writing to the county within three calendar days.

(Ord. No. 06-13, § 1, 2-7-06)

Sec. 58-246. - Construction site discharges.

Construction sites must be contained to the maximum extent practicable using BMPs to prevent vehicle track out, accidental discharge or run-off of construction materials, including but not limited to sediment, mud, soil, sand, rubble, concrete, or any other building or site materials.

(Ord. No. 06-13, § 1, 2-7-06)

Sec. 58-247. - Prohibited connections.

No person may maintain, use or establish any direct or indirect connection to the separate storm sewer system that results in any discharge in violation of this article. This prohibition applies to connections made in the past, regardless of whether made under a permit or other authorization, or whether permissible under laws or practices applicable or prevailing at the time the connection was made.

(Ord. No. 06-13, § 1, 2-7-06)

Sec. 58-248. - Liability for violation of article.

Whenever a violation of this article occurs or exists, or has occurred or existed, any person, individually or otherwise, who has a legal, beneficial or equitable interest in the facility or instrumentality causing or contributing to the violation, or who has a legal, beneficial or equitable interest in real property upon which such violation occurs or exists, or has occurred or existed, shall be jointly and severally liable for such violation. This provision shall be construed to impose joint and several liability upon all persons, individually or otherwise, who, although such persons may no longer have any such legal, beneficial or equitable interest in such facility or instrumentality or real property, did have such an interest at any time during which such violation existed or occurred or continued to exist or to occur. This provision shall be liberally construed to protect the separate storm sewer system and receiving waters of the county and to accomplish the purposes of this article.

(Ord. No. 06-13, § 1, 2-7-06)

Secs. 58-249—58-265. - Reserved.

ARTICLE VII. - INOPERABLE VEHICLES OR DERELICT VESSELS ON RESIDENTIAL AND PUBLIC PROPERTIES[5]

Footnotes:
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Editor's note—Ord. No. 06-10, § 1, adopted Jan. 24, 2006, amended Art. VII in its entirety to read as herein set out. Former Art. VII, §§ 58-266—272, pertained to inoperable vehicles on residential and public properties and derived from Ord. No. 97-102, § 2, adopted Jan. 9, 1997; and Ord. No. 04-53, § 1, adopted July 27, 2004.

Sec. 58-266. - Definitions.

Department means the Pinellas County Department of Environmental Management.

Fully enclosed structure means any commercial or residential garage or other permitted, manmade building structure that effectively screens and prevents viewing of its contents from adjacent properties, walkways, roadways or alleys.

Derelict vessel means any boat or conveyance designed to be used or actually used to transport persons, goods or a combination thereof upon, under, or over the water that is:

(1)

Deteriorated, rotten, damaged, dismantled, or otherwise in a state of disrepair so as to admit water where designed to be watertight, or otherwise not seaworthy as it was originally designed and built; or

(2)

Not capable of being lawfully operated on the waters of the state of Florida; or

(3)

Not displaying a current registration decal as required under state law; or

(4)

Not stored, parked, placed or maintained on a currently and lawfully registered trailer, on which the vessel is designed to be transported.

Inoperative vehicle means a vehicle that is in a state of disrepair and incapable of being moved under its own power, a vehicle or trailer that is incapable of being lawfully operated on the streets of the state, or a trailer that is in a state of disrepair. A vehicle or trailer shall be deemed inoperative if one or more parts which are required for the operation of the vehicle are missing, are dismantled, are inoperative or are not attached to the vehicle as designed. A vehicle or trailer shall be deemed to be incapable of being lawfully operated on the streets of the state if a current registration tag, also known as a license plate, of a kind required under state law as a condition of operation upon the public streets, is not affixed thereto.

Off-road vehicle means any vehicle not intended by design or manufacture to be used upon the streets of the state. Examples include but are not limited to; race car, swamp buggy, all terrain vehicle, amphibious vehicle, racing motorcycle or dirt bike. This definition is not intended to include any boat or vessel designed to be used solely in water.

Owner means the registered owner of the vehicle or the owner of the property upon which the inoperative vehicle is located.

Property means any individual parcel of real property or any portion thereof.

Public property means any federal, state, county or city-owned, leased, controlled, dedicated or platted real property, including but not limited to parks, marinas, alleys, streets, rights-of-way, submerged lands, or other real property.

Vehicle means any automobile, pickup truck, van, truck, motorized recreation vehicle, motorcycle, motor scooter, moped, or any other motorized device on or within which any person or property is or may be transported upon the streets of the state.

(Ord. No. 06-10, § 1, 1-24-06)

Sec. 58-267. - Intent.

It is hereby declared, that due to the urban nature and population density of the county, it is in the best interest of its citizens to prohibit the open storage of inoperative vehicles, derelict vessels, or off-road vehicles on residential property and public property located in the unincorporated area of the county.

(Ord. No. 06-10, § 1, 1-24-06)

Sec. 58-268. - Penalty for violation of article.

Violations of this article are punishable as provided for in section 1-8.

(Ord. No. 06-10, § 1, 1-24-06)

Sec. 58-269. - Territory embraced.

This article shall apply to the unincorporated areas of the county.

(Ord. No. 06-10, § 1, 1-24-06)

Sec. 58-270. - Prohibitions.

(a)

No person nor any other business entity shall place, park or store, or allow to be placed, parked or stored any inoperative vehicle(s), derelict vessel(s), or off-road vehicles on, or attached to any accessory structure on, any residentially zoned property located in the unincorporated area of the county.

(b)

No person nor any other business entity shall place, park or store, or allow to be placed, parked or stored any inoperative vehicle(s), derelict vessel(s), or off-road vehicles on any public property as defined in this article.

(Ord. No. 06-10, § 1, 1-24-06)

Sec. 58-271. - Designation of investigating and enforcing authority.

(a)

The department shall have the authority to investigate and enforce the provisions of this article.

(b)

Pursuant to F.S. § 705.1015, the code enforcement officers of the department are designated by the board to administer the provisions of F.S. ch. 705 which pertain to lost or abandoned property.

(c)

Each code enforcement officer of the department is authorized to have removed or impounded any inoperative vehicle, derelict vessel, or off-road vehicles from public property, which reasonably appears to be in violation of this article, in accordance with the provisions of F.S. ch. 705, as they pertain to lost or abandoned property.

(Ord. No. 06-10, § 1, 1-24-06)

Sec. 58-272. - Exemption.

One off-road vehicle, per dwelling unit, may be placed or stored on residential property provided that the off-road vehicle is located on a trailer that has a current registration tag, also known as a license plate, of a kind required under state law as a condition of operation upon the public streets, affixed thereto. Any inoperative vehicle or derelict vessel that is stored within a fully enclosed structure as described in this section is exempt from the prohibitions set forth in section 58-270.

(Ord. No. 06-10, § 1, 1-24-06)

Secs. 58-273—58-299. - Reserved.

ARTICLE VIII. - LITTER AND WEEDS[6]

Footnotes:

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Cross reference— Lot clearing, § 58-326 et seq.; solid waste, ch. 106.

State Law reference— Litter control, F.S. § 403.413 et seq.

Sec. 58-300. - Intent.

It is hereby declared, due to the urban character and population density of the county that the excessive growth or accumulation of weeds and similar plant material, or the accumulation of debris or their noxious material upon property situate in the unincorporated area of the county is contrary to the public health, safety and welfare, in that such growth or accumulation creates a haven or breeding place for snakes, rats, rodents and other vermin of like or similar character, creates a fire hazard to adjacent properties, and creates a traffic hazard at road intersections within the county. It is therefore deemed in the best interest of the health, safety and welfare of the citizens of the county that such growth and accumulations be prohibited in accordance with this article.

(Ord. No. 04-51, § 1, 7-27-04)

Sec. 58-301. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Debris means nonhazardous material generally considered not to be water-soluble, including but not limited to steel, concrete, glass, brick, asphalt, roofing material, scrap building materials and lumber, and materials of a similar kind or character.

Garbage means all kitchen and table food waste, animal or vegetative waste that is attendant with or results from the storage, preparation, cooking, or handling of food.

Junk means old, used, or discarded materials or manufactured products which may or may not be reusable or saleable, such as inoperative refrigerators, stoves, or similar appliances, inoperative and derelict automobiles, boats, trucks and similar vehicles, and household articles such as furniture or home furnishings which are in such a state of disrepair as to preclude their effective use for their original intended purposes.

Person means any and all persons, natural or artificial, including any individual, firm, or association; any municipal or private corporation organized or existing under the laws of this state or any other state; and any governmental agency of this state or the federal government.

Refuse means materials that are unburnable at ordinary incinerator temperatures (800 to 1,800 degrees Fahrenheit), such as metals, mineral matter, large quantities of glass or crockery, metal furniture, auto bodies or parts, and other similar material or refuse not usual to housekeeping or to the operation of stores or offices.

Rubbish means vegetative matter resulting from landscaping maintenance or land-clearing operations, and includes materials such as tree and shrub trimmings, grass clippings, palm fronds, tree limbs and stumps.

Trash means combinations of rubbish, garbage, refuse, and debris and/or other debris such as paper, cardboard, cloth, glass, white goods, street sweepings, vehicle tires, and other like material.

(Ord. No. 84-33, § 1, 11-20-84)

Cross reference— Definitions generally, § 1-2.

Sec. 58-302. - Penalty for violation of article.

Violations of this article are punishable as provided in section 1-8.

Sec. 58-303. - Territory embraced.

This article shall apply to the unincorporated areas of the county.

(Ord. No. 84-33, § 4, 11-20-84)

Sec. 58-304. - Prohibition against excessive accumulation of certain materials.

No person shall dump or cause to be dumped, or place or cause to be placed, or leave or permit to accumulate any garbage, refuse, rubbish, junk, debris, or similar noxious material of any kind or cause or permit the untended growth or excessive accumulation of weeds or other plant material on any property situate in the unincorporated area of the county, whether improved or unimproved.

(Ord. No. 84-33, § 2, 11-20-84; Ord. No. 04-51, § 2, 7-27-04)

Secs. 58-305—58-325. - Reserved.

ARTICLE IX. - LOT CLEARING[7]

Footnotes:

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Cross reference— Litter and weeds, § 58-301 et seq.; solid waste, ch. 106.

Sec. 58-326. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Debris means material which is stored externally and is not otherwise covered and shall include, but not be limited to, the following: discarded household items; inoperative or discarded machinery, automobiles or appliances; refuse, rubbish, trash or junk; and used, scrap or discarded lumber, pipe, steel, plumbing fixtures, insulation, and other building material.

Department means the county department of environmental management.

Excessive growth means the growth of weeds or plants, which are not cultivated or landscaped or regularly tended, which reach a height in excess of 12 inches.

Owner means the person, corporation, partnership, company, trust, estate or any combination or other business or legal entity, singular or plural, which is the record owner or owners as recorded on the current tax rolls of Pinellas County.

Property means any individual platted parcel of real property, or any portion thereof, as it is recorded in the public records of the county, whether or not such parcel is contiguous to any other platted parcel, or any individual parcel of real property described by metes and bounds in the public records of the county.

Repeat violation means a property that has been cleared by or at the direction of the county pursuant to the procedures set forth in this article.

(Ord. No. 78-23, § 3, 10-17-78; Ord. No. 97-30, § 1, 5-13-97; Ord. No. 04-52, § 1, 7-27-04)

Cross reference— Definitions generally, § 1-2.

Sec. 58-327. - Purpose.

The board of county commissioners hereby establishes a procedure whereby property located in the unincorporated areas of the county may be cleared of an excessive growth of weeds or other plants or cleared of an excessive accumulation of plant material or of debris, trash, junk or other noxious materials.

(Ord. No. 78-23, § 1, 10-17-78)

Sec. 58-328. - Intent.

It is hereby declared, due to the urban character and population density of the county, that the excessive growth or accumulation of weeds and similar plant material, or the accumulation of debris or other noxious material upon property situate in the unincorporated area of the county is contrary to the public health, safety and welfare, in that such growth or accumulation creates a haven or breeding place for snakes, rats, rodents and other vermin of like or similar character, creates a fire hazard to adjacent properties, and creates a traffic hazard at road intersections within the county. It is therefore deemed to be in the best interest of the health, safety and welfare of the citizens of the county that such accumulations be removed in accordance with the procedures set out in this article.

(Ord. No. 78-23, § 2, 10-17-78)

Sec. 58-329. - Penalty for violation of article.

Violations of this article are punishable as provided in section 1-8.

Sec. 58-330. - Territory embraced.

This article shall apply to the unincorporated areas of the county.

Sec. 58-331. - Prohibitions.

(a)

No person, nor any other business entity, shall permit the excessive growth or accumulation of weeds or other similar plant material, or the accumulation of debris or other similar material which is untended and which creates or may create a haven and breeding place for snakes, rats, rodents or other vermin of similar kind or character, upon property situate in the unincorporated areas of Pinellas County.

(b)

No person, nor any other business entity, shall permit the excessive growth or accumulation of plant material or the accumulation of debris or other similar material which is untended and which creates or may create a hazard of fire, endangering nearby structures or other flammable materials, upon property situate in the unincorporated area of Pinellas County.

(c)

No person, nor any other business entity, shall permit the excessive growth or accumulation of plant material or the accumulation of debris or other similar material upon property situate in the unincorporated area of Pinellas County, which creates or may create a traffic hazard by obstructing passage upon any road, or by obstructing the view of approaching traffic at any intersection of roads in the unincorporated area of the county.

(Ord. No. 78-23, § 4, 10-17-78; Ord. No. 04-52, § 2, 7-27-04)

Sec. 58-332. - Exemptions.

The prohibitions contained in section 58-331 of this article shall not apply to:

(1)

Contiguous property within the unincorporated area of the county, under common ownership, which exceeds five acres in area, except that, notwithstanding the applicability of the exemption as set forth in subsection (4) of this section, a width of 50 feet along the boundaries of such property shall be subject to the prohibitions contained in section 58-331 of this article to the extent that any portion of such property boundaries is within 150 feet of the nearest point of any intersection of a state, county, or municipal road dedicated for use as a public street or within 600 feet of any improved property within the county;

(2)

Property located in its entirety more than 150 feet from the nearest point of any intersection of a state, county, or municipal road dedicated for use as a public street;

(3)

Property located in its entirety more than 600 feet from any improved property within the county; or

(4)

Property which is unimproved and which is primarily in a natural state of vegetation and which is not otherwise in violation of section 58-331(b) or (c) of this article; except that a width of 50 feet along the boundaries of such property shall be subject to the prohibitions contained in section 58-331 to the extent that any portion of such property boundaries is within 150 feet of the nearest point of any intersection of a state, county, or municipal road dedicated for use as a public street or within 600 feet of any improved property within the county.

(Ord. No. 78-23, § 5, 10-17-78; Ord. No. 84-32, § 1, 11-20-84)

Sec. 58-333. - Designation of investigating and enforcing authority; authority of department to investigate and enforce.

The department is hereby designated as the investigating and enforcing authority pursuant to the provisions of this article. The department is hereby authorized and directed to receive all complaints of violation of this article, to gather all relevant information concerning such complaints, to conduct field investigations and inspections of real property and to enter upon real property in the conduct of its official business pursuant to this article. The department shall also be responsible for providing all notices to affected property owners required by this article and to take such other action as is reasonably necessary to accomplish the purpose of this article.

(Ord. No. 78-23, § 6, 10-17-78; Ord. No. 97-30, § 2, 5-13-97)

Sec. 58-334. - Notice of violation.

(a)

Upon receipt of a complaint and completion of a field investigation which indicates that a violation of this article has occurred, and failing voluntary compliance by the owner with the provisions of this article, the department shall make a written demand to the property owner for immediate compliance with the provisions of this article. Such written demand shall be made by (1) certified mail, return receipt requested, directed to the property owner as shown on the current tax rolls of the county, and (2) the posting of a placard for at least ten days in two locations, one of which shall be the property on which the violation exists and the other of which shall be at the front door of the county courthouse.

(b)

The written demand referenced in subsection (a) of this section shall also include a notice that in the event the property owner does not achieve compliance with the provisions of this article within ten days from the date of the written demand, or in the case of repeat violations, within three days from the date of the written demand, the violation of this article will be abated by, or at the direction of, the county. The notice shall include an estimate of the administrative costs, mowing and clearing costs to be incurred by the county to achieve compliance with the provisions of this article. No property shall be cleared by, or at the direction of, the county until at least ten days after the date of the written demand, except in the case of repeat violations.

(c)

The written demand and placard referenced in subsection (a) of this section shall also include a notice that the affected property owner may, within ten days of the date of the written demand, or in the case of repeat violations, within three days from the date of the written demand, request a hearing before the board of county commissioners in accordance with the provisions of section 58-335. If a request for such a hearing is not received within the appropriate time frame, then the right to the hearing is waived.

(Ord. No. 78-23, § 7, 10-17-78; Ord. No. 79-14, § 1, 5-22-79; Ord. No. 84-32, § 2, 11-20-84; Ord. No. 97-30, § 3, 5-13-97; Ord. No. 04-52, § 3, 7-27-04)

Sec. 58-335. - Hearing before the board.

The board of county commissioners shall, upon request, provide each property owner receiving notice of violation under this article an opportunity to be heard by the board and to present evidence or testimony that the subject property is not in violation of this article. Each affected property owner shall have the right to be represented by counsel. Upon hearing all testimony and evidence concerning the alleged violation, the board shall determine whether or not such owner has violated the provisions of this article and shall provide written

notice of its determination to such owner.

(Ord. No. 78-23, § 8, 10-17-78; Ord. No. 97-30, § 4, 5-13-97)

Sec. 58-336. - Powers of the department.

Upon conclusion of the investigation held pursuant to this article, the department shall have the power to find that property is or is not in violation of this article. With respect to property found to be in violation of this article, the department shall have the following powers:

(1)

To authorize clearance of property by the county or its agents.

(2)

To require payment by the owner of administrative costs, as set forth in this section, to defray the cost of investigation, inspection, and expenses incurred to provide the notices required in this article. Such administrative costs may only be imposed by the department against each property owner who was noticed of the violation and who failed to clear such property within the appropriate notice period.

(3)

To require payment by the owner of actual costs incurred for mowing and clearing the property to achieve compliance with the provisions of this article.

(4)

To grant an extension of time to any property owner within which such property may be cleared.

(5)

To waive the imposition of administrative costs against any property owner found to be in violation of this article.

(Ord. No. 78-23, § 9, 10-17-78; Ord. No. 97-30, § 5, 5-13-97; Ord. No. 04-52, § 4, 7-27-04)

Sec. 58-337. - Clearance of property.

After an investigation and upon a finding by the department that certain property is in violation of this article, the department shall reinspect such property in order to verify whether compliance with this article has been achieved. The department shall reinspect such property no earlier than ten days after the date of notice of violation, or three days after the date of the notice of violation in the case of a repeat violation. If, upon reinspection, the department determines that compliance has not been achieved, the department shall cause the property to be cleared by the county or its agents.

(Ord. No. 78-23, § 10, 10-17-78; Ord. No. 97-30, § 6, 5-13-97; Ord. No. 04-52, § 5, 7-27-04)

Sec. 58-338. - Establishment of lien.

The county administrator or his designee is hereby authorized to assess against property which is cleared by

the county or its agent pursuant to this article the actual cost to the county of clearing such property. The county administrator or his designee is further authorized to assess against property found to be in violation of this article administrative costs, pursuant to the authority granted by section 58-336. Such actual cost of clearance plus such administrative cost shall constitute a lien against such property. A notice of lien in such form as the board of county commissioners shall determine may be filed in the office of the clerk of the circuit court of the county and recorded as other liens are recorded. The same, upon recording, shall be constructive notice of such lien, which may be foreclosed pursuant to general law in the circuit court of the county.

(Ord. No. 78-23, § 11, 10-17-78; Ord. No. 06-08, § 1, 1-24-06)

Sec. 58-339. - Interest on liens.

Except as otherwise provided in section 58-340, the principal amount of all assessment liens levied and assessed pursuant to this article shall bear interest at the rate of six percent per annum or fraction thereof and such interest as herein provided shall also constitute a lien against the property assessed of equal dignity.

(Ord. No. 78-23, § 12, 10-17-78; Ord. No. 06-08, § 2, 1-24-06)

Sec. 58-340. - Grace period prior to the imposition of interest on liens.

Each lien recorded pursuant to section 58-338 shall provide that no interest shall accrue until the 30th day after the filing of the lien in the official records of the clerk of the circuit court. Notice that a lien has been filed shall be sent via regular U.S. mail to the owner of record, at the address of record with the Pinellas County Tax Collector within three business days.

(Ord. No. 78-23, § 13, 10-17-78; Ord. No. 06-08, § 3, 1-24-06)

Sec. 58-341. - Satisfaction of lien; authority for county administrator or designee to execute.

Upon payment to the county of the total amount of the lien established pursuant to this article, plus interest accrued thereon, plus the recording fee necessary to record a satisfaction of such lien, the county administrator or his designee is hereby authorized to execute a satisfaction of such lien which shall be filed by the department in the public records of the county. Such satisfaction of lien shall be filed in accordance with the requirements of general law pertaining to cancellation of liens against property.

(Ord. No. 78-83, § 14, 10-17-78; Ord. No. 06-08, § 4, 1-24-06)

Sec. 58-342. - Fees.

Fees to be assessed by the board of county commissioners against property found to be in violation of this article shall be as follows:

(1)

Clearance cost. The clearance cost shall be the actual cost to the county to clear the property, either by the county or its agent.

(2)

Administrative cost. An administrative fee shall be established by resolution of the board of county

commissioners to defray the cost of the county of all field investigations, inspections, reports, administrative expenses, reinspections, notices, invoicing, and recording costs, subject to the provisions of section 58-336.

(Ord. No. 78-23, § 15, 10-17-78; Ord. No. 80-34, § 1, 9-16-80)

Secs. 58-343—58-365. - Reserved.

ARTICLE X. - AQUATIC PRESERVES[8]

Footnotes:

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Cross reference— Fresh water conservation board, § 2-251 et seq.; water and navigation control authority, § 2-271 et seq.; game and fish, § 14-86 et seq.; natural resources, ch. 82; parks and recreation, ch. 90.

DIVISION 1. - GENERALLY

Secs. 58-366—58-375. - Reserved.

DIVISION 2. - COUNTYWIDE PRESERVE[9]

Footnotes:

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Editor's note—The act contained in this division retains its status as a special act. See charter § 5.02. The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Sec. 58-376. - Submerged lands included generally; purpose.

The submerged lands included within the boundaries of Pinellas County, as described in F.S. § 7.52, with the exception of those privately held submerged lands lying landward of established bulkhead lines, are hereby declared to be an aquatic preserve under the provisions of this division. It is the intent of the legislature that such bodies of water be preserved, insofar as possible, in an essentially natural condition so that their ecological and aesthetic values may endure for the enjoyment of future generations.

(Laws of Fla. ch. 72-663, § 1)

Sec. 58-377. - Inclusion of public lands and waters; adding private uplands.

The aquatic preserve established under this division shall include the submerged bottom lands and the water

column upon such lands as well as all publicly owned islands within the boundaries of the preserve. Any privately held upland within the boundaries of the preserve shall be deemed to be excluded therefrom; provided that the board of trustees of the internal improvement trust fund, hereinafter referred to as the trustees, may negotiate an arrangement with any such private upland owner by which such land may be included in the preserve.

(Laws of Fla. ch. 72-663, § 2)

Sec. 58-378. - Limitations on sale and use of land.

The trustees shall maintain such aquatic preserve subject to the following provisions:

(1)

No further sale or transfer of sovereignty submerged lands shall be approved or consummated by the trustees, except when it is in the dominant interest of the general public.

(2)

a.
No further dredging or filling of submerged lands shall be approved or tolerated by the trustees except:

1.

Such minimum dredging and spoiling as may be authorized for public navigation or transportation projects; and

2.

Such other alteration of physical conditions as may, in the opinion of the trustees, be necessary to enhance the quality or utility of the preserve or the public health, safety and welfare generally.

b.

There shall, in no case, be any dredging seaward of a bulkhead line for the sole or primary purpose of providing fill for any area landward of a bulkhead line.

c.

In addition there shall be no drilling of gas or oil wells, excavation of minerals except the dredging of dead oyster shells as approved by the department of natural resources, and no erection of structures (other than docks and seawalls) within a preserve unless such activity is associated with activity authorized by this division.

(3)

The trustees shall not approve the seaward relocation or setting of bulkhead lines seaward of the mean high-water mark within the preserve.

(Laws of Fla. ch. 72-663, § 3; Laws of Fla. ch. 74-588, § 1)

Sec. 58-379. - Rules and regulations.

(a)

The trustees shall adopt and enforce reasonable rules and regulations to carry out the provisions of this division and specifically to provide:

(1)

Additional preserve management criteria as may be necessary to accommodate special circumstances; and

(2)

Regulation of human activity within the preserve in such a manner as not to unreasonably interfere with lawful and traditional public uses of the preserve, such as fishing (both sport and commercial), boating and swimming.

(b)

Other uses of the preserve or human activity within the preserve, although not originally contemplated, may be permitted by the trustees but only subsequent to a formal finding of compatibility with the purposes of this division.

(Laws of Fla. ch. 72-663, § 4)

Sec. 58-380. - Preservation of upland owners' rights.

Neither the establishment nor the management of the aquatic preserve under the provisions of this division shall operate to infringe upon the riparian rights of upland property owners adjacent to or within the preserve. Reasonable improvement for ingress and egress, mosquito control, shore protection, public transportation and similar purposes may be permitted by the trustees subject to the provisions of any other applicable laws under the jurisdiction of other agencies.

(Laws of Fla. ch. 72-663, § 5; Laws of Fla. ch. 74-58, § 2)

Sec. 58-381. - Jurisdiction of county water and navigation control authority preserved.

Nothing in this division shall be construed to deprive the Pinellas County Water and Navigation Control Authority of its jurisdiction, powers and duties otherwise conferred by law.

(Laws of Fla. ch. 72-663, § 6)

Secs. 58-382—58-390. - Reserved.

DIVISION 3. - BOCA CIEGA BAY[10]

Footnotes:

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Editor's note—The act contained in this division retains its status as a special act. See charter § 5.02. The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended

by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Sec. 58-391. - Designation as aquatic preserve; purpose.

Boca Ciega Bay, in Pinellas County, as hereinafter described, is designated and established as an aquatic preserve under the provisions of this division. It is the intent of the legislature that Boca Ciega Bay be preserved, insofar as possible, in an essentially natural condition so that its biological and aesthetic values may endure for the enjoyment of future generations.

(Laws of Fla. ch. 69-342, § 1)

Sec. 58-392. - Boundaries described; preserve to include submerged lands, water columns thereon, islands owned by state.

(a)

For the purposes of this division, Boca Ciega Bay, sometimes referred to in this division as the preserve, shall be comprised of that body of water in Pinellas County which lies south of the State Road 688 bridge at, or near, Indian Rocks Beach, and within the area enclosed by a line as follows:

Beginning at a point where the east end of said bridge crosses the western shoreline of mainland Pinellas County and extending in a generally southerly direction along the western shoreline of mainland Pinellas County to the west end of the Seminole Bridge following the bridge easterly to exclude Long Bayou and Cross Bayou, thence in a southerly direction including the western shoreline of the Sunshine Skyway causeway and extending to the southern boundary of Pinellas County, thence westerly along the Pinellas County line and around Mullet Key along a line 100 yards seaward of the shoreline of Mullet Key and northerly along a line passing 100 yards to the west of the shorelines of Summer Resort Key, Cabbage Key and Shell Key to the southernmost point of Long Key, thence in a generally northerly direction along the inner shoreline of Long Key, Treasure Island and Sand Key to a point where the west end of the State Road 688 bridge crosses the inner shoreline of Sand Key, thence easterly along the south side of said bridge to the point of beginning.

The boundary of the preserve designated as the shoreline shall mean the line of mean high water along such shoreline.

(b)

The preserve established by this division shall include the submerged bottom lands, the water column upon such lands and the islands owned by the state within the boundaries of the preserve. Any privately held land or submerged land within the established bulkhead lines or privately held islands within the preserve shall be deemed to be excluded therefrom. The trustees of the internal improvement fund may negotiate an

arrangement with any such private owner whereas such lands or water bottoms may be included within the preserve.

(Laws of Fla. ch. 69-342, § 2)

Sec. 58-393. - Maintenance as aquatic preserve; conditions.

The trustees of the internal improvement fund are hereby directed to maintain Boca Ciega Bay as an aquatic preserve subject to the following provisions:

(1)

No further sale, transfer or lease of sovereignty submerged lands within the preserve shall be approved or consummated by the trustees of the internal improvement fund, except upon a showing of extreme hardship on the part of the applicant or when the overwhelming public interest so demands.

(2)

No further dredging or filling of submerged lands within the preserve shall be approved or tolerated by the trustees of the internal improvement fund except:

a.

Such minimum dredging and spoiling as may be authorized for public navigation projects; and

b.

Such other alteration of physical conditions as may be necessary to enhance the quality or utility of the preserve as determined by the Pinellas County Water and Navigation Control Authority in a public hearing;

c.

Dredging on submerged land in the preserve shall be prohibited except for the purpose of eliminating conditions hazardous to the public health or for the purpose of eliminating stagnant waters, unsightly mud flats, islands, and spoil banks, which dredging would enhance the aesthetic [value] and utility of the preserve and is clearly in the public interest as determined by the Pinellas County Water and Navigation Control Authority in a public hearing. There shall be no dredging beyond the bulkhead line for the sole purpose of providing fill for upland or submerged land within the bulkhead line. In addition there shall be no drilling of wells, excavation for shell or minerals, and no erection of structures (other than docks), within the preserve, unless such activity is associated with activity authorized by this division.

(3)

The trustees of the internal improvement fund shall not approve any seaward relocation of bulkhead lines, or further establishment of bulkhead lines, except as where a proposed bulkhead line is located at the line of mean high water along the shoreline.

(Laws of Fla. ch. 69-342, § 3)

Sec. 58-394. - Rules and regulations, purposes; authority to permit other uses of preserve.

(a)

The trustees of the internal improvement fund shall adopt and enforce reasonable rules and regulations to carry out the provisions of this division and specifically to provide:

(1)

Additional preserve management criteria as may be necessary to accommodate special circumstances; and

(2)

Regulation of human activity within the preserve in such a manner as not to unreasonably interfere with lawful and traditional public uses of the preserve, such as fishing (both sport and commercial), boating and swimming.

(b)

Other uses of the preserve, or human activity within the preserve, although not originally contemplated, may be permitted by the trustees of the internal improvement fund, but only subsequent to a formal finding of compatibility with purposes of this division.

(Laws of Fla. ch. 69-342, § 4)

Sec. 58-395. - Effect of establishment, management of aquatic preserve.

Neither the establishment nor the management of the Boca Ciega Bay aquatic preserve shall operate to infringe upon the riparian rights of upland property owners adjacent to or within the preserve. Reasonable improvement for ingress and egress, mosquito control, shore protection, bridges, causeways and similar purposes may be permitted by the trustees of the internal improvement fund, subject to the provisions of any other applicable laws under the jurisdiction of other agencies.

(Laws of Fla. ch. 69-342, § 5)

Sec. 58-396. - Jurisdiction of county water and navigation control authority preserved.

Nothing in this division shall be construed to deprive the Pinellas County Water and Navigation Control Authority of its jurisdiction, powers and duties.

(Laws of Fla. ch. 69-342, § 6)

Secs. 58-397—58-415. - Reserved.

ARTICLE XI. - MOSQUITO CONTROL[11]

Footnotes:

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Editor's note—Ord. No. 07-18, § 1, adopted Mar. 13, 2007, amended art. XI in its entirety to read as herein set out. Former art. XI, §§ 58-416—58-418, pertained to similar subject matter and derived from Laws of Fla. ch. 67-1920, §§ 4—6. Laws of Florida Ch. 2006-325 repealed and converted into ordinances Laws of Florida Ch. 18792(1937) and 67-1920.

Cross reference— Health and sanitation, ch. 66.

State Law reference— Mosquito control, F.S. ch. 388.

Sec. 58-416. - Designation of governing body of mosquito control district; termination of duties of county health board.

From and after the effective date of this article, the governing body of the mosquito control district of Pinellas County shall be the Board of County Commissioners of Pinellas County. The Pinellas County Health Board, as the former governing body of said district, is directed to complete its affairs and to turn over to said board of county commissioners, not later than September 30, 1967, all funds and accounts belonging to said district after payment of debts owed by said district and to account for and turn over all real and personal property and records of said district in its possession to said board of county commissioners. Said board of county commissioners shall thereafter assume all of said district's liabilities, and the provisions of F.S. ch. 388 shall be applicable to the extent that said provisions are not in conflict with this article.

(Ord. No. 07-18, § 1, 3-13-07)

Sec. 58-417. - Powers of governing body of mosquito control district.

The Pinellas County Board of County Commissioners, as governing body of the mosquito control district of Pinellas County, Florida, shall have the power to take all necessary and proper steps for the extermination of mosquitoes within Pinellas County, Florida, subject to the paramount control of the Florida Department of Agriculture and Consumer Services, and to abate as nuisances all stagnant water and other breeding places for mosquitoes, and to enter upon lands during daylight hours, whether public or private, in said county, for the purpose of inspection and examination of the same, and to remove therefrom, without notice, stagnant water or other breeding places for mosquitoes, and to purchase supplies and materials, and to employ such labor as may be necessary or proper in the furtherance of the objects of this article, and if necessary or proper, in the furtherance of the same, to build, construct and thereafter build and maintain necessary levees, cuts, canals or channels upon any land within the county, and to acquire by purchase, condemnation or other lawful means, in the name of the county, any necessary lands, rights-of-way, easements, property or material requisite or necessary for any of such purposes, and to make contracts to indemnify or compensate any owner of land or other property for any injury or damage necessarily caused by the exercise of its powers by this article conferred or arising out of the use, taking or damage of property for any purpose, and generally to do any and all things necessary or incident to the powers hereby granted, and to carry out the objects specified herein.

(Ord. No. 07-18, § 1, 3-13-07)

Sec. 58-418. - Inspections of closures involving dwellings.

The provisions of this article relate to entry upon land upon which there is no dwelling house. All closures involving a dwelling house may be inspected upon permission of the owner or occupant thereof. In the event that such permission is arbitrarily withheld by such owner or occupant, inspection may be had thereafter only if such inspector has reasonable grounds to believe that such premises may be injurious to the public health and safety. The inspector may enter upon closures involving a dwelling house solely for the purposes of treatment and abatement of mosquito breeding areas for the prevention of mosquito-related public health risks.

(Ord. No. 07-18, § 1, 3-13-07)

Sec. 58-419. - Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abate means to take measures to control mosquito breeding.

Artificial containers means any man-made containers, including, but not limited to, tires, swimming pools, cans, vases, buckets, boats, and bird baths.

District means the Pinellas County Mosquito Control District.

Immature mosquito means a mosquito larva or pupa.

Mosquito breeding area means any site at which five or more immature mosquitoes are present in artificial containers, vegetative plants, lakes, ponds, or other areas of standing water at any one time, or any collection of standing water in which mosquitoes are likely to breed, unless such collection of water is treated so as effectually to prevent such breeding.

Mosquitoes capable of carrying disease means those genera of mosquitoes involved in the transmission of disease, including but not limited to Culex, Culiseta, Anopheles, and Aedes.

Owner means the person, corporation, partnership, municipality, company, trust, estate, homeowners' association, or any combination or other business or legal entity, singular or plural, which is the record owner or owners as recorded on the tax rolls of Pinellas County.

Responsible party means the owner or tenant of the property that is the site of the artificially induced mosquito breeding.

Vegetative plant means any growing plant, including, but no limited to, bromeliads, cattails, water lettuce, and water hyacinth.

(Ord. No. 07-18, § 1, 3-13-07)

Sec. 58-420. - Penalty for violation of article.

Violations of this article are punishable as provided in section 1-8.

(Ord. No. 07-18, § 1, 3-13-07)

Sec. 58-421. - Territory embraced.

This article shall apply to all areas within the political boundaries of the county.

(Ord. No. 07-18, § 1, 3-13-07)

Sec. 58-422. - Prohibition against mosquito breeding areas.

No person or any other business entity shall allow the existence of, have, create, keep, maintain, cause, or permit any mosquito breeding area within the county.

(Ord. No. 07-18, § 1, 3-13-07)

Sec. 58-423. - Investigation and abatement procedures.

The district is hereby authorized and empowered to investigate, enforce, and abate conditions capable of mosquito breeding areas throughout Pinellas County. The district shall make, or cause to be made, inspections on any lot, tract, parcel of land, improved or unimproved, lake, or pond for the purpose of identifying mosquito breeding areas. The district, in order to abate a mosquito breeding area, is authorized to apply pesticides, in accordance with label directions, on any lot, tract, parcel of land, improved or unimproved, lake or pond, without notice.

(Ord. No. 07-18, § 1, 3-13-07)

Sec. 58-424. - Enforcement proceedings.

(a)

Whenever the district determines that a site is a mosquito breeding area, the district shall make a written demand to the responsible party for immediate compliance with the provisions of this article. Such written demand shall be made by personal service, posting of the property on which the violation exists, or certified mail. The written demand shall also include a notice that the responsible party shall take corrective action to abate the mosquito breeding area within five days of receipt or posting of said written demand. The requirement for a written demand in no way limits the authority or ability of the district to treat a mosquito breeding area immediately upon determination of the area as a mosquito breeding area.

(b)

In the event that the district determines that mosquitoes capable of carrying disease are present near the mosquito breeding area, the district shall make a written demand to the owner of the property for immediate compliance with the provisions of this article. Such written demand shall be made by personal service, posting of the property on which the violation exists, or certified mail. The written demand shall also include a notice that the owner shall take corrective action to abate the mosquito breeding area within five days of receipt or posting of said written demand and that if the owner of the property does not achieve compliance with the provisions of this article within five days from the date of the written demand, the violation of this article will be abated by, or at the direction of, the county.

(c)

The district shall take corrective action to abate the mosquito breeding area, at the owner's expense, five calendar days from the issuance date of the citation. The responsible party shall pay the district for the cost of performing such abatement, which includes all expenses, fines, penalties, interest, and actual administrative costs. The owner shall make payment to the district within 14 days of receipt of the payment invoice from the district.

(Ord. No. 07-18, § 1, 3-13-07)

Sec. 58-425. - Powers of the district.

Upon conclusion of the investigation held pursuant to this article, the district shall have the power to find that property is or is not in violation of this article. With respect to property found to be in violation of this article,

the district shall have the following powers:

(1)

To authorize abatement of mosquito breeding areas on property by the county or its agents.

(2)

To require payment by the owner of administrative costs, as set forth in this section, to defray the cost of investigation, inspection, and expenses incurred to provide the notices required in this article. Such administrative costs may only be imposed by the district against each owner who was noticed of the violation and who failed to abate the mosquito breeding area within the appropriate notice period.

(3)

To require payment by the owner of actual costs incurred for the abatement of the mosquito breeding area on the property to achieve compliance with the provisions of this article.

(4)

To grant an extension of time to any property owner within which such property may be abated of any violations.

(5)

To waive the imposition of administrative costs against any property owner found to be in violation of this article.

(Ord. No. 07-18, § 1, 3-13-07)

Sec. 58-426. - Abatement of the mosquito breeding area.

After an investigation and upon a finding by the department that certain property is in violation of this article, the department shall reinspect such property in order to verify whether compliance with this article has been achieved. The department shall reinspect such property no earlier than five days after the date of notice of violation. If, upon reinspection, the district determines that compliance has not been achieved, the district shall cause the mosquito breeding area on the property to be abated by the county or its agents.

(Ord. No. 07-18, § 1, 3-13-07)

Sec. 58-427. - Establishment of lien.

The county administrator or his designee is hereby authorized to assess against property cleared of violations by the county or its agent pursuant to this article the actual cost to the county of abating such violation. The county administrator or his designee is further authorized to assess against property found to be in violation of this article administrative costs, pursuant to the authority granted by section 58-425. Such actual cost of abatement plus such administrative cost shall constitute a lien against such property. A notice of lien in such form as the board of county commissioners shall determine may be filed in the office of the clerk of the circuit court of the county and recorded as other liens are recorded. The same, upon recording, shall be constructive notice of such lien, which may be foreclosed pursuant to general law in the circuit court of the county.

(Ord. No. 07-18, § 1, 3-13-07)

Sec. 58-428. - Interest on liens.

Except as otherwise provided in section 58-429, the principal amount of all assessment liens levied and assessed pursuant to this article shall bear interest at the rate of six percent per annum or fraction thereof and such interest as herein provided shall also constitute a lien against the property assessed of equal dignity.

(Ord. No. 07-18, § 1, 3-13-07)

Sec. 58-429. - Grace period prior to the imposition of interest on liens.

Each lien recorded pursuant to section 58-427 shall provide that no interest shall accrue until the 30th day after the filing of the lien in the official records of the clerk of the circuit court. Notice that a lien has been filed shall be sent via regular U.S. mail to the owner of record, at the address of record with the Pinellas County Tax Collector within three business days.

(Ord. No. 07-18, § 1, 3-13-07)

Sec. 58-430. - Satisfaction of lien; authority for county administrator or designee to execute.

Upon payment to the county of the total amount of the lien established pursuant to this article, plus interest accrued thereon, plus the recording fee necessary to record a satisfaction of such lien, the county administrator or his designee is hereby authorized to execute a satisfaction of such lien which shall be filed by the district in the public records of the county. Such satisfaction of lien shall be filed in accordance with the requirements of general law pertaining to cancellation of liens against property.

(Ord. No. 07-18, § 1, 3-13-07)

Sec. 58-431. - Fees.

Fees to be assessed by the board of county commissioners against property found to be in violation of this article shall be as follows:

(1)

Abatement cost. The clearance cost shall be the actual cost to the county to abate violations of this article on the property, either by the county or its agent.

(2)

Administrative cost. An administrative fee shall be established by resolution of the board of county commissioners to defray the cost of the county of all field investigations, inspections, reports, administrative expenses, reinspections, notices, invoicing, and recording costs, subject to the provisions of section 58-425.

(Ord. No. 07-18, § 1, 3-13-07)

Secs. 58-432—58-440. - Reserved.

ARTICLE XII. - NOISE[12]

Footnotes:

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Editor's note—Ord. No. 03-3, § 1, adopted Jan. 7, 2003, amended Art. XII, Noise, in its entirety to read as set out in §§ 58-441—58-454. Formerly, such article, §§ 58-441—58-452, pertained to the same subject matter, and was derived from Ord. No. 74-11, adopted Oct. 15, 1974; and Ord. No. 96-51, adopted July 2, 1996.

Cross reference— Offenses and miscellaneous provisions, ch. 86.

State Law reference— Motor vehicle noise, F.S. §§ 316.272 et seq., 403.415 et seq.

Sec. 58-441. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A-weighted level (dBA) means the total broadband sound level of the noise spectrum as measured using the "A-weighted network" of a sound level meter. The unit of measurement is the dBA. Sound level meter settings shall be for slow response, except for motor vehicle measurements which shall be fast response.

Ambient noise means the all-encompassing noise associated with a given environment, being usually a composite of sound from many sources near and far.

Commercial zone means any geographic area designated for commercial or professional activities by the zoning authority having jurisdiction over such area, and also includes any area that is designated as institutional on the countywide future land use map.

Continuous noise means a noise which remains essentially constant in level during the period of observation.

County means Pinellas County.

Decibel (dB) means a division of a logarithmic scale used to express the ratio of two like quantities proportional to power or energy. The ratio is expressed in decibels by multiplying its common logarithm by ten.

Emergency means a situation wherein immediate work is necessary to restore property to a safe condition following a public calamity or immediate work is required to protect persons or property from an imminent exposure to danger.

Gross combination weight rating (GCWR) means the value specified by the manufacturer as the loaded weight of a combination vehicle.

Gross vehicle weight rating (GVWR) means the value specified by the manufacturer as the loaded weight of a single vehicle.

Impulsive noise means a noise which is characterized by brief excursions of sound pressure which significantly exceed the ambient noise level.

Industrial zone means any geographic area designated for industrial or manufacturing activities by the zoning authority having jurisdiction over such area.

Intermittent noise means a noise whose sound pressure level exceeds the ambient noise level at either regular or irregular intervals.

Motor-driven cycle means every motorcycle and every motor scooter with a motor which produces not to exceed five-brake horsepower, including every bicycle with a motor attached.

Motor vehicle means any vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

Motorcycle means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

Noise means one or a group of loud, harsh, nonharmonious sounds or vibrations that are unpleasant and irritating to the ear.

Noise level means the sound pressure level as measured in dBA unless otherwise specified. A measurement of noise must be at least five dB above the ambient noise level.

Octave band means all of the components in a sound spectrum whose frequencies are between two sine-wave components separated by an octave.

Residential zone means any geographic area designated for single-family or multifamily dwellings by the zoning authority having jurisdiction over such area.

Sound level meter means an instrument to measure the sound pressure level of relatively continuous and broadband noises. The sound level meter used to determine compliance with this article shall meet or exceed the requirements for type 2 sound level meter in accordance with ANSI Standard S1-4.

Sound pressure level means the square ratio, expressed in decibels, of the sound pressure under consideration to the standard reference pressure of 0.0002 dyne/cm^2. The ratio is squared because pressure squared, and not pressure, is proportional to energy.

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

(Ord. No. 03-3, § 1, 1-7-03)

Cross reference— Definitions generally, § 1-2.

Sec. 58-442. - Declaration of necessity.

It is found and declared that:

(1)

The making and creation of excessive, unnecessary or unusually loud noises within the county limits is a condition which has existed for some time and the amount and intensity of such noises is increasing.

(2)

The making, creation or maintenance of such excessive, unnecessary, unnatural or unusually loud noises

which are prolonged, unusual and unnatural in their time, place and effect of use affect are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the county.

(3)

The necessity in the public interest for the provisions and prohibitions contained and enacted in this article is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions contained and enacted in this article are in pursuance of and for the purpose of securing and promoting the public health, comfort, safety, welfare and repose of the county and its inhabitants.

(Ord. No. 03-3, § 1, 1-7-03)

Sec. 58-443. - Penalty for violation of article.

Violations of this article are punishable as provided in section 1-8.

(Ord. No. 03-3, § 1, 1-7-03)

Sec. 58-444. - General prohibitions.

(a)

No person shall make, continue, permit, or cause to be made or continued:

(1)

Any unreasonably loud and raucous noise; or

(2)

Any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensitivity; or

(3)

Any noise which exceeds the maximum allowable limits set forth in this article.

(b)

Factors which shall be considered in determining whether a violation of subsection (a) above exists shall include, but not be limited to, the following:

(1)

The volume of the noise;

(2)

The intensity of the noise;

(3)

The volume and intensity of the background noise, if any;

(4)

The nature and zoning of the area from which the sound emanates and the area where it is received or perceived;

(5)

The duration of the noise;

(6)

The time of the day or night the noise occurs; and

(7)

Whether the noise is recurrent, intermittent, or constant.

(8)

Whether a noise complaint, as set forth in section 58-446, has been received by the county.

(Ord. No. 03-3, § 1, 1-7-03)

Sec. 58-445. - Specific acts considered to be unreasonably loud and raucous noise.

Any of the following acts and causes thereof are presumed to be in violation of this chapter and to constitute unreasonably loud and raucous noise. This enumeration does not constitute an exclusive list:

(1)

Radios, televisions, boomboxes, stereos, musical instruments, drums or similar devices. Operating, playing or permitting the operation or playing of any radio, television, boombox, stereo, musical instrument, drum or similar device which produces or reproduces sound in such a manner as to be unreasonably loud and raucous, or in such a manner as to unreasonably disturb, injure, or endanger the comfort, repose, health, peace or safety of reasonable persons of ordinary sensitivity.

(2)

Radios, televisions, boomboxes, stereos, musical instruments, drums or similar devices in/on any vehicle or by pedestrian. Operating, playing or permitting the operation or playing of any radio, television, boombox, stereo, musical instrument, drum or similar device, which is located in or on any vehicle or by any pedestrian on publicly owned land or a public parking lot, which produces or reproduces sound in such a manner as to be unreasonably loud and raucous, or in such a manner as to unreasonably disturb, injure, or endanger the comfort, repose, health, peace or safety of reasonable persons of ordinary sensitivity.

(3)

Loading and unloading. Loading and unloading, opening, closing or other handling of boxes, crates, containers, equipment, building materials, garbage cans or similar objects between the hours of 11:00 p.m.

and 7:00 a.m. on any day within a residential zone, provided that the noise is unreasonably loud and raucous, and can be heard across the property line of the property from which it emanates.

(4)

Fireworks. Using, exploding, or permitting the use or explosion of fireworks, in such a manner as to be unreasonably loud and raucous, or in such a manner as to unreasonably disturb, injure, or endanger the comfort, repose, health, peace or safety of reasonable persons of ordinary sensitivity. For purposes of this section, the term "firework" shall have the same meaning as specified in F.S. § 791.01, as may be amended from time to time. However, the use or explosion of fireworks shall not be presumed unreasonably loud and raucous when said use or explosion is sponsored by a local government as part of a holiday, municipal or other commemorative event, or otherwise complies with Pinellas County Code, section 62-85, as that section may be amended, or if the use or explosion of fireworks occurs on July 4 or December 31, or within 24 hours of either such date.

(Ord. No. 03-3, § 1, 1-7-03)

Sec. 58-446. - Noise complaints.

(a)

Noise complaints may be submitted in writing to the county by any citizen and shall include the name, address, and telephone number of the complainant, as well as the address, to the extent known, of the person responsible for the loud and raucous noise, and a description of the noise. The written complaint shall be in the form of an affidavit, made under oath before an individual authorized by law to take acknowledgements.

(b)

Upon receiving two or more complaints as described in subsection (a) involving loud and raucous noise, from complainants residing at separate addresses, the county will issue a notice of violation to the person responsible for the loud and raucous noise, advising that person of the alleged noise and that immediate steps must be taken to abate the noise. The notice of violation will describe the noise complaint, and will provide a seven-day period within which to correct the problem. If a second complaint is received in the same form as that described in subsection (a), after the seven-day notice period, then a citation may be issued.

(Ord. No. 03-3, § 1, 1-7-03)

Sec. 58-447. - Exceptions.

Notwithstanding the noise prohibitions set out in this article, the following shall be permitted:

(1)

The operation of warning or emergency signal devices such as sirens, horns, and bells when utilized for their intended purpose.

(2)

Noises resulting from equipment or operations incidental to the emergency repair of facilities or restoration of services such as public utilities or other emergency activities in the public interest.

(3)

Ordinary noise created by the operation of railways, shipping lanes and aircraft.

(4)

Noises consistent with cultural, historical or traditional observances, holidays and ceremonies, provided that a permit for such event has been obtained from the county administrator, city manager or town manager in accordance with section 58-451.

(Ord. No. 03-3, § 1, 1-7-03)

Sec. 58-448. - Waivers.

(a)

Applications for waivers for relief from the maximum allowable noise level limits designated in this article shall be made in writing. Such applications for waivers shall be made to the county administrator or his duly authorized representative when the activity creating such noise is located within the unincorporated area of the county or with the city manager or town manager when the activity is located within the boundaries of their respective municipality. Any waiver granted by the county administrator, a city manager or town manager under this section must be in writing and shall contain all conditions upon which such permit shall be effective. The county administrator, city manager or town manager or their duly authorized representatives may grant the waiver as applied for under the following conditions:

(1)

The county administrator, city manager or town manager may prescribe any reasonable conditions or requirements they deem necessary to minimize adverse effects upon the community or the surrounding neighborhood, including but not limited to the use of mufflers, screens or other sound attenuating devices.

(2)

Waivers from maximum allowable noise level limits may only be granted for noises created within an industrial or commercial zone by operations which were in existence on the effective date of Ordinance [No. 03-3] from which this article derives.

(3)

Waivers may be issued for no longer than 180 days, renewable by further application to the county administrator, city manager or town manager.

(b)

Any party feeling aggrieved by the denial of its application for waiver under this section by the county administrator may appeal such denial to the board of county commissioners, such appeal to be filed within 30 days from the date of denial.

(c)

Any party feeling aggrieved by the denial of its application for waiver by a city manager or a town manager

may appeal such denial to the governing body of that municipality, such appeal to be filed within 30 days from the date of denial.

(Ord. No. 03-3, § 1, 1-7-03)

Sec. 58-449. - Construction noise.

(a)

No person shall operate or permit to be operated any power-driven construction equipment without a muffler or other noise reduction device at least as effective as that recommended by the manufacturer or provided as original equipment.

(b)

No construction activities shall be permitted between the hours of 11:00 p.m. and 7:00 a.m., Monday through Saturday, and all day Sunday, that produce noise exceeding 55 dBA, measured at the nearest property line of an adjacent residential area. Construction equipment that must be operated near a residentially zoned area on a 24-hour per day basis (i.e., pumps, well tips, generators, etc.) shall be shielded by an acoustical enclosure during the hours of 11:00 p.m. to 7:00 a.m. unless the unshielded noise level is less than 55 dBA, measured at the closest adjacent residentially zoned property line.

(Ord. No. 03-3, § 1, 1-7-03)

Sec. 58-450. - Maximum allowable industrial or commercial noises.

(a)

In addition to the prohibitions set forth in section 58-444, no noise shall be created or permitted to be created in an industrial or commercial zone which exceeds those levels given in table 2, below, as measured on the adjacent property line.

Table 2. Maximum Noise Levels Permitted in Industrial and Commercial Zones

Zone from which noise emanates	Adjoining commercial zone (no time limit)	Adjoining residential zone 7:00 a.m.—11:00 p.m., Monday through Saturday
Industrial	72 dBA	66 dBA
Commercial	66 dBA	60 dBA

The maximum permitted noise level emanating from a commercially or industrially zoned district, measured

at the nearest adjacent residentially zoned property line for the hours between 11:00 p.m. and 7:00 a.m., Monday through Saturday and during all hours of Sunday, shall be 55 dBA.

(b)

In cases of impulsive noises, the noise levels listed in subsection (a) of this section shall be increased by ten dBA (as measured on a sound level meter) during the hours of 7:00 a.m. to 11:00 p.m., Monday through Saturday, but shall not exceed the levels of table 2 during the period from 11:00 p.m. to 7:00 a.m., Monday through Saturday and all day Sunday.

(c)

Exceptions to maximum noise levels.

(1)

An exception to the noise levels listed in table 2 may be permitted by the granting of a waiver, under circumstances in which the activity creating the noise is of such importance to the public welfare, health or safety that the activity cannot be shut down, even though its noise levels exceed those given in table 2. Responsibility for the granting of such waivers shall lie with the county administrator or his duly authorized representative when the activity creating such noise is located within the unincorporated area of the county or with the city manager or town manager when the activity is located within the boundaries of their respective municipality.

(2)

A further exception to the noise levels listed in table 2 shall be permitted in instances where an industry or commercial business had in prior years established its place of business in an area away from a residential zone, and subsequently, through the encroachment of residential development or rezoning, now finds itself adjoining a residential zone. In instances of this latter nature, the noise ordinance pertaining to industrial-commercial boundaries shall govern, and the business shall not be required to meet those noise levels pertaining to residential boundaries.

(Ord. No. 03-3, § 1, 1-7-03)

Sec. 58-451. - Maximum allowable noises created within residential zones.

(a)

Except for those noises otherwise specifically provided for within this article, and in addition to the prohibitions set forth in section 58-444 it shall be unlawful to create or to permit to be created any noise within a residential zone that exceeds 72 dBA during the hours between 7:00 a.m. to 11:00 p.m., or 55 dBA during the hours between 11:00 p.m. and 7:00 a.m., daily, measured at the nearest adjacent property line.

(b)

It shall be unlawful to operate or permit to be operated any air conditioning, heating or ventilating unit at any time that produces a noise exceeding 60 dBA, measured at the nearest adjacent property line.

(c)

In the case of multifamily dwelling units, it shall be unlawful to create or permit to be created any noise that exceeds 55 dBA during the hours between 7:00 a.m. to 11:00 p.m., or 40 dBA during the hours between 11:00 p.m. and 7:00 a.m., daily, measured from a neighbor's dwelling.

(Ord. No. 03-3, § 1, 1-7-03)

Sec. 58-452. - Noises emanating from boats or barges on water areas adjoining residential zones.

(a)

No person shall operate, or give permission for the operation of, any boat or barge on the waters of the county, including the Florida Intracoastal Waterway, in such a manner as to exceed a maximum sound level of 90 dBA at a distance of 50 feet from the boat or barge.

(b)

Any person who refuses to submit to a sound level test when requested to do so by a law enforcement officer is guilty of a misdemeanor of the second degree, punishable as provided in [F.S.] § 775.082 or § 775.083.

(Ord. No. 03-3, § 1, 1-7-03)

Sec. 58-453. - Noises within outdoor public recreation areas and parks.

It shall be unlawful to operate or permit to be operated any mechanical or electrical device within an outdoor public recreation area or park that produces a noise exceeding 72 dBA during the hours between 7:00 a.m. to 11:00 p.m., or 55 dBA during the hours between 11:00 p.m. to 7:00 a.m., daily, measured at the nearest adjacent residentially zoned property line, except for planned community events, including but not limited to concerts, speeches, sporting events, fireworks displays, etc. When a planned community event will create noise in excess of the limits specified in this section, a permit must be obtained prior to the event.

(Ord. No. 03-3, § 1, 1-7-03)

Sec. 58-454. - Octave band sound level limits.

In addition to the standards listed in this article, for any source or sound which can be detected on any parcel of property adjacent to the source or sound, the maximum allowable sound level limit for the individual octave bands whose centers are 31.5, 63, 125, 250, and 500 Hertz shall not exceed 65 dB.

(Ord. No. 03-3, § 1, 1-7-03)

Secs. 58-455—58-470. - Reserved.

ARTICLE XIII. - LANDSCAPE MAINTENANCE AND FERTILIZER USE AND APPLICATION

Sec. 58-471. - Findings of fact.

As a result of adverse impacts to Pinellas County waters caused by excessive nutrients resulting from improper landscape maintenance practices and the incorrect or unnecessary application of fertilizers containing phosphorus and/or nitrogen, the Pinellas County Board of County Commissioners has determined that the lands and waters of Pinellas County are at particularly high risk for adverse effects to surface and ground water from such fertilizer containing phosphorus and/or nitrogen, particularly when not applied in accordance with best management practices established by the Florida Department of Environmental

Protection (FDEP), the Florida Department of Agriculture and Consumer Services (DACS), and the University of Florida Institute of Food and Agricultural Sciences (UF/IFAS).

(Ord. No. 10-06, § 1, 1-19-10)

Sec. 58-472. - Purpose and intent.

This article regulates the proper use of fertilizers by any applicator and requires proper training of commercial and institutional fertilizer applicators and landscape maintenance companies by establishing a restricted season for fertilizer application, fertilizer-free zones, low maintenance zones, exemptions, training, and licensing requirements. The article requires the use of best management practices which provide specific management guidelines to minimize negative secondary and cumulative environmental effects associated with the misuse of fertilizers and improper landscape maintenance practices. These secondary and cumulative effects have been observed in and on Pinellas County's natural and artificial stormwater and drainage conveyances, rivers, lakes, canals, estuaries, interior freshwater wetlands, and Tampa Bay. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural and economic well-being of Pinellas County residents and the health of the public. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and artificial stormwater and drainage conveyances. Regulation of nutrients, including both phosphorus and nitrogen contained in fertilizer, will help improve and maintain water and habitat quality.

(Ord. No. 10-06, § 1, 1-19-10)

Sec. 58-473. - Definitions.

For this article, the following terms shall have the meanings set forth in this section unless the context clearly indicates otherwise.

Administrator means the Pinellas County Administrator, or an administrative official of Pinellas County government designated by the county administrator to administer and enforce the provisions of this article.

Application or apply means the actual physical deposit of fertilizer to turf or landscape plants.

Applicator means any person who applies fertilizer on turf and/or landscape plants in Pinellas County.

Article means Chapter 58, Article XIII of the Pinellas County Code of Ordinances, as amended, unless otherwise specified.

Board means the Board of County Commissioners of Pinellas County, Florida.

Best management practices or BMP means turf and landscape practices which minimize the negative environmental impacts of installation and maintenance of landscapes.

Code enforcement officer, official, or inspector means any designated employee or agent of Pinellas County whose duty it is to enforce codes and ordinances enacted by Pinellas County.

Commercial fertilizer applicator means any person who applies fertilizer on turf and/or landscape plants in Pinellas County in exchange for money, goods, services or other valuable consideration.

Fertilize, fertilizing, or fertilization means the act of applying fertilizer to turf, specialized turf, or landscape plants.

Fertilizer means any substance or mixture of substances that contains one or more recognized plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides other corrective measures to the soil.

Granular means composed of small grains or particles.

Institutional applicator means any person, other than a noncommercial or commercial applicator, that applies fertilizer for the purpose of maintaining turf and/or landscape plants. Institutional applicators shall include, but shall not be limited to, owners and managers of public lands, schools, parks, religious institutions, utilities, industrial or business sites and any residential properties maintained in condominium and/or common ownership.

Impervious surface means a surface that has been compacted or covered with a layer of material so that it is highly resistant or prevents infiltration by stormwater. It includes roofed areas and surfaces such as compacted sand, limerock, or clay, as well as conventionally surfaced streets, sidewalks, parking lots, and other similar surfaces.

Landscape plant means any native or exotic tree, shrub, or groundcover (excluding turf).

Landscape maintenance means activities carried out to manage and maintain landscape plants including but not limited to mowing, edging, and trimming.

Low maintenance zone means an area a minimum of six feet wide adjacent to water courses which is planted with non-turf grass vegetation and managed in order to minimize the need for fertilization, watering, mowing, etc.

Pasture means land used for livestock grazing that is managed to provide feed value.

Person means any human being, business, corporation, limited liability company, partnership, limited partnership, association, club, organization, and/or any group of people acting as an organized entity.

Pinellas County Approved Best Management Practices (BMP) Training Program means a training program approved by Pinellas County that includes, at a minimum, the BMPs associated with proper mowing, trimming, irrigation, and landscape debris management.

Restricted season means June 1 through September 30.

Site supervisor means the direct supervisor of landscape maintenance personnel.

Slow or controlled release fertilizer means a fertilizer containing a plant nutrient in a form which delays its availability for plant uptake and use after application, or which extends its availability to the plant significantly longer than a referenced "rapidly available nutrient fertilizer."

Specialized turf means areas of grass used for athletic fields, golf course practice and play areas, and other similar activities.

Specialized turf manager means a person responsible for fertilizing or directing the fertilization of specialized turf.

Surface water means fresh, brackish, saline or tidal waters, including but not limited to bays, rivers, lakes, streams, wetlands, springs, impoundments, as well as canals and other artificial water bodies.

Turf, sod, or lawn means a piece of grass-covered soil held together by the roots of the grass.

Vegetable garden means an area dedicated to the cultivation of edible plants.

(Ord. No. 10-06, § 1, 1-19-10)

Sec. 58-474. - Applicability.

This article shall be applicable to and shall regulate any and all applicators of fertilizer, areas of application of fertilizer, and landscape maintenance activities within Pinellas County, unless such applicator or activity is specifically exempted by the terms of this article from the regulatory provisions of this article.

(Ord. No. 10-06, § 1, 1-19-10)

Sec. 58-475. - Weather and seasonal restrictions.

(a)

No applicator shall apply fertilizers containing nitrogen and/or phosphorous to turf and/or landscape plants during the restricted season from June 1 through September 30.

(b)

No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants during a period for which the National Weather Service has issued any of the following advisories for any portion of Pinellas County: a severe thunderstorm warning or watch, flood warning or watch, tropical storm warning or watch, hurricane warning or watch, or if rain greater than or equal to two inches in a 24-hour period is forecasted.

(Ord. No. 10-06, § 1, 1-19-10)

Sec. 58-476. - Fertilizer content and application rate.

(a)

Fertilizers shall be applied to turf and/or landscape plants at the recommended rate per the "Florida Friendly Best Management Practices for Protection of Water Resources by the Green Industries", December 2008, as revised, with no more than four pounds of nitrogen per 1,000 feet^2 applied in any calendar year.

(b)

No fertilizer containing phosphorus shall be applied to turf and/or landscape plants in Pinellas County, except where phosphorus deficiency has been demonstrated in the soil underlying the turf and/or landscape plants by a soil analysis test performed by a State of Florida-certified laboratory. Any person who obtains such a soil analysis test showing a phosphorus deficiency and who wishes to apply phosphorus to turf and/or landscape plants shall mail a copy of the test results to Pinellas County Watershed Management Division, Attention: Division Director, 300 South Garden Avenue, Clearwater, FL 33756 prior to the application of phosphorous.

(c)

Nitrogen fertilizer shall not be applied on newly established turf or new landscape plants for the first 30 days.

(d)

Granular fertilizers containing nitrogen applied to turf and/or landscape plants within Pinellas County shall contain no less than 50 percent slow release nitrogen per guaranteed analysis label.

(e)

Liquid fertilizers containing nitrogen applied to turf and/or landscape plants within Pinellas County shall not be applied at a rate that exceeds 0.5 lbs/1,000 feet^2 per application.

(Ord. No. 10-06, § 1, 1-19-10)

Sec. 58-477. - Impervious surfaces and mode of application.

(a)

Fertilizer shall not be applied or otherwise deposited on any impervious surfaces. Any fertilizer applied or deposited, either intentionally or accidentally, on any impervious surface shall be immediately and completely removed to the greatest extent practicable. Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or any other legal site, or returned to the original or other appropriate container. Fertilizer shall not be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, drainage conveyances, roadways, or surface waters.

(b)

Spreader deflector shields are required when applying fertilizer by use of any broadcast or rotary spreaders. Deflector shields must be positioned such that fertilizer granules are deflected away from all impervious surfaces and surface waters.

(Ord. No. 10-06, § 1, 1-19-10)

Sec. 58-478. - Fertilizer-free zones.

Fertilizer shall not be applied within ten feet from the top of bank of any surface water, landward edge of the top of a seawall, designated wetland or wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code, as it may be amended or superseded).

(Ord. No. 10-06, § 1, 1-19-10)

Sec. 58-479. - Management of grass clippings and vegetative material.

It shall be a violation of this section for any person to wash, sweep, blow or otherwise cause grass clippings, vegetative material, and/or vegetative debris to be deposited into stormwater drains, ditches, drainage conveyances, surface waters, or roadways.

(Ord. No. 10-06, § 1, 1-19-10)

Sec. 58-480. - Exemptions.

(a)

The provisions set forth above in sections 58-475(a) and 58-476 of this article shall not apply to:

(1)

Golf courses. For all golf courses, the provisions of the Florida Department of Environmental Protection (FDEP) document, "BMPs for the Enhancement of Environmental Quality on Florida Golf Courses, January 2007," as updated, are required and shall be followed when applying fertilizer to golf courses.

(2)

Specialized turf. Specialized turf managers are required to follow the Best Management Practices embodied in the "Florida Friendly Best Management Practices for Protection of Water Resources by the Green Industries", December 2008, as updated.

(3)

Bona fide farm operations as defined in the Florida Right to Farm Act, F.S. § 823.14.

(4)

Vegetable gardens, owned by individual property owners or a community, provided that fertilizer application rates do not exceed UF/IFAS recommendations per SP103 Florida Vegetable Gardening Guide, December 2008, as revised.

(5)

Yard waste compost, mulches, or other similar materials that are primarily organic in nature and are applied to improve the physical condition of the soil.

(6)

Tree trunk injection fertilization treatments that are performed by a certified arborist.

(b)

Retail or wholesale fertilizer sellers may sell products containing nitrogen and/or phosphorus to specialized turf managers or to operators of bona fide farm operations during the restricted period for use on specialized turf or for use at bona fide farm operations, respectively.

(Ord. No. 10-06, § 1, 1-19-10)

Sec. 58-481. - Certification and training.

(a)

Commercial and institutional applicators. All commercial and institutional applicators within Pinellas County shall obtain the limited certification for urban landscape fertilizer application provided for under F.S. § 482.1562, within 365 days of adoption of this article, or within 90 days of initial employment, whichever occurs later. Applicators are required to keep a copy of such certificate with them during application activities and shall present the certificate to any authorized official of the board, upon request.

(b)

Landscape maintenance. All site supervisors and managers of professional landscape maintenance companies, as well as government and institutional landscape supervisors shall abide by and successfully complete a Pinellas County approved Best Management Practices Training Program within 545 days of adoption of this article. Upon successful completion, a certificate of completion will be provided. Landscape maintenance staff are required to keep a copy of such certificate with them during landscape maintenance activities and shall present the certificate to any authorized official of the board, upon request.

(c)

Landscape Maintenance. Employees of lawn and landscape maintenance companies who are not site supervisors or managers shall also be trained in the above-referenced BMPs through a county approved training program, the company, or a contractor of the company. The training shall also include the more stringent requirements set forth in sections 58-473 through 58-483 of this article. Training may be provided by a certified site supervisor or manager employed by the company. Training shall be required of all personnel of such companies within 545 days of adoption of this article, or within 90 days of initial employment. Prior to the successful completion of said program each employee shall work under the direct physical supervision of a certified landscape maintenance employee. Landscape maintenance companies shall maintain written records of compliance with this provision and shall present training records to any authorized official of the board, upon request.

(d)

All commercial and institutional applicators, site supervisors and managers of professional landscape maintenance companies, government and institutional landscape supervisors, and any employee of a lawn and landscape maintenance company shall abide by best management practices for which they have been trained or certified, as well as the provisions of this article.

(e)

A vehicle decal issued by Pinellas County indicating that the company is in compliance with the training and certification requirements herein shall be affixed and maintained on the exterior of all vehicles and/or trailers used by the company in connection with landscape maintenance activities and/or the application of fertilizer within the area regulated by this article. The vehicle and trailer decals shall be provided by Pinellas County upon submittal of demonstration of compliance of the company with the requirements herein.

(Ord. No. 10-06, § 1, 1-19-10)

Sec. 58-482. - Retail sale of fertilizer containing nitrogen or phosphorous.

(a)

Effective June 1, 2011, no person, firm, corporation, franchise, or commercial establishment shall sell, at retail, any lawn or landscape fertilizer, liquid or granular, within Pinellas County that contains any amount of nitrogen or phosphorous during the restricted season from June 1 through September 30.

(b)

Granular fertilizers containing nitrogen sold at retail within Pinellas County shall contain no less than 50

percent slow release nitrogen per guaranteed analysis label.

(c)

Displays of lawn and landscape fertilizers containing nitrogen or phosphorous shall not be allowed on the sales area of the retail store during the restricted season.

(d)

Retailers shall post a notice stating that the use of lawn and landscape fertilizers in Pinellas County is restricted in accordance with this article.

(e)

Fertilizers sold within Pinellas County shall meet the requirements set forth in Rule 5E-1.003(2), Florida Administrative Code, Labeling Requirements For Urban Turf Fertilizers.

(Ord. No. 10-06, § 1, 1-19-10)

Sec. 58-483. - Enforcement and penalty.

Violations of this article may be punished as provided for in section 1-8 or article VIII, chapter 2 of the Pinellas County Code. Violations of this article may also be pursued under the Pinellas County Environmental Enforcement Act, as applicable.

(Ord. No. 10-06, § 1, 1-19-10)

Sec. 58-484. - Recommendations and additional information.

(a)

A voluntary six-foot low-maintenance, "no-mow" zone is strongly recommended from those areas described as fertilizer-free zones in section 8 in order to reduce the potential for fertilizer residue entering adjacent water bodies and wetlands. A swale/berm system is recommended for installation at the landward edge of this low maintenance zone to capture and filter runoff. No vegetative material shall be deposited or left remaining in this zone or in the water. Care should be taken to prevent the overspray of aquatic weed products in this zone.

(b)

It is recommended that the application of fertilizer for properties using reclaimed water service be reduced in accordance with the nutrient level contained in the reclaimed water. This information is available through the Pinellas County Utilities Department and through the Pinellas County web site.

(c)

The county strongly recommends the establishment of training programs using Spanish-speaking certified BMP trainers.

(d)

The county recommends that private homeowners become familiar with and utilize the recommendations of the University of Florida IFAS Florida Yards and Neighborhoods Program when applying fertilizer.

(Ord. No. 10-06, § 1, 1-19-10)

Sec. 58-485. - Areas embraced.

All territories within the legal boundaries of Pinellas County, Florida including all incorporated and unincorporated areas, shall be embraced by the provisions of this article, unless in conflict with or specifically deleted by a municipal ordinance.

(Ord. No. 10-06, § 1, 1-19-10)

Chapter 62 - FIRE PREVENTION AND PROTECTION[1]
Footnotes:
--- (**1**) ---

Charter reference— General powers of county, § 2.01; fire protection, § 2.04(l).

Cross reference— Prohibition of false residential detection alarms, § 54-1; open burning, § 58-206 et seq.; Indian Rocks fire district, § 114-36 et seq.; Palm Harbor special fire control district, § 114-81 et seq.; Tierra Verde fire control district, § 114-241 et seq.

ARTICLE I. - IN GENERAL

Secs. 62-1—62-25. - Reserved.
ARTICLE II. - FIRE PROTECTION AUTHORITY[2]

Footnotes:
--- (**2**) ---

Editor's note—The act contained in this article assumed ordinance status pursuant to charter § 5.02.

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.; special districts, ch. 114.

Sec. 62-26. - Declaration of legislative intent and purpose.

(a)

The legislature finds and declares that it has become mandatory to protect the life and property of all citizens of Pinellas County by providing a means of establishing fire protection to all areas within the county not now adequately protected, as well as promoting improved fire prevention throughout the county.

(b)

The legislature further finds and declares that with a myriad of local fire departments in Pinellas County, it is essential that a permanent fire protection authority be created which can overcome existing deficiencies in terms of unprotected areas, improperly funded existing fire departments and the lack of a cohesive fire

protection plan for the county as a single unit.

(c)

It is, therefore, the intent of this article to create a permanent fire protection authority in Pinellas County to implement objectives which shall include but not be limited to the following:

(1)

The extension of fire protection to all residents not presently having such service;

(2)

The utilization of additional personnel and facilities and the upgrading of present facilities to meet the growing responsibilities of an expanded population in areas already having fire protection service, and to achieve higher local service ratings in an effort to achieve lower insurance rates for each area; and

(3)

The eventual use of regular, full-time firefighters as the nucleus of manpower in all fire protection agencies in the county.

(Laws of Fla. ch. 73-600, § 1)

Sec. 62-27. - Created; membership; fire protection plan; quorum; records.

There is created a countywide fire protection authority, referred to in this article as "the authority." The governing body of the authority and its membership shall be the board of county commissioners. The authority shall be empowered to establish and implement a permanent plan of fire protection for the county and each of its municipalities, as set forth in this article. Three members of the authority shall constitute a quorum. The authority shall keep a record of its transactions, resolutions, findings, determinations, recommendations and orders, which record shall be a public record.

(Laws of Fla. ch. 73-600, § 2)

Sec. 62-28. - Powers and duties.

In the performance of its duties and in the execution of its functions under this article, the authority shall exercise the following powers:

(1)

To employ and compensate such personnel, consultants and technical and professional assistants as it may deem necessary.

(2)

To make and enter into contracts and agreements.

(3)

To hold public hearings and sponsor public forums.

(4)

To sue and be sued in its own name.

(5)

To accept and use funds, grants and services from the federal government or any agency thereof, the state government or any agency thereof, including the Tampa Bay Regional Planning Council, the county government or any agency thereof, including the district school board, and the several municipalities in the county and agencies thereof.

(6)

To determine the compensation to be paid to a municipal or volunteer fire department for service provided by it to the unincorporated areas within its district.

(7)

To receive and disburse all funds collected within a district through ad valorem taxation as authorized in section 62-31, keeping such funds segregated according to the district in which they were collected.

(8)

To compel municipal and volunteer fire departments within the county to provide fire protection to the unincorporated areas within their respective fire protection districts.

(9)

To determine minimum service levels, as defined by the Insurance Services Office, for each municipal and volunteer fire department and fire protection district within the county, and to compel such departments to take any action necessary to ensure that they are operating at the minimum level prescribed by the authority. Responsibility for the maintenance and operation of individual fire departments shall remain vested in the respective municipality having a fire department and with volunteer fire departments and fire control districts.

(10)

To provide municipal and volunteer fire departments with funds derived from ad valorem taxation within their respective fire control districts for the purpose of expanding their facilities and upgrading their local service rating.

(11)

To receive and disburse all additional funds which from time to time may be appropriated from the general fund of the county.

(12)

To prepare an annual budget, using the same fiscal year as that of the county, and to cause an annual audit of the authority to be made to determine how funds provided to the municipal fire departments, volunteer fire departments and fire control districts under the provisions of this article have been expended.

(13)

To establish uniform standards as to the size of water lines and the distribution of fire hydrants, and to direct all local governments in the county to adopt regulations complying with such standards.

(14)

To develop and implement a plan of installation of fire hydrants and water lines in areas within the districts not now having adequate facilities.

(15)

To implement countywide reciprocal, mutual, or outside assistance programs among all municipal fire departments, volunteer fire departments and fire control districts, and compensation plans for such programs.

(16)

To compel adherence by an unincorporated area to the provisions and requirements of the Standard Fire Prevention Code, or to the fire and building codes established by the political subdivision or fire department providing fire protection in its respective district, if the fire and building codes of such political subdivision or fire department contain standards equivalent to or more stringent than the Standard Fire Prevention Code.

(17)

To divide the county into fire protection districts, such districts not becoming effective until sections 62-29, 62-30 and 62-31 of this article have been fully complied with.

(Laws of Fla. ch. 73-600, § 3)

Sec. 62-29. - Elections to establish fire control districts.

Within 90 days from the effective date of this article, the board of county commissioners shall call elections within each of the proposed fire control districts and no fire control district shall become operative unless such district shall have been approved by a majority of the electors voting in each such election. Such elections are to be held in the manner prescribed by law for elections to issue bonds.

(Laws of Fla. ch. 73-600, § 4)

Sec. 62-30. - Ballots for elections.

The ballots for the elections described in section 62-29 shall be arranged so that each voter may register either his approval or disapproval of the creation of the proposed fire control district. The ballot shall clearly set forth that if the fire control district is approved, all rental property within the unincorporated areas of the proposed fire control district shall be subject to an ad valorem real property tax sufficient to pay its pro rata share of the budget of the department within that fire control district, as provided in section 62-31, and it shall further clearly advise that such millage is not enclosed within the ten mill limit imposed by the constitution and statutes of this state on ad valorem taxation.

(Laws of Fla. ch. 73-600, § 5)

Sec. 62-31. - Requirement of ad valorem taxation.

Upon a fire control district becoming operative as provided by this article, the board of county commissioners shall cause to be levied an ad valorem tax on real property in the unincorporated areas within such fire control district, sufficient to pay the pro rata share of the costs of providing such protection to those areas. Determination of what the pro rata share of the costs for providing fire protection to the unincorporated areas within a fire control district is shall be made by the authority. Such determination shall be made based on a comparison of the value of the real property within the unincorporated areas in a fire control district to the value of the real property within the incorporated area of that fire control district. Such tax shall be included in the taxes assessed on the regular county tax rolls. All tax revenues collected within a fire control district shall be deposited in a separate designated account for each district, such account being under the control of the authority.

(Laws of Fla. ch. 73-600, § 6)

Sec. 62-32. - Fire protection for unincorporated areas.

Upon a fire control district becoming operative, the authority shall direct the appropriate municipal or volunteer fire department therein to provide fire protection to the unincorporated areas within the fire control district. The compensation to be paid to a municipal or volunteer fire department for providing service to the unincorporated areas within its respective fire control district shall be paid by the authority. Such compensation shall be determined based on the annual budget submitted to the authority by the respective departments, with the unincorporated area within a fire control district being obligated to pay its pro rata share of the budget of the department within its fire control district based on a comparison of the value of real property within the unincorporated areas in a fire control district to the value of real property within the incorporated area of the fire control district.

(Laws of Fla. ch. 73-600, § 7)

Sec. 62-33. - Effect of annexation of unincorporated areas.

For the purposes and requirements of this article, after the annexation by a municipality of any unincorporated area within a fire control district established under this article, the annexed area:

(1)

Shall be treated as lying within the corporate boundaries of the annexing municipality; and

(2)

Shall not be subject to a levy of the ad valorem tax which is authorized in the unincorporated areas by section 62-31 of this article.

(Laws of Fla. ch. 73-600, § 8; Laws of Fla. ch. 77-640, § 1)

Sec. 62-34. - Abolishment of existing fire departments.

No existing fire department within the county may be abolished by the authority without the express consent of the governing body of that department.

(Laws of Fla. ch. 73-600, § 9; Laws of Fla. ch. 77-640, § 2)

Sec. 62-35. - Right of inspections.

Fire marshals, deputy fire marshals and fire inspectors are hereby empowered to make inspections of any and all premises within their respective fire control districts at a reasonable hour and to enforce all applicable fire and building codes.

(Laws of Fla. ch. 73-600, § 10; Laws of Fla. ch. 77-640, § 2)

Sec. 62-36. - Initial funding.

The board of county commissioners is authorized to expend from the county general fund such sums as are necessary and desirable for the creation and maintenance of any fire control district created pursuant to this article, such funds to be expended solely for the purpose of creating and maintaining such fire control district pending levy and collection of the initial ad valorem tax proceeds provided by this article. Such fire control district shall reimburse the board of county commissioners the funds so expended upon receipt of the first proceeds of such tax collected by the fire control district. All monies so expended from the county general fund shall be included in the millage to be computed pursuant to section 62-31 of this article so that the county shall be fully reimbursed for all funds advanced pursuant to this section.

(Laws of Fla. ch. 73-600, § 11; Laws of Fla. ch. 77-640, § 2)

Secs. 62-37—62-55. - Reserved.

ARTICLE III. - FIRE SAFETY FIRE CODES[3]

Footnotes:

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Cross reference— Buildings and building regulations, ch. 22; fire code for Indian Rocks fire district, § 114-51.

State Law reference— Fire safety standards, F.S. § 633.022 et seq.; general powers of chartered counties, Fla. Const. art. VIII, § 1(g); authority to provide fire prevention, F.S. § 125.01(1)(d); fire prevention and control, F.S. ch. 633.

Sec. 62-56. - Definitions.

Unless the context otherwise requires, the terms used herein have the following meanings ascribed to them:

County means Pinellas County, Florida.

Citation means a written notice issued to a person by a fire safety inspector, that the fire safety inspector has probable cause to believe that the person has committed a civil infraction in violation of this article and that the county court will hear the charge.

District means the fire control districts created and established pursuant to Chapter 73-600, Laws of Florida, for the purpose of providing fire protection services to the unincorporated areas of the county.

Fire department means a municipal or profit or not-for-profit fire department located within the county and with whom the county contracts to provide fire protection services to a district.

Fire safety inspector means an individual certified by the division of state fire marshal of the department of

insurance, officially assigned the duties of conducting fire safety inspections of buildings and facilities on a recurring or regular basis, investigating civil infractions relating to fire safety and issuing citations pursuant to this article.

Fire safety fire codes means National Fire Protection Association Code 1, 1997 Edition, including appendices and annex thereto, with the Life Safety Code of the National Fire Protection Association, National Fire Protection Association 101, 1997 Edition, and the uniform fire safety standards adopted pursuant to F.S. § 633.022.

(Ord. No. 96-75, § 1, 9-24-96; Ord. No. 99-95, § 1, 11-9-99)

Sec. 62-57. - Adoption of fire safety fire codes.

There is hereby adopted the fire safety fire codes, as stated in section 62-56. Such codes and standards are hereby incorporated by reference as fully as if set out at length in this section.

(Ord. No. 96-75, § 2, 9-24-96)

Sec. 62-58. - Violations.

It shall be unlawful for any person to violate the fire safety fire codes, to permit or maintain such a violation, to refuse to obey any provision thereof, and to fail or refuse to comply with any such provision or regulation.

(Ord. No. 96-75, § 3, 9-24-96)

Sec. 62-59. - Enforcement and administration of the applicable code.

The responsibility and authority for administering and enforcing the fire safety fire codes in the unincorporated areas of the county shall be vested in the fire department serving the district covering the particular unincorporated area. A fire department may enforce either or both its own municipal fire code and the fire safety fire codes in any district which it serves. Enforcement of one code under this section shall not bar enforcement of the other applicable code.

Enforcement may be accomplished by issuance of a citation by a fire safety inspector who has probable cause to believe that a person has committed a violation of this article. A citation shall be issued only after a written warning has been previously issued and a minimum time period of 45 days, except for major structural changes, which may be corrected within an extended adequate period of time, from the date of the issuance of the warning whereby the party warned may correct the alleged violation. A person contesting such citation shall contest it in county court.

(Ord. No. 96-75, § 4, 9-24-96)

Sec. 62-60. - Penalties.

Violation of this article shall be a civil infraction, punishable by a civil penalty not to exceed $500.00; provided, however, that if the person who has committed the civil infraction does not contest the citation, the civil penalty shall be less than $500.00.

(Ord. No. 96-75, § 5, 9-24-96)

Sec. 62-61. - Areas embraced.

All unincorporated areas within the legal boundaries of Pinellas County, Florida shall be embraced by the provisions of this article.

(Ord. No. 96-75, § 6, 9-24-96)

Secs. 62-62—62-80. - Reserved.

ARTICLE IV. - FIREWORKS[4]

Footnotes:

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Cross reference— Amusements and entertainments, ch. 10.

State Law reference— Sale of fireworks, F.S. ch. 791.

DIVISION 1. - GENERALLY

Sec. 62-81. - Definitions.

[As used in this article, the following words and terms shall have the meaning ascribed thereto:]

Authority shall mean the Pinellas County Fire Authority.

Fireworks, sparklers, retailer, wholesaler, distributor, and manufacturer shall have the same meaning as specified in F.S. § 791.01, as it may, from time to time, be amended.

Seller shall refer to either a wholesaler or retailer as appropriate to the context of the transaction.

(Ord. No. 86-9, § 1, 2-11-86; Ord. No. 03-48, § 1, 6-24-03)

Cross reference— Definitions generally, § 1-2.

Sec. 62-82. - Penalties for violation of division.

(a)

Violations of this division shall be punishable and its requirements enforced as provided under section 1-8 of this Code. Violations shall subject an offender to arrest pursuant to F.S. § 901.15 and prosecution pursuant to F.S. § 125.69. These sanctions are in addition to any criminal penalty which is available under the provisions of F.S. Ch. 791.

(b)

The law enforcement agency having jurisdiction has the authority to immediately order the cessation of the sale of fireworks at any business or location that is selling fireworks without all required permits until such time as corrective action is taken and the missing permits are obtained. Upon notification by the appropriate law enforcement agency that sales are to cease, the seller shall take appropriate action to secure its fireworks inventory immediately and to prevent the further sale by securing the fireworks in an appropriate off premises locked facility that meets state and local fire code standards. As an alternative to securing the fireworks off site, the business may cease operations until such time as the required permits are obtained and during this time store the inventory on site if the location is secure and meets state and local fire code requirements. It

shall be the obligation of the seller to ensure that adequate security is in place during any period they cease operations. Prior to resuming the sale of fireworks, the seller shall notify the authority of its intent to resume sales and of the corrective action taken.

(c)

If a seller has been convicted of a violation of this division or of F.S. Ch. 791, and within 12 months of that conviction is convicted again of a violation of this division or of F.S. Ch. 791, its permit to sell fireworks under section 62-89 shall be suspended. The suspension shall be in addition to any sanction otherwise available under state law or this Code. The first suspension shall be for a period of 14 days. In the event of any successive conviction of a violation of this article or the provisions of F.S. Ch. 791, occurring within 24 months of a suspension of permit under this section, the seller's permit to sell fireworks shall be suspended for a period of 30 days. Upon notification of a suspension of the permit to sell fireworks, the seller shall immediately remove their fireworks inventory from their premises and store them in a secure offsite location which meets all appropriate state and local fire codes. Alternatively, the seller may cease operations during the period of suspension if their premises are secure and otherwise meet the requirements of local and state fire codes.

(d)

For purposes of this division, a conviction includes the payment of the assessed fine by not contesting the notice of violation where there is no court appearance.

(e)

Parents or guardians are responsible for the violations of [by] minors.

(Ord. No. 86-9, § 8, 2-11-86; Ord. No. 03-48, § 2, 6-24-03)

Sec. 62-83. - Territory embraced.

All territory within the legal boundaries at Pinellas County, Florida, including all unincorporated and incorporated areas, shall be embraced by the provisions of this division, unless a municipality adopts an ordinance which conflicts with this division, in which case the municipal ordinance shall prevail.

(Ord. No. 86-9, § 9, 2-11-86)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 62-84. - Storage and sale of sparklers.

(a)

Sparklers shall be stored and sold in the unincorporated and incorporated areas of the county in accordance with the zoning laws, fire prevention code, license laws of the county and permits issued by the local fire official having jurisdiction and all other state and local laws.

(b)

All manufacturers, distributors, and wholesalers of sparklers shall be registered with the state division of fire marshal pursuant to F.S. § 791.015. A retailer of sparklers shall be required to comply with the provisions of

F.S. § 791.01.

(Ord. No. 86-9, § 2, 2-11-86; Ord. No. 03-48, § 3, 6-24-03)

Sec. 62-85. - Prohibition of fireworks; exceptions; permits and regulations.

(a)

Except as provided in F.S. §§ 791.02, 791.04, or 791.07, or under division 2 of this article, it shall be unlawful for any person, firm, partnership, or corporation to offer for sale at wholesale or retail, expose for sale at wholesale or retail, or use or explode any fireworks within the county.

(b)

The authority shall develop an affidavit which all sellers of fireworks within the county shall use to determine the entitlement of any purchaser at retail or wholesale to buy fireworks.

(c)

The purchaser of any fireworks must furnish to the seller, at the time of sale, proof of identification and, if applicable, proof that the purchaser is registered with the division of the state fire marshal and is otherwise in compliance with F.S. Ch. 791. The seller shall retain a copy of any proof of registration presented.

(d)

The seller must maintain an on-site record of all sales, including the name and address of each purchaser, the form of the purchaser's identification presented along with any unique identifier associated with that identification (e.g. drivers license number), and, where required, proof of registration and compliance with F.S. Ch. 791. If the seller determines that registration under chapter 791 is not required, then the basis for such exception or exemption shall be recorded on a form approved by the authority.

(e)

Any person, firm, partnership, or corporation who is not registered with the division of the state fire marshal and who, pursuant to F.S. § 791.04 purchases fireworks for shipment directly out of the state, shall not be allowed to take possession of such fireworks. The seller shall retain the possession of such fireworks and shall be responsible for shipping all fireworks purchased to the purchaser or other recipient at an out-of-state point of delivery.

(f)

Any person, firm, partnership or corporation who, pursuant to rules promulgated by the department of agriculture and consumer services under F.S. § 791.07, purchases fireworks for frightening birds must provide to the seller documentary evidence that the purchaser has complied with the regulations of the state department of agriculture and that the purchaser has filed with the sheriff of the county where the fireworks will be used the statement as required by the Florida Administrative Code. The purchaser shall provide to the seller a copy of any statement so filed with the sheriff as required by the Florida Administrative Code. The seller shall be required to maintain a copy of the proof offered in addition to the information required in subsection (d) above.

(g)

The purchaser of fireworks to be used by a railroad or other transportation agency must provide a copy of the business license or other government issued document evidencing that the purchaser is a legitimate railroad or transportation agency. A commercial drivers license, by itself, does not meet the requirements of this section. A copy of this document must be maintained by the seller.

(h)

The purchaser of fireworks to be used in quarrying or for blasting or other industrial use must produce a copy of the quarry or mine permit or business license or other governmentally issued document showing that the purchaser is operating a mine, quarry or other industrial enterprise. The seller shall maintain a copy of this proof and note the use for which the fireworks shall be used. The seller shall also record the location where the fireworks will be used. The purchaser of fireworks to be used in a public display such as those authorized under division 2 of this article, must produce a copy of the current permit from a county or municipality and the seller must keep a copy of this permit with the record of sale.

(i)

All appropriate local and state permits, registrations, certificates and licenses must be displayed at each retail, wholesale, distributing, or manufacturing site.

(j)

The seller must maintain copies of the records required by this chapter at the location where the sale took place for a period of four years from the date of the sale. If the location of the sale was in a temporary facility, the records must be maintained at that site for the duration of the existence of the temporary facility and thereafter for the remainder of the four years in a location within the county which location shall be listed on the application for the permit from the authority. These records must be available and provided immediately upon request for inspection by fire or law enforcement officials. In the event that the sales location, other than a temporary site, closes or moves, the records required by this section to be retained must be stored at a location in the county where they will be readily available for inspection by the authority, fire officials or law enforcement. The seller shall advise the authority of any change in the location of these records.

(Ord. No. 86-9, § 3, 2-11-86; Ord. No. 03-48, § 4, 6-24-03; Ord. No. 04-55, § 1, 7-27-04)

Sec. 62-86. - Vendor receipts.

Every vendor of fireworks or sparklers shall be required to provide to each purchaser of such item a receipt showing the vendor's name and address. Such receipt shall be provided at the time of purchase.

(Ord. No. 86-9, § 4, 2-11-86)

Sec. 62-87. - Labeling requirements.

Any device permitted by this division shall have printed in English on the label or container thereof the total weight of combustible substance, the name of the chemical composition and a brief statement describing its action when ignited.

(Ord. No. 86-9, § 5, 2-11-86)

Sec. 62-88. - Designation as dangerous products.

It is the intent of this division to adopt and affirm the state tort law imposing strict liability upon vendors, distributors and manufacturers of dangerous products. Fireworks and sparklers shall be deemed ultra-hazardous and dangerous products, subjecting the vendors, distributors and manufacturers to strict liability for any injury sustained by a purchaser or user of such item.

(Ord. No. 86-9, § 6, 2-11-86)

Sec. 62-89. - Fire authority to issue permits governing the sale of fireworks.

(a)

The fire authority is authorized to issue permits which shall be required for all sales of fireworks within the county subject to the limitations of section 62-83.

(b)

Any person, firm, partnership, or corporation engaging in the sale, at retail or wholesale, or in the distributing or manufacturing of fireworks must first apply for and secure a permit from the authority. This requirement is in addition to any licensing or permitting required by any municipality. Any sale of fireworks without first obtaining a permit is a violation of this division.

(c)

In order to obtain a permit, the applicant, must provide proof of compliance with all state and federal regulations regarding the storage, display for sale and sale of fireworks at each location listed on the application.

(d)

The application for such permit shall include proof that the applicant is registered with the division of the state fire marshal as a wholesaler, distributor or manufacturer of fireworks pursuant to F.S. § 791.015, and shall be accompanied by a permit fee in an amount to be established by resolution of the board of county commissioners which may be set in an amount sufficient to pay for the cost of regulatory requirements of this article.

(e)

The applicant must show evidence of financial responsibility pursuant to section 62-90.

(f)

The applicant must disclose the name and address of all persons or entities having an interest (financial, security or otherwise) in the inventory that will be offered for sale.

(g)

Each location at which the applicant intends to display fireworks for sale or sell fireworks must be listed on the application. The application must also list the name of the manager in charge of each location and their address. The permit shall be issued in the name of the applicant only and shall not be transferable.

(h)

The application for the permit shall also list the nature of any other sales or business operations of the applicant which are to take place at the permitted premises.

(i)

Once a permit is issued, the permit holder shall have a continuing obligation to notify the authority of any change in the information set forth in the application for the permit including, but not limited to any changes in physical address closure of the permit holders operations at any location where the permit holder does business in the county.

(j)

As a condition of maintaining the permit, the permit holder must comply with all federal, state and local regulations governing the sale and storage of fireworks, and must maintain all necessary permits required by federal, state or local law, ordinance or regulation. The permit holder must also comply with the record keeping provisions of this division.

(k)

The authority is authorized to issue temporary fireworks sales permits which shall be in force for a period not to exceed 90 days and annual fireworks sales permits which shall remain in effect for no longer than 12 months.

(Ord. No. 03-48, § 5, 6-24-03)

Sec. 62-90. - Evidence of financial responsibility.

In furtherance of the provisions of section 62-88, all sellers of fireworks, must keep in force an insurance policy showing general, comprehensive, liability and property damage insurance coverage on an occurrence basis with minimum limits in the policy of not less than $1,000,000.00 combined single limit coverage for each loss that may result from the activities of the sellers. Sellers must maintain Workers' Compensation coverage as required pursuant to F.S. Ch. 440. A failure to maintain this required coverage after the procurement of a permit shall be a violation of this division and grounds for suspension of their permit from the authority and the sale of the permitted goods as set forth in section 62-82 shall cease until such time as the required insurance is obtained.

(Ord. No. 03-48, § 6, 6-24-03)

Sec. 62-91. - Severability.

If any section, subsection, sentence, clause, phrase or provision of this article is for any reason held invalid or unconstitutional by any court ofcompetent jurisdiction, such holding shall not be construed to render the remaining provisions of this article invalid or unconstitutional.

(Ord. No. 03-48, § 7, 6-24-03)

Secs. 62-92—62-95. - Reserved.
DIVISION 2. - USE AND DISPLAY

Sec. 62-96. - Authority.

This division is enacted pursuant to the Home Rule Charter of Pinellas County and F.S. ch. 791.

(Ord. No. 98-5, § 1, 1-6-98)

Sec. 62-97. - Applicability and purpose.

This division is applicable to the unincorporated areas on the county. The purpose of this division is to regulate the display of fireworks in the county and to provide permitting requirements for the outdoor display of fireworks and use of pyrotechnics before a proximate audience.

(Ord. No. 98-5, § 2, 1-6-98)

Sec. 62-98. - Definitions.

The following words and terms shall have the meanings set out below, unless the context clearly indicates otherwise:

Fire district means the Pinellas County Fire Administration and any of the municipalities, special fire control districts, or not-for-profit corporations within whom the Pinellas County Fire Protection Authority contracts for fire protection services, pursuant to chapter 62, Article II, of the Pinellas County Code.

Fire district official means the fire chief of the respective fire district or his designee.

Fireworks means and includes any combustible or explosive composition or substance or combination of substances, or unless otherwise exempt, any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation. The term includes blank cartridges and toy cannons in which explosives are used, firecrackers, torpedoes, skyrockets, roman candles, dago bombs, and any fireworks containing any explosives or flammable compound or any tablets or other device containing any explosive substance.

The term "fireworks" does not include the following items:

(1)

Sparklers approved by the State Fire Marshal's Office in accordance with Chapter 4A-50, Florida Administrative Code.

(2)

Toy pistols, toy canes, toy guns, or other devices in which paper cups containing .25 grains or less of explosive compound are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for the explosion.

(3)

A snake or glowworm, which is a pressed pellet of not more than ten grams of pyrotechnic composition that produces a large, snakelike ash that expands in length as the pellet burns and that does not contain mercuric thiocyanate.

(4)

A smoke device, which is a tube or sphere containing not more than ten grams of pyrotechnic composition that, upon burning, produces white or colored smoke as the primary effect.

(5)

A trick noisemaker, which is a device that produces a small report intended to surprise the user and includes:

a.

A party popper, which is a small plastic or paper device containing not more than 16 milligrams of explosive composition that is friction sensitive and ignited by pulling a string protruding from the device that expels a paper streamer and produces a small report.

b.

A booby trap, which is a small tube with a string protruding from both ends containing not more than 16 milligrams of explosive compound and ignited by pulling the ends of the string that produces a small report.

c.

A snapper, which is a small paper-wrapped device containing not more than four milligrams of explosive composition coated on small bits of sand that, when dropped, explodes, producing a small report. A snapper may not contain more than 250 milligrams of total sand and explosive composition.

d.

A cigarette load, which is a small wooden peg that has been coated with not more than 16 milligrams of explosive or pyrotechnic composition that, upon ignition of a cigarette containing one of the pegs, produces a small report.

e.

An auto burglar alarm, which is a tube containing not more than ten trams of pyrotechnic composition that produces a loud whistle or smoke when ignited and is ignited by use of a squib. A small quantity of explosives not exceeding 50 milligrams may also be used to produce a small report.

Proximate audience means an audience to an indoor display and which is closer to pyrotechnic devices than allowed by N.F.P.A. 1123, 1995 Edition.

Pyrotechnic operator means the person responsible for pyrotechnic safety and who controls, initiates, or otherwise creates special effects. The operator is also responsible for storing, setting up and removing pyrotechnic material or devices after a performance.

Pyrotechnic means the science of controlled exothermic chemical reactions that are timed to create the effects of heat, gas, sound, dispersion of aerosols, emission of visible electromagnetic radiation, or a combination of these effects to provide the maximum effect from least volume.

Pyrotechnics material means a chemical mixture used in the entertainment industry to produce visible or audible effects by combustion, deflagration, or detonation. Such chemical mixture predominately consists of solids capable of producing a controlled, self-sustaining, and self-contained exothermic chemical reaction that results in heat, gas, sound, light, or a combination of these effects. The chemical reaction functions

without external oxygen.

Sparkler means a device which emits showers of sparks upon burning, does not contain any explosive compound, does not detonate or explode, is hand-held or ground-based, cannot propel itself through the air, and contains not more than 100 grams of chemical compound which produces sparks upon burning. If a sparkler or item similar to a sparkler does not appear on the state fire marshal's "List of Approved Sparklers," it will be considered a firework.

(Ord. No. 98-5, § 3, 1-6-98)

Sec. 62-99. - Use of fireworks.

No person or entity can use, explode, or store, fireworks in the county, unless:

(1)

The person or entity first obtains an appropriate county permit for the display of fireworks or pyrotechnics in accordance with this division; or

(2)

The use is by a railroad or other transportation agency for illumination or signal purposes or the use is associated with quarrying, blasting, or another industrial purpose in accordance with F.S. § 791.04; or

(3)

The use in conjunction with a bona fide agricultural use, as provided in F.S. § 791.07.

(Ord. No. 98-5, § 4, 1-6-98)

Sec. 62-100. - Display of fireworks.

The supervised public display of fireworks is permitted if the requirements of this section have been met. All displays must be in accordance with the Code for the Display of Fireworks, as set out in N.F.P.A. 1123, 1990 Edition and NFPA 1126, 1996 Edition.

(1)

Application requirements.

a.

An application for a permit to operate a display of fireworks in accordance with this division shall be made with the appropriate fire district at least 15 days prior to the scheduled date of the event. The application shall be in a form prepared and approved by Pinellas County Fire Administration.

b.

The application submitted by any applicant must contain the following information:

1.

The name of the individual, group or organization sponsoring the fireworks display, together with the names of persons actually in charge of the firing of the display;

2.

Evidence of financial responsibility in the form of proof of public liability insurance in an amount not less than $1,000,000.00 combined single limits bodily injury and property damage with no aggregate.

3.

The date and time the display is scheduled to be held;

4.

The exact location planned for the fireworks or pyrotechnics display;

5.

The approximate number and kinds of fireworks to be discharged;

6.

The manner and place of storage of the fireworks prior to delivery and discharge at the display site; and

7.

A diagram of the grounds, or buildings where the display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways and other lines of communication, the lines behind which the audience will be restrained, and the location of other possible overhead obstructions.

(2)

Permit approval.

a.

All applications will be reviewed to determine if the requirements of this division have been met. Each proposed location will be inspected or investigated to determine if the location complies with the regulations for the display of fireworks.

b.

The appropriate fire district will determine if the display of fireworks, as proposed by the applicant, will provide an acceptable degree of life safety based upon the terrain, available fire protection features or other requirements deemed appropriate by the fire official.

c.

The fire district official may, as a condition of the permit, require on-site uniformed district personnel, specialized fire protection equipment or extra suppression equipment. Any costs incurred to comply with the conditions of the permit will be the responsibility of the applicant.

d.

A permit may be revoked at any time if the applicant fails to comply with the terms and conditions of the permit.

e.

A permit granted in accordance with this division is not transferable.

(Ord. No. 98-5, § 5, 1-6-98)

Sec. 62-101. - Penalties and enforcement.

Any person, firm or corporation, or any agent thereof, who violates any provision of this division may be subject to criminal sanction in accordance with F.S. ch. 791. Each violation of this division constitutes a separate offense and is punishable as such.

Responsibility for the enforcement of this division lies with the Pinellas County Sheriff's Department and the appropriate fire district. In the event fireworks are displayed in violation of this division, the sheriff's department may seize, take or remove the illegal items at the owner's expense and seek criminal action against the violator as appropriate.

It will be the responsibility of the fire district official to obtain compliance with respect to building code and county permitting requirements applicable to the display, sale, storage and manufacture of fireworks and sparklers.

Nothing in this division may prevent the county from bringing a civil action or imposing civil penalties upon a violator in an appropriate case.

(Ord. No. 98-5, § 6, 1-6-98)

Chapter 66 - HEALTH AND SANITATION[1]
Footnotes:
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Charter reference— General powers of county, § 2.01; power to develop public health programs, § 2.04(e).

Cross reference— Health facilities authority, § 2-421 et seq.; animals, ch. 14; child care centers, § 26-26 et seq.; roadside markets, § 26-151 et seq.; additional court costs imposed upon persons found guilty of misdemeanor involving illegal use of alcohol or drugs, § 46-26; environment, ch. 58; mosquito control, § 58-416 et seq.; solid waste, ch. 106.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g); authority to provide health programs, welfare programs and hospitals, F.S. § 125.01(1)(e); public health facilities, F.S. ch. 154; public health and social welfare generally, F.S. chs. 381—430.

ARTICLE I. - IN GENERAL

Secs. 66-1—66-25. - Reserved.

ARTICLE II. - HEALTH PERMITS
DIVISION 1. - GENERALLY

Sec. 66-26. - Denial or revocation of.

(a)

Definitions. As used in this section:

Director of the health department means the Director of the Pinellas County Health Department or his or her designee.

Health department means the county health department.

(b)

Denial of permits.

(1)

When the health department denies the issuance of any county permit, it shall send to the persons seeking such permit a written statement of the findings which caused such permit to be denied.

(2)

Upon request by the person denied a permit, the health department shall set up a prompt hearing before the director of the health department. A decision in the matter by the director of the health department shall be binding upon the health department.

(c)

Revocation of permits.

(1)

When the health department determines that any plant, outlet, establishment, system or other facility holding a county permit is not maintaining the minimum standards required for the issuance of such permit, the health department may set up a revocation hearing before the director of the health department.

(2)

Notice shall be given by personal delivery or by certified or registered mail to the record holder of such permit at least 14 days prior to the hearing and shall include a statement of the findings of the health department that warrant revocation. The establishment shall have the right to waive such notice and, in addition, the director of the health department shall have the right to dispense with such notice for the continuation of any hearing, for revocation or otherwise, or for follow-up hearings on any matters which have come before the director of the health department; provided, however, actual notice shall be given to the establishment.

(3)

A decision of the director of the health department shall be binding on the health department.

(4)

When the health department finds that immediate serious danger to the public health, safety or welfare requires emergency suspension of any permit, the health department may summarily suspend such permit provided that a revocation hearing shall be promptly instituted.

(d)

Hearings

(1)

At any hearing, a person denied a permit by the health department or a person holding a permit which the health department seeks to revoke, either individually or by counsel, shall have the opportunity to respond to the findings of the health department, to present evidence, to present witnesses and to cross-examine witnesses.

(2)

Minutes of each hearing shall be taken, a copy of which shall be preserved at the health department.

(3)

The director of the health department may accept, reject, or modify the findings of the health department and shall render a written statement of his or her decision within seven days.

(e)

Areas embraced. All territory within the legal boundaries of Pinellas County, Florida, including all incorporated and all unincorporated areas, shall be embraced by the provisions of this section.

(Ord. No. 75-2, §§ 1—5, 1-7-75; Ord. No. 76-24, §§ 1, 2, 11-9-76; Ord. No. 10-66, § 1, 11-30-10)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Secs. 66-27—66-35. - Reserved.

DIVISION 2. - PUBLIC SWIMMING POOLS, TRAILER PARKS AND INDIVIDUAL SEWAGE DISPOSAL SYSTEMS

Sec. 66-36. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Individual sewage disposal system means any facility serving individual buildings for the disposal of human excreta and sewage waste and shall include, but is not limited to, septic tanks.

Mobile home means a structure, transportable in one or more sections, which is eight feet or more in width and is 32 feet or more in length, built on a permanent chassis, and designated to be used as a dwelling with or

without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein.

Mobile home park means a place set aside and offered by a person or public body for the parking or accommodation of six or more mobile homes utilized for sleeping or eating for either direct or indirect remuneration to the owner, lessor or operator of such place.

Private swimming pool means a swimming pool used only by an individual citizen and his family or house guests and shall not include any type of cooperative housing or joint tenancy of five or more families.

Public swimming pool means any swimming pool that is not a private swimming pool.

Recreational vehicle means a vehicular, portable structure built on a chassis, designed as a temporary dwelling for travel, recreation or vacation, having a transportable body width not exceeding eight feet and a length not exceeding 35 feet.

Recreational vehicle park means a place set aside and offered by a person or public body for the parking and accommodation of six or more recreational vehicles utilized for sleeping or eating for either direct or indirect remuneration to the owner, lessor or operator of such place, and also includes buildings and sites set aside for group camping and similar recreational facilities.

Septic tank means any watertight tank or receptacle used as a reservoir for receiving or disposing sewage wastes.

Swimming pool means a structure of concrete, masonry or other approved material and finish, located either indoors or outdoors, used or designed to be used for bathing or swimming purposes by humans, and filled with a controlled water supply, together with buildings, appurtenances and equipment used in connection therewith, which includes, but is not limited to, conventional pools, spa-type pools, special purpose pools, and water recreation attractions.

(Ord. No. 74-8, § 1, 7-30-74; Ord. No. 84-12, § 1, 5-1-84; Ord. No. 97-66, § 1, 8-12-97; Ord. No. 10-66, § 2, 11-30-10)

Cross reference— Definitions generally, § 1-2.

Sec. 66-37. - Purpose.

The purpose of this division is to protect the health, safety and general welfare of the citizens of the county and to prevent disease through the maintenance of sanitary health conditions. In order to accomplish the foregoing purpose it is deemed necessary to establish a system of permits for the activities described in this division.

(Ord. No. 74-8, § 2, 7-30-74)

Sec. 66-38. - Prohibitions and duties.

(a)

No person shall operate or maintain any public swimming pool, mobile home park or recreational vehicle park without first obtaining and maintaining on, an annual basis, a valid permit from the health department.

(b)

Any person who operates or maintains any public swimming pool must complete a course of instruction and training conducted or approved by the health department.

(c)

No construction, extension, or alteration of a public swimming pool shall take place before the complete plans for such establishment showing existing and proposed facilities have been approved and an initial operating permit obtained, in writing, from the health department.

(d)

No person shall install or cause to be installed any individual sewage disposal system without first obtaining a permit from the health department.

(e)

Permits issued under this division shall not be transferable from one person to another or from one physical location to another unless permission is first obtained from the health department.

(f)

Permits issued under this division shall be conspicuously displayed at the location of the facility.

(Ord. No. 74-8, § 3, 7-30-74; Ord. No. 84-12, § 2, 5-1-84; Ord. No. 97-66, § 2, 8-12-97; Ord. No. 10-66, § 3, 11-30-10)

Sec. 66-39. - Inspections and permits.

(a)

The health department shall inspect the facilities of each applicant for a permit under this division prior to issuing any of the required permits.

(b)

The health department regularly shall inspect the operations and facilities of each person holding a permit required by subsection 66-38(a), but in no case less than once each year.

(c)

The health department shall issue a permit under this division to each applicant or renewal applicant who meets the minimum requirements set by law and shall deny permits to those applicants who do not meet such requirements. "Minimum requirements set by law" shall mean all requirements set by F.S. ch. 514; regulations adopted as found in the Florida Administrative Code 64E-9; and county ordinances, as amended.

(d)

Any conflicts between the other provisions of this Code and the F.S. ch. 514 and the Florida Administrative Code 64E-9 shall be resolved in favor of this Code. Compliance with all provisions and any future

amendments thereto is required hereby as if said provisions were herein set forth in full. However, pools not to be used for and expressly prohibiting diving may be of any width and length.

(e)

An applicant may apply for a variance from any specific requirement mandated under subsection 66-39(c) of this Code. The Pinellas County Swimming Pool Board for Examining Adjustments and Appeals shall review any variance application under this subsection. The Board 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 Code or the technical codes or public interest, and the board also finds all of the following:

(1)

There are special conditions and circumstances that exist which are peculiar to the building, structure, service system, or individual involved.

(2)

That the special conditions and circumstances do not result from the action or inaction of the applicant.

(3)

That the variance granted is the minimum variance that will resolve the issue.

(4)

That the granting of the variance will be in harmony with the general intent and purpose of the law and will not be detrimental to the public health, safety, and general welfare.

(f)

In order to stagger the processing of permits throughout the year, a permit issued under this division to any new applicant may be valid for any specific period up to one year. Permits issued thereafter shall be valid for a period of one year.

(g)

The health department shall collect a fee for each permit issued under this division, at rates set by the board of county commissioners or as otherwise set by law. If a permit is issued for less than a full year, the fee shall be prorated.

(Ord. No. 74-8, § 4, 7-30-74; Ord. No. 84-12, § 3, 5-1-84; Ord. No. 97-66, § 3, 8-12-97; Ord. No. 10-66, § 4, 11-30-10)

Sec. 66-40. - Pool permits; fees.

(a)

There shall exist an annual operating permit and an accompanying annual fee for all public swimming pools as defined by this chapter.

(b)

The following additional permits and fees shall be required for pools exempted from regulation by the department of health pursuant to the provisions of F.S. ch. 514:

(1)

Any new construction for such pools shall not commence until a construction permit is obtained through the health department; and

(2)

An initial operating permit shall be required before any person may begin use of the pool; and

(3)

An annual operating permit fee shall be due in addition to the operating fee charged in (a) above.

(c)

All fees for permits shall be set by the board of county commissioners pursuant to a resolution.

(Ord. No. 97-66, § 4, 8-12-97)

Sec. 66-41. - Area embraced.

All territory within the legal boundaries of Pinellas County, Florida, including all incorporated and all unincorporated areas, shall be embraced by the provisions of this division.

(Ord. No. 74-8, § 6, 7-30-74; Ord. No. 97-66, § 5, 8-12-97)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Secs. 66-42—66-50. - Reserved.

DIVISION 3. - BOTTLED WATER PLANTS, FOOD OUTLETS, FOOD PROCESSING PLANTS AND FOOD SERVICE ESTABLISHMENTS

Sec. 66-51. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Caterer means any food service establishment where food or drink is prepared for service elsewhere. Such term includes catering kitchens, commissaries and places which provide multiuse eating or drinking utensils, with or without charge.

Commissary means a food service establishment or any other commercial establishment in which food, containers or supplies are kept, handled, prepared, packaged or stored, or where utensils are sanitized.

Community based residential facility means any institution, building, residence, private home, or other place, whether operated for profit or not, including those places operated by a county or municipality, which

undertakes through its ownership or management to provide housing, food service, nursing care or custodial care over a period exceeding 24 hours for three or more persons not related to the owner or manager by blood or marriage, but shall not include any place providing care and treatment primarily for the acutely ill. A facility offering services for less than three persons shall be within the meaning of this definition if it holds itself out to the public to be an establishment which regularly provides such services.

Food means any raw, cooked or processed edible substance, ice, beverage or ingredient used or intended for use, in whole or in part, for human consumption.

Food service establishment means any place where food is prepared and intended for individual portion service, and includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term also includes delicatessen-type operations that prepare sandwiches, salads and other food intended for individual service, or establishments where dishes, glasses, utensils, or equipment for food preparation or service are washed. The term does not include private homes where food is prepared or served for individual family consumption, candy counters, or vending machines, and does not include food service establishments licensed pursuant to F.S. Ch. 500, F.S. Ch. 509, or F.S. Ch. 381.

Minimum requirements set by law means all requirements set by state statutes and regulations adopted thereunder, including but not limited to chapters 64E-11 and 64E-12 of the Florida Administrative Code, and county and municipal ordinances, as amended, all of which are hereby incorporated by reference as part of this division. Sections 64E-11.004(2) and 64E-12.004(2)(g)(h) of the Florida Administrative Code shall apply as minimum requirements for all facilities permitted under this division regardless of the number of residents in care.

Mobile food unit means any vehicle-mounted food service establishment which is self-propelled or movable from place to place. The term does not include mobile food units licensed pursuant to F.S. Ch. 500, F.S. Ch. 509, or F.S. Ch. 381.

Temporary food service establishment means any food service establishment which operates at a fixed location for a temporary period of time or not more than 18 consecutive days in conjunction with a single event or celebration. The term does not include temporary food service establishments licensed pursuant to F.S. Ch. 500, or F.S. Ch. 509.

(Ord. No. 75-3, § 1, 1-7-75; Ord. No. 75-13, § 5, 6-3-75; Ord. No. 84-13, § 1, 5-1-84; Ord. No. 89-19, § 1, 5-9-89; Ord. No. 03-53, § 1, 7-1-03)

Cross reference— Definitions generally, § 1-2.

Sec. 66-52. - Purpose.

The purpose of this division is to protect the health, safety and general welfare of the citizens of the county and to prevent disease through the maintenance of sanitary health conditions. In order to accomplish the foregoing purpose it is deemed necessary to establish a system of permits for the activities described in this division.

(Ord. No. 75-3, § 2, 1-7-75)

Sec. 66-53. - Prohibitions and duties.

(a)

No person shall operate or maintain any food service establishment, caterer, commissary, community based residential facility, mobile food unit or temporary food service establishment without first obtaining and maintaining on a current basis a valid permit from the health department.

(b)

No person shall serve food prepared in a caterer or commissary located outside the areas embraced by the provisions of this division unless such food is prepared in a location and under conditions which meet the minimum requirements set by law. Such minimum requirements shall be evidenced by a valid permit from the health authority having jurisdiction. Should the food prepared by such a caterer or commissary not meet minimum requirements, the health department shall not issue a new permit until a reinspection report is completed by the health authority having jurisdiction.

(c)

No construction, extension or alteration of a food service establishment, caterer, commissary, community based residential facility, mobile food unit or temporary food service establishment shall take place before the complete plan for such establishment showing existing and proposed facilities has received written approval by the health department.

(Ord. No. 75-3, § 3, 1-7-75; Ord. No. 84-13, § 2, 5-1-84; Ord. No. 03-53, § 1, 7-1-03)

Sec. 66-54. - Inspections and permits.

(a)

The health department shall inspect the facilities of each applicant for a permit under this division prior to issuing such permit.

(b)

The health department regularly shall inspect the operations and facilities of each person holding a permit required by section 66-53(a).

(c)

The health department shall issue a permit under this division to each applicant or renewal applicant who meets the minimum requirements set by law, and who pays any required service fees as set by the board of county commissioners or as otherwise set by law. The health department shall deny permits to all other applicants.

(d)

Permits under this division shall be valid for the length of time issued, but in no case for more than one year.

(Ord. No. 75-3, § 4, 1-7-75; Ord. No. 84-13, § 3, 5-1-84)

Sec. 66-55. - Food establishment management certificate.

(a)

In order to encourage and assist food service establishments to institute and maintain acceptable sanitary operations and in order to minimize the possibility of disease outbreaks, at least one person in a managerial position at each such establishment is hereby required to obtain and maintain on a current basis a food service establishment management certificate. This requirement does not apply to establishments licensed pursuant to F.S. Ch. 500, F.S. Ch. 509, or F.S. Ch. 381.

(b)

A food establishment management certificate shall be issued to an applicant upon satisfactory completion of a training course approved by the state department of health. Such course shall deal with basic food hygiene relating to source of food, proper storage, preparation, serving and the maintenance of sanitary conditions, and shall contain at least the minimum number of hours of instruction or approval by the state department of health.

(c)

Certificates issued pursuant to this section shall be valid for a five-year period.

(Ord. No. 75-3, § 5, 1-7-75; Ord. No. 84-13, § 4, 5-1-84; Ord. No. 89-19, § 2, 5-9-89; Ord. No. 03-53, § 1, 7-1-03)

Sec. 66-56. - Areas embraced.

All territory within the legal boundaries of Pinellas County, Florida, including all incorporated and unincorporated areas, shall be embraced by the provisions of this division.

(Ord. No. 75-3, § 7, 1-7-75)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Secs. 66-57—66-65. - Reserved.

DIVISION 4. - NURSING HOMES, SEPTIC TANK PUMPERS, AND HYDROTHERAPY, WHIRLPOOL OR SPA POOLS

Sec. 66-66. - Nursing homes and other community based residential facilities.

(a)

Definitions. As used in this section:

Health department means the county health department.

Nursing home and other community based residential facility means any institution, building, residence, private home, or other place, whether operated for profit or not, including those places operated by a county or municipality, which undertakes through its ownership or management to provide housing, food service, nursing care or custodial care over a period exceeding 24 hours for three or more persons not related to the owner or manager by blood or marriage, but shall not include any place providing care and treatment primarily for the acutely ill. A facility offering services for less than three persons shall be within the meaning of this definition if it holds itself out to the public to be an establishment which regularly provides

such services.

Resident means any person residing in and receiving care or personal services from a nursing home or other community based residential facility.

(b)

Purpose. The purpose of this section is to protect the health, safety, and general welfare of the citizens of the county by prevention of disease and injury among nursing home and other community based residential facility residents through the maintenance of high standards of care in a safe, sanitary environment which provides the basic elements of human comfort. In order to accomplish the foregoing purpose, it is deemed necessary to establish a system of permits for nursing homes and other community based residential facilities.

(c)

Prohibitions and duties.

(1)

No person shall operate or maintain any nursing home or other community based residential facility without first obtaining and maintaining, on a current basis, a valid permit from the health department.

(2)

No construction, extension, or alteration of a nursing home or other community based residential facility shall take place before the complete plans for such establishments showing existing and proposed facilities have been approved in writing by the health department.

(3)

Permits issued under this section shall not be transferable from one person to another or from one physical location to another unless written permission is first obtained from the health department.

(4)

Permits issued under this section shall be conspicuously displayed at the location of the business office of the person holding the permit.

(d)

Inspections and permits.

(1)

The health department shall inspect the applicable facilities and equipment of each applicant for a permit under this section prior to issuing such permit.

(2)

The health department regularly shall inspect the operations and the applicable facilities and equipment of each person holding a nursing home or other community based residential facility permit, but in no case less

than twice each year.

(3)

The health department shall issue a permit to each applicant or renewal applicant who meets the minimum requirements for the maintenance and operation of a nursing home or other community based residential facility and who pays any required service fees; it shall deny permits to all other applicants. "Minimum requirements for the maintenance and operation of a nursing home or other community based residential facility" shall mean all requirements set by state law; by regulations adopted thereunder, including but not limited to chapter 64E-12 of the Florida Administrative Code; and by county and municipal ordinances; all of which are hereby adopted by reference as part of this section. The permit fees shall be established by resolution as set by the board of county commissioners.

(4)

Permits shall be valid for the length of time issued, but in no case for more than one year.

(e)

Areas embraced. All territory within the legal boundaries of Pinellas County, Florida, including all incorporated and unincorporated areas, shall be embraced by the provisions of this section.

(Ord. No. 79-28, §§ 1—4, 7, 10-2-79; Ord. No. 01-32, § 1, 5-15-01; Ord. No. 10-66, § 5, 11-30-10)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 66-67. - Septic tank pumpers.

(a)

Definitions. As used in this section:

Health department means the county health department.

Septic tank pumper means any equipment or vehicle used for pumping out and hauling waste liquids from septic tanks, grease traps, portable toilets, and other similar devices.

(b)

Purpose. The purpose of this section is to protect the health, safety, and general welfare of the citizens of the county and to prevent disease and injury through the maintenance of safe, sanitary and properly equipped septic tank pumpers. In order to accomplish the foregoing purpose, it is deemed necessary to establish a system of permits for the operation and maintenance of septic tank pumpers.

(c)

Prohibitions and duties.

(1)

No person shall operate or maintain any septic tank pumper without first obtaining and maintaining on a

current basis a valid permit from the health department.

(2)

Permits shall not be transferable from one person to another or from one septic tank pumper to another unless written permission is first obtained from the health department.

(3)

Permits issued under this section shall be conspicuously displayed at the location of the business office of the person holding the permit.

(d)

Inspections and permits.

(1)

The health department shall inspect each septic tank pumper prior to issuing a permit under this section.

(2)

The health department regularly shall inspect each septic tank pumper for which a permit has been granted, but in no case less than once each year.

(3)

The health department shall issue a permit under this section to each applicant or renewal applicant who meets the minimum requirements for the maintenance and operation of a septic tank pumper and who pays any required service fees; it shall deny permits to all other applicants. "Minimum requirements for the maintenance and operation of a septic tank pumper" shall mean all requirements set by state law; by regulations adopted thereunder, including but not limited to chapter 10D-6 of the Florida Administrative Code; and by county and municipal ordinances; all of which are hereby adopted by reference as part of this section.

(4)

Permits shall be valid for the length of time issued, but in no case for more than one year.

(e)

Areas embraced. All territory within the legal boundaries of Pinellas County, Florida, including all incorporated and unincorporated areas, shall be embraced by the provisions of this section.

(Ord. No. 79-29, §§ 1—4, 7, 10-2-79)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 66-68. - Hydrotherapy, whirlpool, spa pools.

(a)

Definitions. As used in this section:

Health department means the county health department.

Hydrotherapy, whirlpool, or spa pool means any pool having a maximum depth of 48 inches to be used exclusively in conjunction with high velocity air and/or high velocity water recirculation systems, utilizing hot, cold, or ambient temperature water, either mineral or nonmineral in nature.

Private hydrotherapy, whirlpool, or spa pool means a hydrotherapy, whirlpool, or spa pool used only by an individual citizen and his family or house guests and shall not include any type of cooperative housing or joint tenancy of five or more families.

Public hydrotherapy, whirlpool, or spa pool means a hydrotherapy, whirlpool, or spa pool that is not a private hydrotherapy, whirlpool, or spa pool.

(b)

Purpose. The purpose of this section is to protect the health, safety, and general welfare of the citizens of the county and to prevent disease and injury through the maintenance of sanitary health conditions at public hydrotherapy, whirlpool and spa pools. In order to accomplish the foregoing purpose, it is deemed necessary to establish a system of permits for the operation and maintenance of public hydrotherapy, whirlpool and spa pools.

(c)

Prohibitions and duties.

(1)

No person shall operate or maintain any public hydrotherapy, whirlpool or spa pool without first obtaining and maintaining on a current basis a valid permit from the health department.

(2)

No construction, extension, or alteration of a public hydrotherapy, whirlpool or spa pool shall take place before the complete plans for such establishment showing existing and proposed facilities have been approved and an initial operating permit obtained in writing from the health department.

(3)

Any public hydrotherapy, whirlpool, or spa pool shall be exempted by the health department from the provisions of subsections (c)(1) and (c)(2) of this section upon presentation of proof that such pool is under the direct supervision of a licensed medical, osteopathic, podiatric, naturopathic, or chiropractic physician. Such proof shall be updated or renewed by June 1st of each calendar year.

(4)

Permits issued under this section shall not be transferable from one person to another or from one physical location to another unless written permission is first obtained from the health department.

(5)

Permits issued under this section shall be conspicuously displayed at the location of the business office of the person holding the permit.

(d)

Inspections and permits.

(1)

The health department shall inspect the applicable facilities and equipment of each applicant for a permit under this section prior to issuing such permit.

(2)

The health department regularly shall inspect the operations and the applicable facilities and equipment of each person holding a permit required by this section, but in no case less than once each year.

(3)

The health department shall issue a permit to each applicant or renewal applicant who meets the minimum requirements for the maintenance and operation of hydrotherapy, whirlpool or spa pools and who pays any required service fees; it shall deny permits to all other applicants. "Minimum requirements for the maintenance and operation of hydrotherapy, whirlpool and spa pools" shall mean all requirements set by state law; by regulations adopted thereunder, including but not limited to chapter 64E-9 of the Florida Administrative Code; and by county and municipal ordinances; all of which are hereby adopted by reference as part of this section.

(4)

Permits under this section shall be valid for the length of time issued, but in no case for more than one year.

(e)

An annual operating permit and accompanying fee is required for all public hydrotherapy, whirlpool, or spa pools as defined by this chapter.

(f)

The following additional permits and fees shall be required for all public hydrotherapy, whirlpool, or spa pools exempted from regulation by the department of health pursuant to the provisions of F.S. ch. 514:

(1)

Any new construction for all public hydrotherapy, whirlpool, or spa pools shall not commence until a construction permit is obtained through the county health department; and

(2)

An initial operating permit shall be required before any person may begin use of any public hydrotherapy, whirlpool, or spa pool; and

(3)

An annual operating permit fee shall be due in addition to the operating fee charged in (a) above.

(g)

All fees for permits shall be set by the board of county commissioners pursuant to resolution.

(h)

Areas embraced. All territory within the legal boundaries of Pinellas County, Florida, including all incorporated and unincorporated areas, shall be embraced by the provisions of this section.

(Ord. No. 79-31, §§ 1—4, 7, 10-2-79; Ord. No. 97-66, § 6, 8-12-97)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Chapter 70 - HUMAN RELATIONS[1]
Footnotes:
--- (**1**) ---

Charter reference— Human rights ordinances required, § 2.02(e).

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g); civil rights, F.S. chs. 760—765.

ARTICLE I. - IN GENERAL

Secs. 70-1—70-35. - Reserved.
ARTICLE II. - DISCRIMINATION
DIVISION 1. - GENERALLY

Sec. 70-36. - Territory embraced.

All territory within the legal boundaries of Pinellas County, Florida, including all unincorporated and incorporated areas, shall be embraced by the provisions of this article.

(Ord. No. 92-14, pt. III, § 7.02, 3-10-92; Ord. No. 93-29, 3-9-93)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 70-37. - Penalty for violation of article.

Violations of this article are punishable as provided in section 1-8.

Secs. 70-38—70-50. - Reserved.
DIVISION 2. - EMPLOYMENT[2]
Footnotes:
--- (**2**) ---

Cross reference— County affirmative action plan, § 94-71 et seq.

State Law reference— Employment discrimination, F.S. § 767.10.

Subdivision I. - In General

Sec. 70-51. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative law judge means a judge appointed by the State of Florida Division of Administrative Hearings to conduct hearings under this Code.

Age means any person being at least 18 years of age or legally emancipated.

Chairperson means the duly appointed chairperson or persons of the designated human rights commission.

Commission means the official body or bodies given authority by the board of county commissioners to administer this division.

Conciliation agreement means an agreement entered into between the complainant and respondent resolving the alleged discriminatory practice.

Director means the director of the human rights office.

Disability means:

(1)

A physical or mental impairment which substantially limits one or more of such person's major life activities;

(2)

A record of such an impairment; or

(3)

Being regarded as having such an impairment.

An individual having a disability is "qualified" with respect to employment if he can perform the essential functions of the job in question with reasonable accommodations.

Discriminatory practice means a practice designated as illegal or unlawful under the terms of this division.

Employee means any individual employed by, or seeking employment from, an employer.

Employer means a person who employs five or more employees for each working day in each of 13 or more calendar weeks in the current or preceding calendar year and any agent of such a person, but such term does not include:

(1)

The United States or a corporation wholly owned by the government of the United States;

(2)

An Indian tribe;

(3)

A bona fide private membership club; or

(4)

The state.

Employment agency means a person, or his agent, regularly undertaking to procure employees for an employer or opportunities for employees to work for an employer.

Gender includes but is not limited to sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, gender-related self-identity, self-image, appearance, expression or behavior, whether or not such gender-related characteristics differ from those associated with the individual's assigned sex or physiology at birth, which gender-related identity can be shown by evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity, or not being asserted for an improper purpose.

Hearing officer means that person selected to administer the conduct of a hearing.

Human relations or rights office means the enforcement agency or agencies designated or created by the board of county commissioners.

Labor organization means:

(1)

An organization of any kind representing employees in dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment;

(2)

A conference, general committee, system board, or council which is subordinate to a national or international labor organization; or

(3)

An agent of a labor organization.

Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

Marital status means the state of being unmarried, married, or separated, as defined by state law. The term

"unmarried" includes persons who are single, divorced, or widowed.

National origin means the origin of an ancestor, the country of origin of a person's forebears, naturally, by marriage, or by adoption.

Religion means any belief protected by the free exercise clause of the First Amendment to the United States Constitution.

Sexual orientation means an individual's actual or perceived heterosexuality, homosexuality, or bisexuality. This definition is not intended to protect any practice prohibited by federal, state, or local law.

Substantially limited means to experience difficulty in securing, retaining, or advancing in employment because of a disability.

Training program means any plan containing terms and conditions for qualification, recruitment, selection, employment, or training of employees to:

(1)

Enter a specific trade or occupation after completion of a specified training program; or

(2)

Offer a person already either partially or wholly trained in a specified trade or occupation an opportunity to advance himself after completion of a specified training program.

(Ord. No. 92-14, pt. I, § 2.01, 3-10-92; Ord. No. 99-104, § 1, 12-7-99; Ord. No. 08-28, § 1, 4-22-08; Ord. No. 13-21, § 1, 8-20-13)

Cross reference— Definitions generally, § 1-2.

Sec. 70-52. - Purposes and intent.

(a)

The general purposes of this division are to:

(1)

Provide for execution within the county of the policies embodied in the Federal Civil Rights Act of 1964, as amended.

(2)

Secure for all individuals within the county the freedom from discrimination because of race, color, religion, national origin, gender, sexual orientation, age, marital status, or disability in connection with employment, and thereby to promote the interests, rights and privileges of individuals within the county.

(b)

This division shall be liberally construed to preserve the public safety, health and general welfare, and to further the general purposes stated herein.

(c)

The enforcement of this division may be delegated by interlocal agreement to other units of local government or to nonprofit corporations.

(Ord. No. 92-14, pt. I, § 1.01, 3-10-92; Ord. No. 08-28, § 2, 4-22-08; Ord. No. 13-21, § 2, 8-20-13)

Sec. 70-53. - Unlawful practices.

(a)

Unlawful discrimination in employment practices.

(1)

Employers. It is a discriminatory practice for an employer to:

a.

Fail or refuse to hire, discharge, or otherwise discriminate against an individual with respect to compensation or the terms, conditions, or privileges of employment because of race, color, religion, national origin, gender, sexual orientation, age, marital status, or disability; or

b.

Limit, segregate, or classify an employee in a way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect the status of an employee because of race, color, religion, national origin, gender, sexual orientation, age, marital status, or disability.

c.

The above described prohibited discrimination on the basis of gender includes sexual harassment, including same-gender sexual harassment, and pregnancy discrimination.

(2)

Employment agencies. It is a discriminatory practice for an employment agency on the basis of race, color, religion, national origin, gender, sexual orientation, age, marital status, or disability to:

a.

Fail or refuse to refer for employment or otherwise discriminate against an individual; or

b.

Classify or refer for employment an individual on such a discriminatory basis.

(3)

Labor organizations. It is a discriminatory practice for a labor organization to:

a.

Exclude or to expel from membership or otherwise discriminate against any individual on the basis of race, color, religion, national origin, gender, sexual orientation, age, marital status, or disability;

b.

Limit, segregate, or classify membership or applicants for membership, or to classify or to fail or refuse to refer an individual for employment in a way which would deprive or tend to deprive, limit, or adversely affect an individual's employment opportunities on the basis of race, color, religion, national origin, gender, sexual orientation, age, marital status, or disability; or

c.

Cause, assist, or attempt to cause or assist an employer to violate this division.

(4)

Training programs. It is an unlawful practice for an employer, labor organization, or training committee to discriminate against an individual on the basis of race, color, religion, national origin, gender, sexual orientation, marital status, or disability in a training program providing apprenticeship or other training.

(5)

Advertising. It is a discriminatory practice for an employer, labor organization, or employment agency to publish an advertisement relating to employment, indicating a preference, limitation, specification, or discrimination based on race, color, religion, national origin, gender, sexual orientation, marital status, or disability.

(6)

Discriminatory information gathering. Except as permitted and required by regulations of the commission, or by applicable federal or state law, it is a discriminatory practice for an employer or employment agency to elicit information about an employee's race, color, religion, gender, sexual orientation, national origin, age, marital status, or disability, or to keep or disclose a record of such information for the purposes of effecting discrimination.

(b)

Exemptions to employment discriminatory practices. It is not a discriminatory employment practice for:

(1)

A religious corporation, association, or society to employ individuals of a particular religion to perform work connected with the beliefs, tenets and doctrines of the corporation, association, or society of its religious activities; or

(2)

A religious educational institution or religious organization owned, operated, supervised, or controlled by a religious institution or organization to limit employment or give preference to members of the same religion.

(Ord. No. 92-14, pt. I, § 3.01, 3-10-92; Ord. No. 99-104, § 2, 12-7-99; Ord. No. 08-28, § 3, 4-22-08; Ord. No.

13-21, § 3, 8-20-13)

Sec. 70-54. - Retaliation, coercion, interference, obstruction or prevention of compliance with division.

It is an unlawful discriminatory practice for a person to:

(1)

Retaliate or discriminate against a person because he or she has opposed a discriminatory practice, or because he or she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this division;

(2)

Aid, abet, incite, or coerce a person to engage in an unlawful discriminatory practice;

(3)

Willfully interfere with the performance of a duty or the exercise of a power by the commission or one of its staff members or representatives; or

(4)

Willfully obstruct or prevent a person from complying with the provisions of this division or an order issued thereunder.

(Ord. No. 92-14, pt. I, § 4.01, 3-10-92; Ord. No. 99-104, § 3, 12-7-99)

Secs. 70-55—70-75. - Reserved.
Subdivision II. - Violations

Sec. 70-76. - Filing of complaints.

(a)

Any person alleging that they have been subject to an unlawful discriminatory practice shall file a complaint in writing with the commission through the designated office or offices sworn to or affirmed, which shall state the name and address of the complainant and the person against whom complaint is made. It shall also state the alleged facts surrounding the alleged unlawful discriminatory practice and such other information as the commission may require or deems necessary. A complaint shall be filed within 180 days after the date of the alleged unlawful discriminatory practice in order to be processed under this division. No complaint shall be filed under this division for a claim which has previously been adjudicated under a similar municipal ordinance.

(b)

Complaints against Pinellas County or one of its agencies or constitutional officers may be filed with the City of St. Petersburg Office of Human Relations for those complainants residing south of Ulmerton Road, or with the City of Clearwater Office of Community Relations for those complainants residing north of Ulmerton Road. Such complaints shall be dual-filed with the Federal Equal Opportunity Commission (EEOC), under Title VII of the Civil Rights Act of 1964, as amended, and the complaints shall be forwarded, after the initial

filing, by the respective cities of St. Petersburg and Clearwater, to the EEOC for its exclusive investigation and handling in accordance with federal rules and regulations.

(c)

Notwithstanding the provisions of Pinellas County Code, section 1-4, all complaints against Pinellas County, its agencies, or constitutional officers, which, at the time of the passage of this section, are being processed by the cities of St. Petersburg or Clearwater, in accordance with an interlocal agreement between Pinellas County and those municipalities, including cases filed under this section which have been referred to an administrative hearing by a board of one of those municipalities, and which are pending an administrative hearing, shall be immediately closed and forwarded to the EEOC for further handling and processing, and the cities of Clearwater and St. Petersburg, and any municipal board created by those municipalities, are hereby divested of any further jurisdiction regarding those complaints. Should the cities of St. Petersburg and Clearwater attempt to take any action in contravention of this section, the county attorney shall initiate action in a court of competent jurisdiction to ensure that the provisions of this section are complied with.

(Ord. No. 92-14, pt. I, § 5.0, 3-10-92; Ord. No. 97-20, § 1, 4-8-97)

Sec. 70-77. - Processing of complaints; administrative hearings.

(a)

Notwithstanding the provisions of Pinellas County Code, section 1-4, no complaints brought under this section against Pinellas County, its agencies, or constitutional officers, shall be processed, nor shall an administrative hearing be conducted under this section, by any municipal body or board, but said complaints, including complaints which are presently being investigated or have been scheduled for administrative hearings by a municipal body or board, shall be closed and forwarded for further investigation and action by the Federal Equal Opportunity Commission (EEOC), in accordance with its rules and regulations.

(b)

Upon the filing of a complaint as set forth in section 70-76, the staff within 90 days shall make such investigation as the director deems appropriate to ascertain facts and issues. If, within 90 days, the complaint is not settled and if the director shall determine that there are reasonable grounds to believe an unlawful discriminatory practice has occurred, the director shall attempt to conciliate the matter by methods of initial conference and persuasion with all interested parties and such representatives as the parties may choose to assist them and shall have the option of scheduling a hearing date. Conciliation conferences shall be informal, and all reasonable efforts shall be made by the parties thereto to reach a settlement.

(c)

The terms of conciliation agreed to by the parties may be reduced to writing and incorporated into a consent agreement to be signed by the parties, which agreement is for conciliation purposes only and does not constitute an admission by any party that the law has been violated. Consent agreements shall be signed on behalf of the commission by the chairperson or acting chairperson.

(d)

If the director determines that the complaint lacks reasonable grounds upon which to base the violation of this division, the director shall dismiss the case, and inform the parties of his or her findings through the issuance

of a written report. A complainant may request reconsideration of a no cause finding within 15 days of receipt of the written report by notifying the director of such request in writing, with the specific grounds therefor included. Within 15 days of receipt of a request for reconsideration, the director shall issue a final determination, unless it is decided that further investigation must be conducted, in which case the final determination shall be issued within 45 days.

(e)

If the director, with respect to a matter which involves a contravention of this division, fails to conciliate a complaint, after the parties, in good faith, have attempted such conciliation, as provided in subsection (b) of this section, the director shall notify the parties within fifteen days that he or she has been unable to conciliate the complaint. The director shall thereafter, within ten days, notify the State of Florida Division of Administrative Hearings that a hearing shall be scheduled with respect to such complaint. The administrative hearing shall be conducted by the administrative law judge within 60 days of the director's request.

(f)

The administrative law judge shall have the powers at any time to administer oaths, issue subpoenas, compel the production of books, papers and other documents and receive evidence.

(1)

Whenever it is deemed necessary to compel the attendance of witnesses or the production for examination of any books, payrolls, personnel records, correspondence, documents, papers, or any other evidence relating to any matter under investigation or in question, the administrative law judge may issue a subpoena or subpoena duces tecum and thereby compel such attendance of witnesses or production for examination of books, papers and records.

(2)

The administrative law judge may issue a subpoena or subpoena duces tecum at the request of any party to a hearing or other proceedings. The issuance of such subpoena and subpoena duces tecum at the request of a party shall depend upon a showing of the necessity therefor.

(3)

Where a subpoena or subpoena duces tecum is applied for and issued at the request of any party to a hearing or other proceeding, the cost of service, witness and mileage fees, if any, shall be borne by the party at whose request it has been issued. Where a subpoena or subpoena duces tecum is issued at the request of the director, the cost of such service, witness, and mileage fees, if any, shall be borne by the commission.

(4)

Depositions of witnesses, including any party, may be taken as prescribed by the Florida Rules of Civil Procedure.

(5)

The administrative law judge may, at any time after the complaint is filed, require any party or witness to answer interrogatories. The procedure for interrogatories shall conform to the Florida Rules of Civil

Procedure, as far as is practicable.

(6)

If a person fails to permit access, fails to comply with a subpoena, refuses to have his deposition taken, refuses to answer interrogatories, or otherwise refuses to make discovery, the administrative law judge or any party may request an order of a court of proper jurisdiction.

(g)

All administrative hearings held pursuant to this division shall be subject to the following:

(1)

All motions upon which a ruling is requested shall be filed prior to the hearing date established by the administrative law judge. Such motions shall be considered and ruled upon by the administrative law judge prior to the start of the hearing. In any case where the administrative law judge is unable to consider such motion prior to the start of a hearing, and in order to prevent delay, such motion may be deferred for later review.

(2)

All motions and orders thereon shall be made a part of the record of such administrative proceedings.

(3)

If there are separately filed cases before the administrative law judge which involve similar issues of law and fact and identity of parties, then such cases may be consolidated for hearing before the administrative law judge.

(4)

Discovery shall be permitted upon motion of any party and shall proceed in the manner provided by the Florida Rules of Civil Procedure.

(5)

The administrative law judge shall order a pre-hearing conference prior to any administrative hearing. Prior to such conference the administrative law judge shall direct that the parties submit a pre-conference statement addressing the issues of law and fact that will be involved in such hearing, identify the witnesses that will testify, and provide a list of all documents or other types of exhibits that will be submitted.

(6)

All parties shall be afforded an opportunity for a hearing after reasonable notice of not less than 14 days; however, the 14-day notice requirement may be waived with the consent of all parties. The notice shall include:

a.

A statement of the time, place and nature of the hearing.

b.

A statement of the legal authority and jurisdiction under which the hearing is to be held.

c.

A reference to the particular sections of the ordinance and rules involved.

d.

A short and plain statement of the matters asserted by all parties of record at the time the notice is given.

(7)

Any requests for subpoenas in any administrative proceeding shall be filed with the administrative law judge. Such request shall set forth the name and address of the person whose attendance is requested and shall describe with particularity any material to be produced. The requesting party shall be responsible for service of any subpoena.

(8)

Any subpoena shall be subject to a motion to quash the same or a motion for protective order which motion shall be determined in the same manner as are other motions.

(9)

The official transcript of a hearing shall be preserved by tape recording, shorthand, court reporter or any similar means or combination. A party may request the commission to provide a court reporter for a hearing where the commission has elected not to do so. In such event, the requesting party shall be responsible for payment of the court reporter's per diem expense and any costs of transcribing the record.

(10)

All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to any order or administrative law judge's recommended order, and to be represented by counsel. When appropriate, the general public may be given an opportunity to present oral or written communications. If the commission proposes to consider such material, then all parties shall be given an opportunity to cross-examine or challenge or rebut it.

(11)

The record in cases governed by this subsection shall consist only of:

a.

All notices, pleadings, motions, and intermediate rulings;

b.

Evidence received or considered;

c.

A statement of matters officially recognized;

d.

Questions and proffers of proof and objections and rulings thereon;

e.

Proposed findings and exceptions;

f.

Any decision, opinion, proposed or recommended order, or report by the administrative law judge;

g.

All staff memoranda or data submitted to the administrative law judge during the hearing or prior to its disposition, after notice of the submission to all parties, if such communications are public records;

h.

All matters placed on the record after an ex parte communication; and

i.

The official transcript.

(12)

Findings of fact shall be based exclusively on the evidence of record and on matters officially recognized.

(13)

The administrative law judge shall complete and submit to all parties a recommended order consisting of his findings of fact, conclusions of law, interpretation of administrative rules, recommended remedy, if applicable, and any other information required by law or agency rule to be contained in the final order. The administrative law judge shall allow each party at least ten days in which to submit written exceptions to the recommended order. The recommended order must include specific factual findings by the administrative law judge relating to his or her jurisdiction over the complaint. The administrative law judge shall respond to submitted written exceptions and issue a final order within 30 days of the hearing.

(14)

The administrative law judge's final order shall be the final action under this section, and may be appealed by filing a petition for writ of certiorari in the circuit court of the Sixth Judicial Circuit in and for Pinellas County, Florida, within 30 calendar days of the date of the final order.

(h)

Notwithstanding any other provisions of this division, if the administrative law judge, human relation

employees, or the director, when acting on a charge or complaint, is required to perform some act within a particular time period and the administrative law judge, human relation employees, or the director fails to do the act within the required time period, that failure will not invalidate further proceedings on such charge or complaint and that failure shall not invalidate any of the powers of the administrative law judge, human relation employees, or director, provided that such required act is performed within a reasonable time.

(Ord. No. 92-14, pt. I, § 6.0, 3-10-92; Ord. No. 97-20, § 2, 4-8-97; Ord. No. 99-104, § 4, 12-7-99)

Sec. 70-78. - Enforcement.

(a)

The administrative law judge shall have the authority to award actual damages and reasonable costs and attorney's fees incurred by a party which were caused by a violation of this division.

(b)

Upon failure of any party to comply with an order of the administrative law judge to pay damages, a "petition for enforcement" may be filed by the board of county commissioners, or the complainant, in a court of competent jurisdiction. A court reviewing a petition for enforcement shall require the responding party to show cause, based upon the record established below, why such order should not be enforced, and shall enforce the order unless there is a showing by the responding party that, based upon the record, there is no competent substantial evidence to support the order and/or the order did comply with the essential requirements of law.

(c)

A court which receives a petition for enforcement as described in paragraph (b) above shall direct the responding party to show cause why the administrative law judge's order should not be enforced within 20 days from the date of the petition's filing. In making its decision, the reviewing court shall be limited to the record established under section 70-77 of this division.

(Ord. No. 92-14, pt. I, § 7.01, 3-10-92; Ord. No. 99-104, § 5, 12-7-99)

Secs. 70-79—70-100. - Reserved.

DIVISION 3. - HOUSING AND PUBLIC ACCOMMODATIONS[3]

Footnotes:

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State Law reference— Fair Housing Act, F.S. § 760.20 et seq.

Subdivision I. - In General

Sec. 70-101. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aggrieved person means any person who:

(1)

Claims to have been injured by a discriminatory housing practice; or

(2)

Believes that he will be injured by a discriminatory housing practice that is about to occur.

Commission means the official body or bodies given authority by the board of county commissioners to administer this division.

Complainant means a person, including the commission, who files a complaint under this division.

Conciliation means the attempted resolution of issues raised by a complaint or by the investigation of the complaint, through informal negotiations involving the aggrieved person, the respondent, and the commission.

Conciliation agreement means a written agreement setting forth the resolution of the issues in conciliation.

Discriminatory housing practice means an act prohibited by subdivision III of this division.

Dwelling means:

(1)

Any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families; or

(2)

Any vacant land that is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure described by subsection (1), above.

Familial status means one or more individuals, who have not attained the age of 18 years, being domiciled with:

(1)

A parent or another person having legal custody of such individual or individuals; or

(2)

The designee of such parent or other person having such custody, with the written permission of such parent or other person.

Family includes a single individual.

Gender includes but is not limited to sex, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, gender-related self-identity, self-image, appearance, expression or behavior, whether or not such gender-related characteristics differ from those associated with the individual's assigned sex or physiology at birth, which gender-related identity can be shown by evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity

or any other evidence that the gender-related identity is sincerely held, part of the person's core identity, or not being asserted for an improper purpose.

Handicap means a mental or physical impairment that substantially limits at least one major life activity, a record of such an impairment, or being regarded as having such an impairment. The term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)). In this division, a reference to "an individual with a handicap" or to "handicap" does not apply to an individual because of that individual's sexual orientation or because that individual is a transvestite.

Person includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under 11 U.S.C. section 101, et seq. (Bankruptcy Code), receivers and fiduciaries.

Respondent means:

(1)

The person or other entity accused of a violation of this division; or

(2)

Any person identified as an additional or substitute respondent under this division or an agent of an additional or substitute respondent.

Sexual orientation means an individual's actual or perceived heterosexuality, homosexuality, or bisexuality. This definition is not intended to protect any practice prohibited by federal, state, or local law.

To rent means to lease, to sublease, to let, or to otherwise grant for a consideration the right to occupy premises not owned by the occupant.

(Ord. No. 92-14, pt. II, §§ 1.02, 1.03(a), (b), 3-10-92; Ord. No. 92-49, §§ 1, 2, 9-1-92; Ord. No. 08-28, § 4, 4-22-08; Ord. No. 13-21, § 4, 8-20-13)

Cross reference— Definitions generally, § 1-2.

Sec. 70-102. - Familial status; application.

The protections afforded against discrimination in this division on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

(Ord. No. 92-14, pt. II, § 1.03, 3-10-92; Ord. No. 92-49, § 2, 9-1-92)

Sec. 70-103. - Purposes and intent.

(a)

The general purposes of this division are to:

(1)

Provide for execution within the county the policies embodied in title VIII of the Federal Civil Rights Act of 1968, as amended by the Federal Fair Housing Act Amendments of 1988.

(2)

Secure for all individuals within the county the freedom from discrimination because of race, color, religion, national origin, gender, sexual orientation, familial status, or handicap in connection with housing and public accommodations, and thereby to promote the interests, rights and privileges of individuals within the county.

(b)

This division shall be liberally construed to preserve the public safety, health and general welfare and to further the general purposes stated in this section.

(c)

The enforcement of this division may be delegated by interlocal agreement to fair housing boards or commissions of other units of local government, as provided in section 70-109 of this division.

(Ord. No. 92-14, pt. II, § 1.01, 3-10-92; Ord. No. 08-28, § 5, 4-22-08; Ord. No. 13-21, § 5, 8-20-13)

Sec. 70-104. - Certain sales and rentals exempted.

(a)

Except for the prohibitions against discriminatory advertising provided in subdivision III of this division, and subject to subsection (c) of this section, subdivision III of this division does not apply to:

(1)

The sale or rental of any single-family house by an owner, provided the following conditions are met:

a.

The owner does not own or have any interest in more than three single-family houses at any one time.

b.

The house is sold or rented without the use of a real estate broker, agent or salesperson or the facilities of any person in the business of selling or renting dwellings.

(2)

Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such quarters as his residence.

(b)

For the purposes of this section, the term "person in the business of selling or renting dwellings" means any person who:

(1)

Within the preceding 12 months has participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;

(2)

Within the preceding 12 months has participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

(3)

Is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

(c)

The exemption in subsection (a)(1) of this section applies only to one such sale in any 24-month period.

(Ord. No. 92-14, pt. II, § 1.04, 3-10-92; Ord. No. 92-49, § 3, 9-1-92)

Sec. 70-105. - Religious organization and private club exemptions.

(a)

This division does not prohibit a religious organization, association, or society, or a nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from:

(1)

Limiting the sale, rental, or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion, unless membership in the religion is restricted on account of race, color, or national origin; or

(2)

Giving preference to persons of the same religion, unless membership in the religion is restricted because of race, color, or national origin.

(b)

This division does not prohibit a private club not open to the public that, as an incident to its primary purpose, provides lodging that it owns or operates for other than a commercial purpose from limiting the rental or occupancy of that lodging to its members or from giving preference to its members.

(Ord. No. 92-14, pt. II, § 1.05, 3-10-92)

Sec. 70-106. - Housing for older persons exempted.

(a)

The provisions regarding familial status in this division shall not apply to housing intended for, and solely occupied by, persons 62 years of age or older. Housing satisfies the requirements of this section even though:

(1)

There are persons residing in such housing on September 13, 1988, who are under 62 years of age, provided that all new occupants are persons 62 years of age or older;

(2)

There are unoccupied units, provided that all such units are reserved for occupancy by persons 62 years of age or over;

(3)

There are units occupied by employees of the housing (and family members residing in the same unit) who are under 62 years of age, provided they perform substantial duties directly related to the management or maintenance of the housing.

(b)

The provisions regarding familial status shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit pursuant to this section.

(c)

In order to qualify as housing for older persons under this section, at least 80 percent of the units in the housing facility must be occupied by at least one person 55 years of age or older, except that a newly constructed housing facility for first occupancy after March 12, 1989, need not comply with this section until twenty percent of the units in the facility are occupied.

(d)

Housing satisfies the requirements of this section even though:

(1)

On September 13, 1988, under 80 percent of the occupied units in the housing facility are occupied by at least one person 55 years of age or older per unit, provided that at least 80 percent of the units are occupied after September 13, 1988, are occupied by at least one person 55 years of age or older.

(2)

There are unoccupied units, provided that at least 80 percent of the occupied units are occupied by at least one person 55 years of age or older;

(3)

There are units occupied by employees of the housing provider (and family members residing in the same unit) who are under 55 years of age, provided the employees perform substantial duties directly related to the management or maintenance of the housing.

(e)

A person shall not be personally liable for monetary damages for a violation of this part if such person reasonably relied in good faith on the application of the exemption under this section relating to housing for older persons. For purposes of this paragraph, a person may show good faith reliance on the application of the exemption only by showing that:

(1)

The person has no actual knowledge that the facility or the community is ineligible, or will become ineligible, for such exemption; and

(2)

The facility or community has stated formally, in writing, that the facility or community complies with the requirements for such exemption.

(Ord. No. 92-14, pt. II, § 1.06, 3-10-92; Ord. No. 97-20, § 3, 4-8-97)

Sec. 70-107. - Appraisals.

This division does not prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, gender, sexual orientation, handicap, familial status, or national origin.

(Ord. No. 92-14, pt. II, § 1.07, 3-10-92; Ord. No. 08-28, § 6, 4-22-08; Ord. No. 13-21, § 6, 8-20-13)

Sec. 70-108. - Effect of division on other laws.

(a)

This division does not affect a reasonable local or state restriction on the maximum number of occupants permitted to occupy a dwelling.

(b)

This division does not affect a requirement of nondiscrimination in any other state or federal law.

(Ord. No. 92-14, pt. II, § 1.08, 3-10-92; Ord. No. 92-49, § 4, 9-1-92)

Sec. 70-109. - Responsibility for administration of division.

The director of the county human rights office is authorized to administer the provisions of this part. Additionally, the board of county commissioners may designate other fair housing boards or commissions of units of local government within the county as being authorized to administer the provisions of this division. Such authorized boards or commissions may adopt procedural rules for implementation of this division, which are not in conflict with or inconsistent with the provisions of this division. No private organization or entity shall receive such authority.

(Ord. No. 92-14, pt. II, § 2.01, 3-10-92; Ord. No. 99-104, § 6, 12-7-99)

Sec. 70-110. - Cooperation with other entities.

The commission, or its designee under section 70-109, shall cooperate with and, as appropriate, may provide technical and other assistance to federal, state, local, and other public or private entities that are formulating or operating programs to prevent or eliminate discriminatory housing practices.

(Ord. No. 92-14, pt. II, § 2.03, 3-10-92)

Secs. 70-111—70-130. - Reserved.

Subdivision II. - Housing Violations

Sec. 70-131. - Subpoenas; discovery.

The commission, or its designee under section 70-109, may issue subpoenas and order discovery as provided by this division in aid of investigations and hearings as required. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as subpoenas and discovery in a civil action under the Florida Rules of Civil Procedure.

(Ord. No. 92-14, pt. II, § 2.04, 3-10-92)

Sec. 70-132. - Complaints—Generally.

The commission, or its designee as provided in section 70-109, shall receive, investigate, seek to conciliate, and act on complaints alleging violations of this division.

(Ord. No. 92-14, pt. II, § 2.02, 3-10-92)

Sec. 70-133. - Same—Investigation, filing, amendment.

(a)

The commission, or its designee under section 70-109, shall investigate alleged discriminatory housing practices.

(b)

A complaint must be:

(1)

In writing;

(2)

Under oath; and

(3)

In the form prescribed by the commission.

(c)

An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, whichever is later, file a complaint with the commission alleging the discriminatory housing practice.

(d)

Not later than one year after an alleged discriminatory housing practice has occurred or terminated, whichever is later, the commission, or its designee under section 70-109, may file its own complaint.

(e)

A complaint under this division may be amended at any time.

(f)

On the filing of a complaint under this division the commission shall:

(1)

Give the aggrieved person and/or complainant notice that the complaint has been received;

(2)

Advise the aggrieved person and/or complainant of the time limits and choice of forums under this division; and

(3)

Not later than the 20th day after the filing of the complaint or the identification of an additional respondent under section 70-136 of this division, serve on each respondent:

a.

A notice identifying the alleged discriminatory housing practice and advising the respondent of the procedural rights and obligations of a respondent under this article; and

b.

A copy of the original complaint.

(Ord. No. 92-14, pt. II, § 4.01, 3-10-92)

Sec. 70-134. - Answering complaint.

(a)

Not later than the tenth day after receipt of the notice and copy under subsection (f)(3) of section 70-133 of this division, a respondent may file an answer to the complaint.

(b)

An answer to a complaint under this division must be:

(1)

In writing;

(2)

Under oath; and

(3)

In the form prescribed by the commission.

(c)

An answer to a complaint under this division may be amended at any time.

(d)

An answer to a complaint under this division does not inhibit the investigation of the complaint.

(Ord. No. 92-14, pt. II, § 4.02, 3-10-92)

Sec. 70-135. - Investigation of complaints.

(a)

For complaints filed with the commission and for all other complaints that the federal government has referred to the commission or has deferred jurisdiction over the subject matter of the complaint to the commission, the commission, or its designee, shall promptly investigate the allegations set forth in the complaint within 30 days.

(b)

The commission, or its designee, shall investigate all complaints, and except as provided by subsection (c) of this section, shall complete an investigation not later than the 100th day after the date the complaint is filed, or if it is unable to complete the investigation within the 100-day period, shall dispose of all administrative proceedings related to the investigation not later than one year after the date the complaint is filed.

(c)

If the commission, or its designee, is unable to complete administrative disposition within the time periods prescribed in subsection (b) of this section, the commission shall notify the complainant and the respondent in writing of the reasons for the delay.

(Ord. No. 92-14, pt. II, § 4.03, 3-10-92)

Sec. 70-136. - Additional or substitute respondent.

(a)

The commission, or its designee, may join a person not named in a complaint as an additional or substitute respondent if in the course of the investigation it determines that the person should be accused of a

discriminatory housing practice.

(b)

In addition to the information required in the notice under subsection (f)(3) of section 70-133 of this division, the commission, or its designee, shall include in a notice to a respondent joined under this section an explanation of the basis for the determination that the person is properly joined as a respondent.

(Ord. No. 92-14, pt. II, § 4.04, 3-10-92)

Sec. 70-137. - Conciliation.

(a)

The commission, or its designee, as provided in section 70-109, shall, during the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal by the commission, to the extent feasible, engage in conciliation with respect to the complaint.

(b)

A conciliation agreement is an agreement between a respondent and the complainant and is subject to the commission, or its designee's, as provided in section 70-109, approval.

(c)

A conciliation agreement may provide for binding arbitration or another method of dispute resolution. Dispute resolution that results from a conciliation agreement may authorize appropriate relief, including monetary relief.

(d)

A conciliation agreement shall be made public unless the complainant and respondent agree otherwise, and the commission, or its designee, determines that disclosure is not necessary to further the purposes of this division.

(e)

Nothing said or done in the course of conciliation may be made public or used as evidence in a subsequent proceeding under this division without the written consent of the persons concerned.

(f)

Failure by the parties to abide by the terms of a signed conciliation agreement under this division shall constitute a separate violation of this section, and will be investigated as such upon the filing of a complaint by either party thereto.

(Ord. No. 92-14, pt. II, § 4.05, 3-10-92; Ord. No. 92-49, § 6, 9-1-92; Ord. No. 99-104, § 7, 12-7-99)

Sec. 70-138. - Temporary or preliminary relief.

(a)

If the commission, or its designee, concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this division, it may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint, in accordance with F.S. § 760.34(8).

(b)

On receipt of the commission's authorization pursuant to this section, the county attorney shall promptly file the action.

(c)

A temporary restraining order or other order granting preliminary or temporary relief under this section is governed by the applicable Florida Rules of Civil Procedure.

(d)

The filing of a civil action under this section does not affect the initiation or continuation of administrative proceedings under section 70-147 of this division.

(Ord. No. 92-14, pt. II, § 4.06, 3-10-92)

Sec. 70-139. - Investigative report.

(a)

The commission, or its designee, shall prepare a final investigative report showing:

(1)

The names and dates of contacts with witnesses;

(2)

A summary of correspondence and other contacts with the aggrieved person and the respondent showing the dates of the correspondence and contacts;

(3)

A summary description of other pertinent records;

(4)

A summary of witness statements; and

(5)

Answers to interrogatories.

(6)

After completion of the investigation, the commission, or its designee, shall make available to the aggrieved

person and the respondent, at any time, the final investigation report relating to that investigation and other information derived from the investigation, provided the release of such other information does not place an excessive burden on the complainant that might discourage the filing of complaints.

(b)

A final report under this section may be amended if additional evidence is discovered.

(Ord. No. 92-14, pt. II, § 4.07, 3-10-92; Ord. No. 99-104, § 8, 12-7-99)

Sec. 70-140. - Reasonable cause determination.

(a)

The commission, or its designee, shall determine, based on the facts, whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur. For the purposes of this division, "reasonable cause" shall be based upon sufficiently trustworthy information which would lead an impartial observer to a belief that a discriminatory housing practice has occurred or is likely to occur.

(b)

The commission shall make the determination under subsection (a) of this section not later than the 100th day after the date a complaint is filed unless:

(1)

It is impracticable to make the determination; or

(2)

The commission, or its designee, has approved a conciliation agreement relating to the complaint.

(c)

If it is impracticable to make the determination within the time period provided by subsection (b) of this section, the commission shall notify the complainant and respondent in writing of the reasons for the delay.

(d)

If the commission, or its designee, determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, it shall, except as provided by section 70-142, immediately issue a reasonable cause finding on behalf of the aggrieved person.

(Ord. No. 92-14, pt. II, § 4.08, 3-10-92)

Sec. 70-141. - Notice of determination.

(a)

A reasonable cause finding issued under section 70-140:

(1)

Must consist of a short and plain statement of the facts on which the commission, or its designee, has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

(2)

Must be based on the final investigative report; and

(3)

Need not be limited to the facts or grounds alleged in the complaint.

(b)

Not later than the 20th day after the commission, or its designee, issues a reasonable cause finding, the commission shall send a copy of such finding with information concerning the election under section 70-145 of this division to:

(1)

Each respondent, together with a notice of the opportunity for a hearing provided by section 70-147 of this division; and

(2)

Each complainant on whose behalf the complaint was filed.

(Ord. No. 92-14, pt. II, § 4.09, 3-10-92)

Sec. 70-142. - Application of land use law.

If the commission determines that a discriminatory housing practice involves the legality of a state or local zoning or other land use law or ordinance, the commission may not issue a charge and shall immediately refer the matter to the county attorney for appropriate action.

(Ord. No. 92-14, pt. II, § 4.10, 3-10-92)

Sec. 70-143. - Dismissal of complaint.

(a)

If the commission, or its designee, determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, it shall promptly dismiss the complaint.

(b)

The commission shall make public disclosure of each dismissal under this section.

(Ord. No. 92-14, pt. II, § 4.11, 3-10-92)

Sec. 70-144. - Pending civil trial.

The commission, or its designee, may not issue a reasonable cause finding under this division regarding an

alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under federal or state law seeking relief with respect to that discriminatory housing practice.

(Ord. No. 92-14, pt. II, § 4.12, 3-10-92)

Sec. 70-145. - Election of judicial determination.

(a)

A complainant, a respondent, or an aggrieved person on whose behalf a complaint was filed under this division may elect to have the claims asserted in that charge decided in a civil action as provided by section 70-146 of this division.

(b)

The election under this section must be made not later than the 20th day after the date of receipt by the electing person of service under subsection (b) of section 70-141 of this division or, in the case of the commission, not later than the 20th day after the date the charge was issued.

(c)

The person making the election under this section shall give notice to the commission and to all other complainants and respondents to whom the charge relates.

(Ord. No. 92-14, pt. II, § 4.13, 3-10-92)

Sec. 70-146. - County attorney action for enforcement.

(a)

If a timely election is made under section 70-145, the commission shall authorize, and not later than the 30th day after the election is made the county attorney shall file a civil action on behalf of the aggrieved person in a court of competent jurisdiction seeking relief as provided by state and/or federal law.

(b)

An aggrieved person may intervene in the civil action filed under this section.

(Ord. No. 92-14, pt. II, § 4.14, 3-10-92)

Sec. 70-147. - Administrative hearing.

(a)

If a timely election is not made under section 70-145, the commission, or its designee, shall provide for a hearing on the charge.

(b)

Except as provided by subsection (d) of this section, the Florida Administrative Procedures Act (F.S. ch. 120) governs hearings under this section.

(c)

When the commission, or its designee, has issued a reasonable cause finding and a judicial election has not been made under section 70-145 nor a settlement agreement entered between the complainant and respondent, the commission or its designee shall arrange for a hearing to be conducted by an administrative law judge from the state division of administrative hearings.

(d)

A hearing under this section may not continue regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved person seeking relief with respect to that discriminatory housing practice.

(e)

The county attorney shall provide legal representation for the complainant in such administrative hearings under this section.

(f)

The administrative law judge shall issue a final order within 30 days of the hearing conducted under this section. The final order issued by the administrative law judge shall be the final agency action under this section.

(g)

Any party to the complaint shall have the right to petition for judicial review of the administrative law judge's final order in a court of competent jurisdiction. Such review shall be limited to a review of the administrative law judge's final order and the record of the proceedings conducted under this section. A reviewing court may modify, revoke or remand the final order only upon a finding that such order is not supported by substantial competent evidence and/or the proceedings conducted did not comply with the essential requirements of law.

(h)

The commission, or its designee, as well as a complainant, may seek enforcement of a final order issued under this section by filing a petition for enforcement in a court of competent jurisdiction. Such a petition for enforcement may request declaratory relief, temporary or permanent equitable relief, a fine, forfeiture, penalty, and/or issuance of a money judgment for actual damages, attorney's fees and costs, as provided in the final order. A court considering such petition shall grant it unless there is a showing by the respondent, based upon the record of the proceedings which were conducted under this section, that the order is not supported by substantial competent evidence and/or the proceedings conducted did not comply with the essential requirements of law.

(Ord. No. 92-14, pt. II, § 4.15, 3-10-92; Ord. No. 92-49, § 7, 9-1-92; Ord. No. 99-104, § 9, 12-7-99)

Sec. 70-148. - Administrative penalties.

(a)

If the administrative law judge determines at a hearing under section 70-147 of this division that a respondent has engaged in or is about to engage in a discriminatory housing practice, the administrative law judge may

order the appropriate relief, including actual damages, reasonable attorney's fees, costs, and other injunctive or equitable relief.

(b)

To vindicate the public interest, the administrative law judge may assess a civil penalty against the respondent in an amount that does not exceed:

(1)

Ten thousand dollars if the respondent has been adjudged by an administrative law judge or a court to have committed a prior discriminatory housing practice;

(2)

Except as provided in subparagraph (c) below, $25,000.00 if the respondent has been adjudged by an administrative law judge or a court to have committed one other discriminatory housing practice during the five-year period ending on the date of the filing of the charge; and

(3)

Except as provided by subsection (c) of this section, $50,000.00 if the respondent has been adjudged by an administrative law judge or a court to have committed two or more discriminatory housing practices during the seven-year period ending on the date of the filing of the charge.

(c)

If the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same individual who has been previously adjudged to have committed acts constituting a discriminatory housing practice, whether adjudged by an administrative law judge or court, the civil penalties in subsections (b)(2) and (3) of this section may be imposed without regard to the period of time within which any other discriminatory housing practice occurred.

(d)

At the request of the commission, the county attorney shall sue to recover a civil penalty due under this section. Funds collected under this section shall be paid to the board of county commissioners' finance department and shall be used to offset expenses incurred by the commission or county attorney in enforcing this division.

(e)

The penalties provided for under this section are applicable regardless of whether the commission or aggrieved party initiated the investigation under this division.

(Ord. No. 92-14, pt. II, § 4.16, 3-10-92; Ord. No. 99-104, § 10, 12-7-99)

Sec. 70-149. - Restriction on sale or rental of property.

If at any time following the issuance of a reasonable cause determination, a respondent intends to enter into a contract, sale, encumbrance, or lease with any person regarding the property which is the subject of a

reasonable cause determination, the respondent must provide a copy of the cause determination to such person prior to entering into the contract, sale, encumbrance, or lease. A commission determination of reasonable cause, however, shall not affect a contract, sale, encumbrance, or lease which:

(1)

Was consummated before the commission issued the reasonable cause finding; and

(2)

Involved a bona fide purchaser, encumbrances, or tenant who did not have actual notice of the charge filed under this division.

(Ord. No. 92-14, pt. II, § 4.17, 3-10-92; Ord. No. 99-104, § 11, 12-7-99)

Sec. 70-150. - Orders involving licensed or regulated business.

If the administrative law judge issues an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the commission, or its designee, shall, not later than the 30th day after the date of the issuance of the order:

(1)

Send copies of the findings and the order to the governmental agency; and

(2)

Recommend to the governmental agency appropriate disciplinary action.

(Ord. No. 92-14, pt. II, § 4.18, 3-10-92; Ord. No. 99-104, § 12, 12-7-99)

Sec. 70-151. - Previous order within five years.

If the administrative law judge, issues an order against a respondent against whom another order was issued within the preceding five years under section 70-148 of this division, the commission shall send a copy of each order issued under that section to the county attorney.

(Ord. No. 92-14, pt. II, § 4.19, 3-10-92; Ord. No. 99-104, § 13, 12-7-99)

Sec. 70-152. - Private enforcement.

(a)

Civil action.

(1)

Under the provisions of this section, an aggrieved person may file a civil action in a court of competent jurisdiction no later than two years after an alleged discriminatory housing practice has occurred. However, the computation of such two-year period shall not include any time during which an administrative proceeding under sections 70-133—70-143 took place with respect to a charge or complaint of such alleged discriminatory housing practice.

(2)

An aggrieved person may file an action regardless of whether they have filed a complaint under sections 70-133—70-151 of this division, and regardless of the status of any complaint filed under this division.

(3)

In a civil action under this subsection (a), if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages and may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate.

(b)

Intervention by county attorney. Upon the request of the commission, the county attorney may intervene in an action brought under the provisions of subsection (a) of this section if the commission certifies that the case is of significant public importance to the citizens of the county.

(Ord. No. 92-14, pt. II, §§ 5.01, 5.02, 3-10-92; Ord. No. 05-87, § 1, 12-6-05)

Sec. 70-153. - Enforcement by county attorney.

(a)

Pattern or practice cases.

(1)

Whenever the commission, or its designee, has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this division, or that any group of persons has been denied any of the rights granted by this division, and such denial raises an issue of general public importance, it shall direct the county attorney to commence a civil action in a court of competent jurisdiction.

(2)

For the purposes of this section, "reasonable cause" shall be based upon sufficiently trustworthy information which would lead an impartial observer to a belief that a person is engaged in the actions described in subsection (a)(1) of this section.

(b)

Subpoena enforcement. The county attorney, on behalf of the commission, or its designee, may enforce a subpoena issued under this division in appropriate proceedings pursuant to law.

(Ord. No. 92-14, pt. II, §§ 6.01, 6.02, 3-10-92)

Secs. 70-154—70-175. - Reserved.
Subdivision III. - Housing Discrimination

Sec. 70-176. - Sale or rental.

(a)

A person may not refuse to sell or to rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, handicap, religion, gender, sexual orientation, familial status, or national origin.

(b)

A person may not discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in providing services or facilities in connection with such sale or rental, because of race, color, handicap, religion, gender, sexual orientation, familial status, or national origin.

(c)

This section does not prohibit discrimination against a person because the person has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.

(Ord. No. 92-14, pt. II, § 3.01, 3-10-92; Ord. No. 08-28, § 7, 4-22-08; Ord. No. 13-21, § 7, 8-20-13)

Sec. 70-177. - Publication.

A person may not make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, gender, sexual orientation, handicap, familial status, or national origin, or an intention to make such a preference, limitation, or discrimination.

(Ord. No. 92-14, pt. II, § 3.02, 3-10-92; Ord. No. 08-28, § 8, 4-22-08; Ord. No. 13-21, § 8, 8-20-13)

Sec. 70-178. - Falsely representing availability.

A person may not represent to any person because of race, color, religion, gender, sexual orientation, handicap, familial status, or national origin that a dwelling is not available for inspection, sale or rental when the dwelling is available for inspection, sale or rental.

(Ord. No. 92-14, pt. II, § 3.03, 3-10-92; Ord. No. 08-28, § 9, 4-22-08; Ord. No. 13-21, § 9, 8-20-13)

Sec. 70-179. - Entry into neighborhood.

A person may not, for profit, induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular race, color, religion, gender, sexual orientation, handicap, familial status, or national origin.

(Ord. No. 92-14, pt. II, § 3.04, 3-10-92; Ord. No. 08-28, § 10, 4-22-08; Ord. No. 13-21, § 10, 8-20-13)

Sec. 70-180. - Handicap.

(a)

A person may not discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to any

buyer or renter because of a handicap of:

(1)

That buyer or renter;

(2)

A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or

(3)

Any person associated with that buyer or renter.

(b)

A person may not discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a handicap of:

(1)

That person;

(2)

A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(3)

Any person associated with that person.

(c)

For purposes of this section only, discrimination includes:

(1)

A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises;

(2)

A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling; or

(3)

In connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is 30 months after the date of enactment of the federal Fair Housing Amendments Act of 1988 (P.L. 100-430), a failure to design and construct those dwellings in a manner that:

a.

The public use and common use portions of the dwellings are readily accessible to and usable by handicapped persons;

b.

All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

c.

All premises within the dwellings contain the following features of adaptive design:

1.

An accessible route into and through the dwelling;

2.

Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

3.

Reinforcements in bathroom walls to allow installation of grab bars; and

4.

Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

(d)

Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people, ANSI A117.1-1986, suffices to satisfy the requirements of subsection (c)(3)c of this section.

(e)

As used in this section, the term "covered multifamily dwellings" means:

(1)

Buildings consisting of four or more units if the buildings have one or more elevators; and

(2)

Ground floor units in other buildings consisting of four or more units.

(f)

Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in

substantial physical damage to the property of others.

(Ord. No. 92-14, pt. II, § 3.05, 3-10-92)

Sec. 70-181. - Residential real estate related transactions.

(a)

A person or entity whose business includes engaging in residential real estate related transactions may not discriminate against a person in making a real estate related transaction available or in the terms or conditions of a real estate related transaction because of race, color, religion, gender, sexual orientation, handicap, familial status, or national origin.

(b)

As used in this section, "residential real estate related transaction" means:

(1)

Making or purchasing loans or providing other financial assistance:

a.

To purchase, construct, improve, repair, or maintain a dwelling; or

b.

Secured by residential real estate; or

(2)

Selling, brokering, or appraising residential real property.

(Ord. No. 92-14, pt. II, § 3.06, 3-10-92; Ord. No. 92-49, § 5, 9-1-92; Ord. No. 08-28, § 11, 4-22-08; Ord. No. 13-21, § 11, 8-20-13)

Sec. 70-182. - Brokerage services.

A person may not deny any person access to, or membership or participation in, a multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or discriminate against a person in the terms or conditions of access, membership, or participation therein, on the basis of race, color, religion, national origin, gender, sexual orientation, familial status, or handicap.

(Ord. No. 92-14, pt. II, § 3.07, 3-10-92; Ord. No. 08-28, § 12, 4-22-08; Ord. No. 13-21, § 12, 8-20-13)

Sec. 70-183. - Interference, coercion, or intimidation.

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this subdivision.

(Ord. No. 92-14, pt. II, § 3.08, 3-10-92)

Secs. 70-184—70-210. - Reserved.

Subdivision IV. - Prohibited Discrimination in Public Accommodations

Sec. 70-211. - Definitions.

The following words, terms and phrases, when used in this subdivision, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commission means the official body or bodies given authority by the board of county commissioners to administer this subdivision, as well as the board of county commissioners itself.

Disability means:

(1)

A physical or mental impairment which substantially limits one or more of a person's major life activities;

(2)

A record of such an impairment; or

(3)

Being regarded as having such an impairment.

Gender includes but is not limited to sex, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, gender-related self-identity, self-image, appearance, expression or behavior, whether or not such gender-related characteristics differ from those associated with the individual's assigned sex or physiology at birth, which gender-related identity can be shown by evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of the person's core identity, or not being asserted for an improper purpose.

National origin means the origin of an ancestor, the country of origin of a person's forebears, naturally, by marriage, or by adoption.

Operator means and includes any owner, lessee, proprietor, manager, superintendent, agent, or occupant of a place of accommodation or an employee or independent contractor of any such person.

Place of public accommodation means and includes all places included within the meaning of the following: Inns, taverns, roadhouses, hotels, and motels, whether operated for the entertainment of transient guests or for the accommodation of those seeking health, recreation or rest; restaurants, eating houses, and any place where food is sold for consumption on the premises; buffets, saloons, barrooms, or any store, park or enclosure where spirits or malt liquors are sold; ice cream parlors, confectioneries, soda fountains, and all stores where ice cream, ice and fruit preparations or their derivatives, or where beverages of any kind, are retailed for consumption on the premises; wholesale and retail stores and establishments dealing with goods or services of any kind; dispensaries, clinics, hospitals; bathhouses, swimming pools; laundries and all other cleaning establishments; barbershops, beauty shops; theaters, motion picture houses, airdromes, roof gardens,

music halls, racecourses, skating rinks, amusement and recreation parks, trailer camps, resort camps, fairs, bowling alleys, golf courses, gymnasiums, shooting galleries, billiard and pool parlors; garages; all public conveyances operated on land or water or in the air, as well as the stations and terminals thereof; travel or tour advisory services, agencies or bureaus; and public halls and public elevators of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants.

Sexual orientation means an individual's actual or perceived heterosexuality, homosexuality, or bisexuality. This definition is not intended to protect any practice prohibited by federal, state, or local law.

(Ord. No. 92-14, pt. II, § 3.01, 3-10-92; Ord. No. 93-29, 3-9-93; Ord. No. 08-28, § 13, 4-22-08; Ord. No. 13-21, § 13, 8-20-13)

Cross reference— Definitions generally, § 1-2.

Sec. 70-212. - Purpose and intent.

(a)

It is the purpose and intent of the board of county commissioners through the passage of this subdivision to assure to the citizens of the county the equal enjoyment of the facilities and services of any public place of accommodation, regardless of their race, color, religion, national origin, gender, sexual orientation, or disability.

(b)

To the extent that the provisions of this subdivision overlap or conflict with other provisions of this article, such other provisions shall take precedence.

(c)

The enforcement of this subdivision may be delegated by interlocal agreement to other units of local government or to nonprofit corporations.

(Ord. No. 92-14, pt. III, § 1.01, 3-10-92; Ord. No. 93-29, 3-9-93; Ord. No. 08-28, § 14, 4-22-08; Ord. No. 13-21, § 14, 8-20-13)

Sec. 70-213. - Exemptions from subdivision.

(a)

The provisions of this subdivision shall not prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society from giving preference to the members of the same religion in the enjoyment of its facilities and services, unless membership in such religion is restricted on account of race, color, gender, sexual orientation, or national origin.

(b)

The provisions of this subdivision relating to public accommodations do not prohibit discrimination on the basis of gender in rest rooms, shower rooms, bathhouses, and similar facilities which are by their nature simply private, or dormitory lodging facilities.

(c)

The provisions of this subdivision shall not apply to any private club or other establishment which is not, in fact, open to the public, except to the extent that the goods, services, facilities, privileges, advantages, or accommodations of the establishment are made available to the customers or patrons of another establishment which is a place of public accommodation. However, any institution, club, or place of accommodation which has more than 400 members, provides regular meal service and regularly receives payment for dues, fees, use of space, facilities, services, meals or beverages, directly or indirectly, from or on behalf of nonmembers for the furtherance of the trade or business, shall not receive an exemption as a private club under this subdivision.

(d)

The provisions of this subdivision shall not be construed as prohibiting the giving of special discounts on goods and services by a place of public accommodation, provided such goods or services are not denied to individuals on the basis of race, color, religion, national origin, gender, sexual orientation, or disability.

(Ord. No. 92-14, pt. III, § 4.01, 3-10-92; Ord. No. 93-29, 3-9-93; Ord. No. 08-28, § 15, 4-22-08; Ord. No. 13-21, § 15, 8-20-13)

Sec. 70-214. - Discrimination prohibited.

(a)

It is a violation of this subdivision for an operator of a place of public accommodation, whether personally or through the actions of an employee or independent contractor, to deny or refuse to another person the full and equal enjoyment of the facilities and services of any place of public accommodation on the basis of that person's race, color, religion, national origin, gender, sexual orientation, or disability. For the purposes of this subdivision, the failure by an owner of a public building, or a private building which has restrooms open to the public, to comply with the provisions of F.S. § 553.86, relating to the provision of public restrooms, shall be considered a denial of full and equal enjoyment of the facilities of a place of public accommodation to women on the basis of their gender.

(b)

It is a violation of this subdivision for an owner or operator of a place of public accommodation, either personally or through the actions of an employee or independent contractor, to display or publish any written communication which is to the effect that any of the facilities and/or services of a place of public accommodation will be denied to any person or that any such person is unwelcome, objectionable or unacceptable because of that person's race, color, religion, national origin, gender, sexual orientation, or disability.

(Ord. No. 92-14, pt. III, § 2.01, 3-10-92; Ord. No. 93-29, 3-9-93; Ord. No. 08-28, § 16, 4-22-08; Ord. No. 13-21, § 16, 8-20-13)

Sec. 70-215. - Filing of complaints.

Any person alleging that he has been subject to an unlawful discriminatory practice under this subdivision shall file a complaint in writing with the commission through the designated office or offices, sworn to or affirmed, which shall state the name and address of the complainant and the person against whom the

complaint is made. It shall also state the alleged facts surrounding the alleged unlawful discriminatory practice and such other information as the commission may require or deem necessary. A complaint shall be filed within 180 days after the date of the alleged unlawful discriminatory practice in order to be processed under this subdivision. No complaints shall be filed under this subdivision for a claim which has previously been adjudicated under a similar municipal ordinance.

(Ord. No. 92-14, pt. III, § 5.01, 3-10-92; Ord. No. 93-29, 3-9-93)

Sec. 70-216. - Processing complaints, administrative hearings and enforcement.

(a)

The same process for handling complaints and conducting administrative hearings as is provided for in section 70-77 of this article shall apply to the complaints filed and administrative hearings conducted under this subdivision.

(b)

The same authority and procedures for enforcement provided in section 70-78 of this article shall apply to the enforcement of an administrative order issued by the commission for an unlawful discriminatory practice under this subdivision.

(Ord. No. 92-14, pt. III, § 6.01, 3-10-92; Ord. No. 93-29, 3-9-93)

Sec. 70-217. - Refueling assistance for persons with disabilities.

(a)

Title. This ordinance [Ordinance No. 12-38] shall be known and may be cited as the "Gas Pumping Assistance For Persons With Disabilities Ordinance".

(b)

Definitions. For purposes of this section, the following terms shall have the meanings given to them below. No attempt is made to define any words which are used in accordance with their established dictionary meaning, except when necessary to avoid misunderstanding. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number, and the use of any gender shall be applicable to all genders whenever the sense requires. The words "shall", "will", and "must" are mandatory and the word "may" is permissive.

Assurance of compliance (AC) means a written agreement between the commission or designee and a gas station retailer, entered into willingly by each party, as provided for in subsection (i) of this section.

Complainant

means any individual, regardless of whether such individual is a person with a disability, who witnesses or who is subjected to conduct in violation of this subdivision and who files a complaint with the commission or designee stating the information required by subsection (g).

County means Pinellas County, Florida, a political subdivision of the State of Florida.

Day(s) means calendar day(s).

Gasoline station means that portion of property where flammable and combustible liquids used as motor fuels are stored and subsequently dispensed from fixed, approved dispensing equipment into the fuel tanks of motor vehicles by any person.

Gas station retailer means:

(1)

Any full service gasoline station; or

(2)

Any self-service gasoline station that has two or more attendants on duty at any given time during the hours the station is open for business to the public.

Notice of violation means a written notice of an alleged violation of this section issued to a gas station retailer by the commission or designee.

Person or persons means any individual (including a minor child), firm association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, and any other groups or combination.

Reasonable cause means, if given the same set of facts or actions, a reasonable person would conclude that a violation of this section has occurred.

Repeat violation means any violation of this section by a gas station retailer committed within five years after (i) such gas station retailer has entered into an AC with respect to a violation of the same or a different provision of this section; or (ii) such gas station retailer has been found to have violated the same or a different provision of this section; or (iii) such gas station retailer has been convicted, pled nolo contendere or guilty to a violation of the same or different provision of this section in a criminal court; or (iv) such gas station retailer has admitted violating the same or a different provision of this section; or (v) a failure by a gas station retailer to abide by any provision of an AC entered into by the gas station retailer.

(c)

Administration. For purposes of this section, the powers herein delegated, shall be jointly administered by the Pinellas County Office of Human Rights and the Pinellas County Department of Justice and Consumer Services.

(d)

Accessibility requirements.

(1)

Within 90 days of enactment of this section, all gas station retailers shall be required to prominently display a sign, decal or sticker, no smaller than 15 square inches, on the canopy column of all gasoline pumps clearly stating the telephone number for that gas station retailer, the international symbol of accessibility (ISA), and wording such as "Signal or Call for Assistance" or "Assistance Available - Signal or Call". The sign, decal or sticker must also include the statement "Complaints? Contact the Pinellas County Office of Human Rights",

must be on a blue background with white text, and shall be 48 to 54 inches above ground level from the baseline to the character of the text. The telephone number indicated on the sign, decal or sticker shall be operational and answered directly by an attendant of the gas station retailer during the hours the gas station retailer is open for business to the public.

(2)

The gas station retailer shall require an attendant to provide refueling assistance to the driver of any motor vehicle properly displaying an exemption parking permit as provided in F.S. §§ 316.1958 or 320.0848, as may be amended, or the driver of any motor vehicle properly displaying a license plate issued pursuant to F.S. §§ 320.084, 320.0842, 320.0843 or 320.0845, as may be amended, or other out of state license plates designating the driver as disabled, when such service is requested during the hours the gas station retailer is open for business to the public.

However, should such assistance be requested during times when a second attendant is not present at a self-service gas station, the gas station retailer is not required to provide the requested assistance. In such case, if a remote or electronic means of communication with the requester exists, the one attendant on duty shall inform the person that he or she is unable to provide such assistance as a result of having only one attendant on duty.

(e)

Prohibited conduct. It shall be a violation of this section for a gas station retailer to:

(1)

Fail or refuse to prominently display a sign, decal or sticker, as described in subsection (d)(1) above; or

(2)

Fail to ensure the telephone number indicated on the sign, decal or sticker is operational and answered by an employee of the gas station retailer during hours the gas station retailer is open for business to the public; or

(3)

Fail to provide refueling assistance to the driver of any motor vehicle properly displaying an exemption parking permit as provided in F.S. § 316.1958 or § 320.0848, as may be amended, or to the driver of any motor vehicle properly displaying a license plate issued pursuant to F.S. § 320.084, § 320.0842, § 320.0843 or § 320.0845, as may be amended, or other out of state license plates designating the driver as disabled, when such service is requested during the hours the gas station retailer is open to the public unless there is only one attendant on duty at the time of the request; or

(4)

Failure to abide by any provision of an AC entered into by such gas station retailer. If a gas station retailer fails to abide by more than one provision of an AC, each such failure shall be a separate violation of this section.

(f)

Dual remedies. A violation of this section may also constitute grounds for a violation of section 70-214,

Prohibited Discrimination in Public Accommodations, of Pinellas County's Human Rights Ordinance, as may be amended. Nothing herein shall prevent any person from exercising any right or seeking any remedy or redress to which one might be entitled to under that section.

(g)

Filing of complaints.

(1)

Any person who witnesses or who is subject to an unlawful practice or conduct in violation of this section may file a complaint with the commission or designee.

(2)

The complaint shall contain the following information:

a.

Name and address of the gas station retailer alleged to have committed the offense;

b.

Date of the alleged offense;

c.

General statement of the facts of the alleged offense;

d.

Name and signature of the complainant;

e.

Such other information as required by the commission or designee.

(h)

Duties and responsibilities of the commission or designee under this section.

(1)

The commission or designee shall receive and review complaints of violations of this section to ensure the complaint is in compliance with subsection (g) above.

(2)

The commission or designee may request additional information from the complainant for purposes of processing the complaint.

(3)

The commission or designee shall then reduce the complaint to writing and forward the complaint, within ten days of receipt, for further processing.

(4)

The commission or designee shall administratively track the complaint through the enforcement process until closure of the complaint.

(5)

The commission or designee shall evaluate received complaints of violations of this section, investigate such complaints, including what other measures, if any, a gasoline station retailer has taken to afford accessibility for persons with disabilities, and take such action it deems appropriate with respect thereto, as provided for in this section.

(6)

The commission or designee may also initiate an investigation into any suspected violation of this section and, when warranted, take such action it deems appropriate with respect thereto, as set forth in this section.

(7)

If upon investigation the commission or designee determines that there is reasonable cause to believe that a gas station retailer has violated this section, then the commission, or designee may take one or more of the following actions in accordance with the provisions of this section:

a.

Notify the gas station retailer of the finding of reasonable cause to believe that a violation occurred and allow the gas station retailer a specified period of time to correct the violation, not to exceed 15 days;

b.

Issue a notice of violation to the gas station retailer;

c.

Attempt to conciliate the matter through conference(s) with all interested parties and such representatives as the parties may choose to assist;

d.

Negotiate and enter into an AC with gas station retailer in accordance with subsection (i) of this section;

e.

Utilize county, state, and federal agencies in an effort to resolve complaints filed under this section;

f.

Initiate enforcement actions pursuant to subsection (j);

g.

Refer the matter to appropriate federal and state agencies for criminal prosecution and/or administrative action and file such criminal or administrative complaints with state or federal agencies as may be required.

(i)

Assurance of compliance. After receiving and investigating a complaint as set forth in subsection (h) above, if the commission or designee determines that a violation of this section has occurred that is not a repeat violation, the commission or designee may accept an assurance of compliance (AC) as an alternative to initiating other enforcement action delineated in subsection (h) above. The AC shall be executed by the authorized agent of the gas station retailer responsible for ensuring that no future violations shall occur. Pursuant to the terms of the AC, the responsible gas station retailer shall agree to refrain from and prevent any future violations of this section. If the gas station retailer fails to adhere to the terms of the AC, said failure shall constitute a violation of this section in its own right, as indicated in subsection (e)(4). A notice of violation may be issued for the underlying violation as well as the violation of the AC.

(j)

Enforcement and penalties.

(1)

Any violations of this section may be punished as provided in subsections (d) through (i) above.

(2)

In addition to the penalties provided in subsection (1) above, any violations of this section may be punished as provided for in Chapter 2, Article VIII, of the Pinellas County Code.

(k)

Additional enforcement agencies. County municipalities may enforce this section as its embraced area is countywide. Code enforcement officers and law enforcement officers may enforce this section in their respective jurisdictions.

(Ord. No. 12-38, § 8-21-12)

Secs. 70-218—70-235. - Reserved.

ARTICLE III. - DOMESTIC PARTNERSHIP REGISTRATION

Sec. 70-236. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affidavit of domestic partnership means a sworn form, under penalty of perjury, that is created by the board of county commissioners, which certifies that two domestic partners meet the registration requirements as described in section 70-237.

Affidavit of termination of domestic partnership means a sworn form, under penalty of perjury, which

certifies that two domestic partners have terminated the domestic partnership and all rights and duties included therein as described in this article.

Certificate of domestic partnership means the certificate received from the clerk after registration as domestic partners under this article.

Clerk means the Clerk of the Circuit Court, Pinellas County, Florida.

Dependent is a person who resides within the household of a registered domestic partnership and is:

(1)

A biological, adopted, or foster child of a registered domestic partner; or

(2)

A dependent as defined under IRS regulations; or

(3)

A ward of a registered domestic partner as determined in a guardianship or other legal proceeding; or

(4)

A person supported in whole or in part by their partner's earnings and relies on such support.

Domestic partnership registry means a public record maintained by the clerk which includes those persons who have met the domestic partnership requirements set forth in this article and have registered with the clerk.

Health care facility includes, but is not limited to, hospitals, nursing homes, hospice care facilities, convalescent facilities, walk-in clinics, doctor's offices, mental health care facilities, and any other short-term or long-term health care facilities located within Pinellas County.

Jointly responsible means each domestic partner mutually agrees to provide for the other partner's basic needs while the domestic partnership is in effect, except that partners need not contribute equally or jointly to said basic needs such as food and shelter.

Mutual residence means a residence shared by the registered domestic partners; it is not necessary that the legal right to possess the place of residence be in both names. Registered domestic partners do not cease to share a mutual residence if one leaves the shared place but intends to return.

Registered domestic partners means two adults who are parties to a domestic partnership and who meet the requisites for a domestic partnership as established pursuant to the registration requirements of this article and who have registered as a domestic partnership under this article.

(Ord. No. 13-01, § 2, 1-15-13)

Sec. 70-237. - Registration of domestic partnerships.

(a)

A domestic partnership may be registered by any two persons by filing an affidavit of domestic partnership with the clerk which affidavit shall comply with all requirements set forth in this article for establishing such domestic partnership.

(b)

Upon payment of any required fees, the clerk shall file the affidavit of domestic partnership electronically and issue a certificate of domestic partnership reflecting the registration of the domestic partnership in the county.

(c)

The clerk shall maintain a domestic partnership registry which shall be an online searchable database of the domestic partnerships which have been registered with the county.

(d)

A notarized affidavit of domestic partnership, on such form as created by the county, shall be presented to the clerk by both partners, physically present, who shall provide proof of identification; and shall contain the name and address of each domestic partner, the signature of each partner, the signatures of two witnesses, and each partner shall swear or affirm under penalty of perjury that:

(1)

Each person is at least 18 years old and competent to contract;

(2)

Neither person is currently married under Florida law or is a partner in a domestic partnership or a member of civil union with anyone other than the co-applicant;

(3)

Neither person is related by blood as defined in Florida law;

(4)

Each person considers themselves to be a member of the immediate family of the other partner and to be jointly responsible for maintaining and supporting the registered domestic partnership;

(5)

The partners reside together in a mutual residence;

(6)

Each person expressly declares their desire and intent to designate their registered domestic partner as their healthcare surrogate and as their agent to direct the disposition of their body after death;

(7)

Each person agrees to be jointly responsible for each other's basic food and shelter;

(8)

Each person agrees to immediately notify the clerk, in writing, if the terms of the registered domestic partnership are no longer applicable or one of the domestic partners wishes to terminate the domestic partnership.

(e)

Any partner to a domestic partnership may file an amendment with the clerk to the domestic partnership registry, on the form created by the county, to reflect a change in their legal name or address. Amendments shall be signed by both members of the registered domestic partnership under oath and must be accompanied by the applicable fee as determined by the clerk.

(Ord. No. 13-01, § 3, 1-15-13)

Sec. 70-238. - Termination of registered domestic partnership.

(a)

Either partner to a registered domestic partnership may terminate such registration by filing, in person, a notarized affidavit of termination of domestic partnership with the clerk which shall become effective on the date of filing.

(b)

The clerk shall file the affidavit of termination and update the online registry to remove the domestic partnership.

(c)

A registered domestic partnership will terminate by operation of law upon occurrence of the following events:

(1)

One of the domestic partners marries in Florida;

(2)

One of the domestic partners dies; or

(3)

One of the domestic partners registers with another partner.

(d)

The marrying, surviving, or re-registering domestic partner(s) shall file an affidavit with the clerk terminating the domestic partnership within ten days of one of the occurrences listed in (c) above.

(e)

The surviving domestic partner, pursuant to subsection (c)(2) of this section, shall retain funeral and burial decision rights as provided for in section 70-240(c).

(Ord. No. 13-01, § 4, 1-15-13)

Sec. 70-239. - Maintenance of records; filing fees.

(a)

The county shall prepare the form of all affidavits, amendments, and certificates required to be filed under this article. The clerk shall maintain electronic copies. Domestic partnerships which have properly registered, and have not been terminated, will appear on the online registry. Records regarding a terminated registration can be requested from the clerk.

(b)

The clerk shall establish fees for the filing of any affidavits, amendments, the issuance of any certificates required by this article, or for the provision of copies of documents subject to the approval by the board of county commissioners. Any fees established under this section shall be reasonable and commensurate with the actual costs of administering the provisions of this article. A discount in the amount of the difference between the cost of municipal registration for domestic partnership and that of the county registration for domestic partnership shall be provided to those persons who are registered in a municipality located in Pinellas County prior to the date of enactment of this article.

(c)

The clerk is authorized and directed to take all actions necessary to implement the provisions of this section within 90 days after this article is enacted.

(Ord. No. 13-01, § 5, 1-15-13)

Sec. 70-240. - Legal effect of registered domestic partnership.

To the extent not superseded by federal, state, or other city law or ordinance, or contrary to rights conferred by contract or separate legal instrument, registered domestic partners shall have the following rights:

(1)

Health care facility visitation. All health care facilities operating within the county shall honor the registered domestic partnership documentation issued pursuant to this article as evidence of the partnership and shall allow a registered domestic partner or dependent visitation rights as provided for under 42 CFR 482 and 485.

(2)

Health care decisions. Registry as a domestic partner shall be considered to be written direction by each partner designating the other to make health care decisions for their incapacitated partner, and shall authorize each partner to act as the other's healthcare surrogate as provided for in Chapter 765, Florida Statutes. No person designated as a health care surrogate shall be denied or otherwise defeated in serving as a health care surrogate based solely upon their status as the domestic partner of the partner on whose behalf health care decisions are to be made. Any statutory form, including, but not limited to, a living will or health care surrogate designation in forms provided for in Chapter 765, Florida Statutes, that is properly executed after

the date of registration which contain conflicting designations shall control over the designations made pursuant to domestic partnership registration in Pinellas County.

(3)

Funeral/burial decisions. Registry as a domestic partner shall be considered to be written direction by the decedent of their intention to have their domestic partner direct the disposition of the decedent's body for funeral and burial purposes as provided in Chapter 497, Florida Statutes, unless, prior to death, the decedent creates written authorization and direction providing conflicting terms of disposition. Where such conflict exists, the later dated document shall control.

(4)

Notification of family members. In any situation providing for mandatory or permissible notification of family members, including, but not limited to, notification of family members in an emergency, "notification of family members" shall include registered domestic partners.

(5)

Pre-need guardian designation. A person who is a party to a registered domestic partnership, pursuant to this article, shall have the same right as any other individual to be designated as a pre-need guardian pursuant to Chapter 744, Florida Statutes, and to serve in such capacity in the event of their domestic partner's incapacity. A domestic partner shall not be denied or otherwise be defeated in serving as the plenary guardian of their domestic partner or the partner's property under the provisions of Chapter 744, Florida Statutes, to the extent that the incapacitated partner has not executed a valid pre-need guardian designation, based solely upon their status as the domestic partner of the incapacitated partner.

(6)

Participation in education. To the extent allowed by federal and state law, and subject to the policies of the School Board of Pinellas County, Florida, as amended from time to time, as well any applicable court orders, agreements, or contracts, a domestic partner of a domestic partnership registered in this county shall have the same rights as the parent partner to participate in the education of a dependent of the registered domestic partnership in the county. Any right to participate in the education of a dependent of the registered domestic partnership shall be exercised consistently with applicable policies and procedures of the School Board of Pinellas County, Florida.

(Ord. No. 13-01, § 6, 1-15-13)

Sec. 70-241. - Limited effect.

(a)

Nothing in this article shall be interpreted to alter, affect, or contravene city, county, state, or federal law or to impair any court order or contractual agreement.

(b)

Nothing in this article shall be construed as recognizing or treating a registered domestic partnership as a marriage.

(Ord. No. 13-01, § 7, 1-15-13)

Sec. 70-242. - Enforcement; legal remedy; and limitation of liability.

(a)

A registered domestic partner may enforce rights provided for under this article by filing a private judicial action in the Sixth Judicial Circuit Court for declaratory relief, injunctive relief, or both, or for any other available legal remedy.

(b)

The clerk acts in a purely ministerial capacity and has no authority or responsibility for the resolution of disputes arising from the domestic partnership registry. Any disputes as to registration or legal effect under this article shall be filed with the Sixth Judicial Circuit Court.

(c)

The clerk shall not be liable for any act taken within the scope of its authority provided pursuant to this article.

(Ord. No. 13-01, § 8, 1-15-13)

Sec. 70-243. - Reciprocity.

All rights, privileges and benefits extended to registered domestic partnerships as provided for in this article shall also be extended to all persons who can provide proof of their registration as domestic partners in any other jurisdiction. In the event of a conflict between this article and the domestic partnership laws of another jurisdiction, the provisions of this article shall prevail.

(Ord. No. 13-01, § 9, 1-15-13)

Secs. 70-244—70-300. - Reserved.

ARTICLE IV. - WAGE THEFT AND RECOVERY

Sec. 70-301. - Title.

This article shall be known and may be cited as the "wage theft and recovery ordinance."

(Ord. No. 15-44, 11-10-15)

Sec. 70-302. - Authority.

This article is enacted pursuant to F.S. § 125.66, the home rule powers of Pinellas County (county) in the interest of health, peace, safety and general welfare of the people, and Pinellas County Charter section 2.03.

(Ord. No. 15-44, 11-10-15)

Sec. 70-303. - Legislative findings of fact.

It is hereby declared to be the policy of the county in the exercise of its police power for the public safety,

health and general welfare, to eliminate and prevent wage theft. Eliminating the underpayment or nonpayment of wages earned by persons working in the county serves the public purpose by promoting economic security and dignity for those working in the county; by promoting business and economic development through the elimination of unfair economic competition by unscrupulous businesses that do not pay or that underpay their employees; and by relieving the burden on the public that subsidize unscrupulous employers whose employees are forced to rely on public assistance because of unpaid or underpaid wages.

(Ord. No. 15-44, 11-10-15)

Sec. 70-304. - Intent and purpose.

It is the purpose and intent of this article to promote the general welfare of the citizens of the county through the continued analysis of any impacts from wage theft, the effectiveness of existing and emerging regulatory efforts and education efforts.

(Ord. No. 15-44, 11-10-15)

Sec. 70-305. - Definitions.

Employ. The meaning of "employ," including as used in the term "employment," shall include to suffer or permit to work.

Employee means a natural person who performs work within the geographic boundaries of Pinellas County while being employed by an employer, but shall not include any bona fide independent contractor. "Employee" may also include a person who performs work that benefits an employer located within Pinellas County even though the employee may have performed work outside of Pinellas County.

Employer includes any person who, acting individually or as an officer, agent, or employee of another person, acts directly or indirectly in the interest of a person or entity employing an employee; but such term does not include:

(1)

The United States or a corporation wholly owned by the government of the United States;

(2)

The State of Florida.

Independent contractor shall have the same meaning as in the Internal Revenue Code and implementing federal regulations.

Reasonable cause means the existence of sufficiently reliable and probative evidence for a reasonable person of ordinary prudence and caution to believe it is more likely than not wage theft has occurred.

Reasonable time shall be presumed to be no later than 14 days from the date on which the work is performed unless the employer has established, by policy or practice, a pay schedule whereby employees earn and are consistently paid wages according to regularly recurring pay periods in which case such pay schedule shall govern.

Threshold amount means $60.00.

Wage rate means any form of monetary compensation which the employee agreed to accept in exchange for performing work for the employer, whether daily, hourly, or by piece but in all cases shall be equal to no less than the highest applicable rate established by operation of any federal, state or local law. It shall include earned paid time off, leave, vacation or sick pay.

(Ord. No. 15-44, 11-10-15)

Sec. 70-306. - Wage theft violations.

For any employer to fail to pay any portion of wages due to an employee, according to the wage rate applicable to that employee, within a reasonable time from the date on which that employee performed the work for which those wages were compensation, shall be wage theft; and such a violation shall entitle an employee, upon a finding by a special magistrate appointed by the county or by a court of competent jurisdiction that an employer is found to have unlawfully failed to pay wages, to receive three times the amount of back wages.

(Ord. No. 15-44, 11-10-15)

Sec. 70-307. - Procedures for wage theft complaints.

(a)

Filing wage theft complaints.

(1)

Threshold amount. In order for a complaint to be submitted to the county by, or on behalf of, an aggrieved employee, that employee must allege a wage theft violation in which the unpaid wages are equal to no less than the threshold amount.

(2)

An employee aggrieved by a wage theft violation may file a sworn written, signed complaint, provided by the county, using the procedures set forth.

(3)

A signed complaint for wage theft must be filed with the county no later than one year after the last date upon which the employee performed the work for an employer with regard to which the employee alleges a violation of this section has occurred ("filing deadline"); however, with respect to alleged ongoing violations, once a complaint has been made in compliance with the filing deadline, the county's investigative capacity is limited only by the applicable statute(s) of limitations.

(4)

The complaint shall set forth the facts upon which it is based with sufficient specificity to identify the employer or employers and for the county to determine both that an allegation of wage theft has been made and that the threshold amount has been met.

(b)

Respondent.

(1)

Upon the filing of any complaint, the county shall promptly determine that the wage theft complaint alleges wage theft, names at least one employer and meets the threshold amount criterion. The duty of the county in determining whether a complaint meets this criterion is limited to receiving the complaint and comparing the information provided in the complaint to the criteria required herein. This determination is a ministerial act and may not be based on further investigation or the exercise of independent judgment.

(2)

Upon making such determination, the county shall serve the complaint and a written notice on the employer or person charged with the commission of a wage theft practice, setting forth the allegations, rights and obligations of the parties, including, but not limited to, the right to a due process hearing on the matter before a special magistrate and that the employer may be responsible for the costs of the special magistrate and other enforcement costs. Such service shall be by mail.

(3)

Each employer shall file an answer to the complaint with the county not later than 21 days after receipt of the complaint and notice.

(c)

Conciliation or mediation.

(1)

It is the policy of the county to encourage conciliation of charges. The county will work with the parties in an attempt to conciliate a complaint.

(2)

A conciliation agreement arising out of such conciliation shall be an agreement between the employer and the employee.

(3)

Whenever a party believes that the other party has breached a conciliation agreement, the aggrieved party may file a civil action in a court of competent jurisdiction for enforcement of such agreement.

(4)

Nothing said or done in the course of attempting conciliation under this section may be used as evidence in any subsequent proceeding under this section or otherwise without the written consent of the parties to the underlying charge of violation.

(5)

Upon failure of conciliation or mediation, the county shall issue notice of the same to the parties.

(d)

Hearing before special magistrate.

(1)

Within 30 days after the county determines that a complaint meets the criterion for wage theft, the county shall appoint a special magistrate that it deems to be qualified to hear wage theft matters. In conducting any hearing to determine whether a violation of this section has occurred, the special magistrate shall have the authority to administer oaths, issue subpoenas in accordance with subsection (b), below, and compel the production of and receive evidence. The special magistrate shall have the authority to consolidate two or more complaints into a single hearing where such complaints name the same employer(s) and involve sufficiently similar allegations of fact to justify consolidation. The final determination of the special magistrate in wage theft matters is subject to appeal in a court of competent jurisdiction.

(2)

In any hearing before the special magistrate pursuant to this section, the employer may file a written answer to the complaint. All parties shall appear at the hearing in person, with or without counsel, and may submit evidence, cross-examine witnesses, obtain issuance of subpoenas and otherwise be heard. Testimony taken at the hearing shall be under oath and a transcript shall be made available at cost to any interested party. The special magistrate may allow persons to appear by telephone or video conference.

(3)

Discovery shall be permitted upon motion of any party and shall proceed in the manner provided by the Florida Rules of Civil Procedure.

(4)

The special magistrate may direct that the parties submit a pre-hearing statement addressing the issues of law and fact that will be involved in such hearing, identify the witnesses that will testify, and provide a list of all documents or other types of exhibits that will be submitted.

(5)

Upon the conclusion of the hearing, an adjudicative final order shall be issued and served upon the parties setting forth written findings of fact and conclusions or law.

(6)

In any proceeding under this section, the burden of proof by a preponderance of the evidence rests upon the employee except as provided in subsection (f) of this section.

(7)

All such hearings shall be de novo.

(e)

Subpoenas.

(1)

If a special magistrate is appointed, any party may request that a subpoena be issued by the special magistrate.

(2)

Within ten days after service of a subpoena upon any person, such person may petition the special magistrate to revoke or modify the subpoena. The special magistrate shall grant the petition if it finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to the matter, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(3)

Upon refusal to obey a subpoena, the special magistrate or any party may seek enforcement of a subpoena issued under the authority of this section by filing a petition for enforcement in the County Court of Pinellas County, Florida.

(4)

Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents or other evidence, commits a violation of this section.

(f)

Standards for resolving factual disputes.

(1)

The burden of proof with respect to adequate records falls on the employer who fails to keep accurate records. The employer must come forward with evidence of the precise amount of work performed or with evidence to negate the reasonableness of the inference to be drawn from the employee's evidence.

(2)

The employer fails to keep adequate records when the following three conditions are met:

a.

Where by operation of some other statute or regulation, an employer has an obligation to keep records of an employee's hours worked and/or records of compensation provided to an employee; and

b.

Where such records are imprecise, inadequate or do not exist; and

c.

Where an employee presents sufficient evidence to show, as a matter of just and reasonable inference, the amount of work done or the extent of work done or what compensation is due for the work done;

(3)

If the employer fails to meet this burden, the special magistrate may award approximate damages based on the employee's evidence.

(g)

Applicability of Florida Rules of Civil Procedure.

(1)

The provisions or Rule 1.090, Florida Rules of Civil Procedure, shall govern the computation of any period of time prescribed or allowed by this section or by rules, regulations, or orders adopted pursuant to this section.

(2)

All papers or pleadings required by this section to be served may be served by mail or in accordance with Rule 1.080, Florida Rules of Civil Procedure.

(Ord. No. 15-44, 11-10-15)

Sec. 70-308. - Enforcement of wage theft violations.

(a)

Order issued. At the conclusion of a hearing and upon a finding of a wage violation, the special magistrate shall issue a written final order as follows:

(1)

If the preponderance of the evidence demonstrates a wage theft violation, the special magistrate shall order the employer to pay wage restitution to the affected employee in an amount equal to three times the amount of back wages that the employer is found to have unlawfully failed to pay the employee; this treble amount shall include the back wages as compensation for the economic losses suffered by reason of the employee not receiving their wage at the time it was due; and

(2)

The special magistrate shall order the employer to pay to the board of county commissioners an assessment of costs in an amount not to exceed actual administrative processing costs and costs of the hearing.

(b)

Failure to comply with final order. If the county finds that any employer has failed to comply with the special magistrate's order within 45 days after written notice from the special magistrate, the county shall issue a further written order on the employer as follows:

(1)

The county shall, upon request of the employer, grant the employer an additional 45 days to comply with any

portion of the order, unless such an extension has previously been granted; or

(2)

The county shall order the employer, in addition to wage restitution ordered, to pay the prevailing employee an amount equal to the applicable interest rate which accrues on the full amount of treble damages from the date upon which the findings of wage violation was made until the date upon which the amount is paid in full; and

(3)

The county shall order the employer, in addition to assessment of costs ordered, to pay to the board of county commissioners and amount equal to the applicable interest rate which accrues on the assessment of costs from the date upon which the special magistrate's order is issued until the date upon which the amount is paid in full.

(4)

This section shall be enforced pursuant to F.S. § 125.69 and injunctive relief.

(c)

Joint and severable liability. In any order issued by the special magistrate, the county may specify two or more employers as jointly and severally liable for any amount payable to the employee or the county or both; however, the total amount the employee or the county may receive from jointly and severally liable employers shall not exceed the total amount for which employers are jointly and severally liable.

(d)

Cumulative rights preserved. Nothing in this section shall be construed to limit, preclude or in any way abrogate the cumulative rights or remedies available to employees at common law or by other statute which were not the subject of an employee's complaint.

(e)

In any subsequent enforcement proceedings authorized by this section, a court may award to the prevailing party all or part of the costs and attorney's fees incurred in obtaining the court order.

(f)

Enforcement by private persons or by the State of Florida.

(1)

Enforcement by private persons.

a.

If during the pendency of a wage theft violation employee but prior to the issuance of a final order by a special magistrate, an employee brings a private action in their own right, whether under state law, federal law, or both, in any state or federal court to seek unpaid wages based upon the same facts and allegations as

the employee's complaint to the county, or affirmatively or by consent participates in any such litigation, that employee's complaint of wage theft shall be deemed withdrawn with respect to any employer named as a defendant in such court action. This section shall be interpreted narrowly so as to leave unaffected any cumulative rights which were not the subject of an employee's complaint.

b.

The county, upon becoming aware of any private action described herein shall advise the employee and any employer subject to the private action in writing within 15 days of this provision and its effect on the complaint. Within 30 days of the issuance of such notice, the complaint will be dismissed, with prejudice, with respect to the employer or employers who are named as a defendant to the private action.

(2)

Enforcement by the State of Florida. If at any time during the pendency of a complaint of wage theft, the county becomes aware of an enforcement action by the Florida Attorney General or other body of the State of Florida based on wage violations involving the same facts as the employee's complaint to the county, the complaint will be dismissed, with prejudice, with respect to the employer or employers named in such state enforcement action. The county shall advise the employee and any employer of such dismissal.

(Ord. No. 15-44, 11-10-15)

Sec. 70-309. - Appeals.

Any adverse decision may be appealed to a court of competent jurisdiction.

(Ord. No. 15-44, 11-10-15)

Sec. 70-310. - Retaliation.

(a)

Employers are prohibited from threatening, intimidating, or taking other adverse action against employees in retaliation for asserting any claim to wages pursuant to this section, and any such actions are violations of this article. Adverse actions include, but are not limited to, communicating to the employee, whether directly or indirectly, explicitly or implicitly, the willingness to inform a government employee that the employee is not lawfully in the United States.

(b)

Where such retaliation resulted in any loss of the employee's wages, upon a finding by a hearing officer that an employer retaliated against an employee in violation of this section, the employee is entitled to receive quantifiable damages.

(c)

Violations of the retaliation prohibition shall be determined under the same procedures as wage theft complaints, and in the same proceeding as any related wage theft complaint. The county shall order any employer who has been found to have violated the retaliation prohibition to pay to the county the actual administrative processing costs and costs of the hearing, regardless of the findings on any related wage theft claim.

(Ord. No. 15-44, 11-10-15)

Chapter 74 - LAW ENFORCEMENT[1]
Footnotes:
--- (**1**) ---

Charter reference— General powers of county, § 2.01.

Cross reference— Additional court assessment for criminal education programs, § 46-27; prohibition of false residential detection alarms, § 54-1; combat automobile theft program, § 86-32.

ARTICLE I. - IN GENERAL

Secs. 74-1—74-30. - Reserved.
ARTICLE II. - PINELLAS POLICE STANDARDS COUNCIL[2]

Footnotes:
--- (**2**) ---

Editor's note—The act contained in this article retains its status as a special act. See charter § 5.02. The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Training and standards for law enforcement officers, F.S. § 943.085 et seq.

Sec. 74-31. - Created; purpose.

(a)

There is hereby chartered and created a voluntary nonprofit organization to be known as the Pinellas Police Standards Council, hereinafter called "the council," to conduct continuous planning and studies for the purpose of making recommendations to the Pinellas County legislative delegation concerning countywide police standards covering every aspect of law enforcement.

(b)

The council shall not have power to compel any action by any law enforcement agency or municipality but

shall seek to promote a total cooperative effort between itself and the various municipalities to upgrade and preserve responsible local law enforcement agencies and to assist the legislature in its efforts toward that end.

(Laws of Fla. ch. 72-666, § 1)

Sec. 74-32. - Membership; terms of office; vacancies.

The council shall be comprised of members to be selected as follows:

(1)

One member from each municipality in Pinellas County having its own police department, to be the chief of police or his designee.

(2)

The sheriff of Pinellas or his designee.

(3)

The state attorney or one member from the state attorney's staff who shall be a prosecuting attorney or investigator to be appointed by the state attorney.

(4)

The director of the Pinellas Police Academy or his designee.

(5)

a.
All members of the council who are police officers should be the rank of sergeant or above.

b.

Terms of office shall be for one year and should run from June 1 to June 1 of each year.

c.

Vacancies shall be filled in the same manner as the selection of members.

(Laws of Fla. ch. 72-666, § 2; Laws of Fla. ch. 78-592, § 1)

Sec. 74-33. - Officers; meetings; quorum.

(a)

The council shall elect one of its members as chairman. Other offices, if any, shall be created by the council.

(b)

The council shall meet at least once each month, at such other times as the council may determine and at any other time at the call of the chairman. It shall adopt rules for the transaction of business and keep a record of

its transactions, resolutions, findings, determinations and recommendations, which records shall be a public record.

(c)

At all meetings of the council there shall be 11 members required for a quorum. No official business of the council shall be transacted unless a quorum is present.

(Laws of Fla. ch. 72-666, § 3; Laws of Fla. ch. 78-592, § 1)

Sec. 74-34. - Powers and duties.

In the performance of its duties and the execution of its functions under this article, the council shall have the following powers:

(1)

To maintain an office at such place or places within Pinellas County as it may designate.

(2)

To hold public hearings and sponsor public forums.

(3)

To accept and expend federal funds and grants from and accept and use services from:

a.

The federal government and its agencies.

b.

The state government and its agencies.

c.

The county government, including the Pinellas County Police Academy.

d.

The several municipalities in Pinellas County.

e.

Private or civic sources.

(4)

To study and conduct investigations into the financial and other operations of each municipal police department.

(5)

To study ways to promote cooperation between all law enforcement agencies in securing efficient and effective law enforcement.

(6)

To recommend cooperative policies for the coordination of law enforcement within Pinellas County and all its municipalities.

(7)

Make recommendations which would lead to the elimination of duplication of effort, if any.

(8)

Make recommendations concerning a civil service system for those departments which do not presently have such a system.

(9)

Make recommendations concerning minimum standards in connection with employment, compensation (including retirement plans), and training of police officers, as well as departmental facilities, equipment and overall manpower needs. Consideration should be given to a uniform countywide minimum salary scale designed to discourage personnel turnover.

(10)

Make recommendations concerning law enforcement in general which would enhance the quality of such law enforcement.

(11)

a.
The council shall provide for a centralized information center on prospective law enforcement officers in Pinellas County. The Pinellas Police Academy shall be the depository for the centralized information center. The council shall provide standardized forms, screening, testing, physical exams, and other necessary background research of prospective applicants and shall provide information from the centralized pool to law enforcement agencies in Pinellas County. Each law enforcement agency shall use the forms provided by the council and shall provide to the council for use in the center copies of applications and results of any screening and background investigation performed by the agency. When processing applicants, each law enforcement agency shall request a report from the center regarding any prospective employee of that agency. Applicant information from the center shall only be released upon the request of a law enforcement agency and the applicant.

b.

The council's annual budget shall be submitted to the board of county commissioners for their approval. Funding for the provisions of this section shall be a $2.00 assessment on all payable offenses, to be assessed by the circuit and county courts in Pinellas County on all contested and uncontested traffic cases, criminal and civil, excluding parking fines, bicycle and pedestrian violations which are payable offenses. Additional

funding may be secured by the council by assessing the police agencies a fee for the cost of screening the applicants.

c.

The director of the Pinellas Police Academy shall act as the director for the centralized information center under the control of the Pinellas Police Standards Council.

(Laws of Fla. ch. 72-666, § 4; Laws of Fla. ch. 75-494, § 1; Laws of Fla. ch. 82-370, § 1; Laws of Fla. ch. 85-491, § 1)

Cross reference— Court costs and service charges, § 46-26 et seq.; additional assessment for criminal education programs, § 46-27; traffic and vehicles, ch. 122.

Sec. 74-35. - Compensation and expenses; municipal assistance.

Members of the council shall receive no compensation for their services, but if funds are made available they shall be entitled to reimbursement for necessary travel and other expenses incurred in the work of the council. The several municipalities of the county are authorized to provide personnel, facilities and funds to assist in the work of the council.

(Laws of Fla. ch. 72-666, § 5)

Sec. 74-36. - Adoption of recommendations and transmittal to legislature.

Recommendations from the council or its members shall be adopted by a majority vote of the members present. Following adoption of a recommendation, said recommendation shall be reduced to writing and sent to the Pinellas County legislative delegation no less than 60 days prior to each regular annual session thereof.

(Laws of Fla. ch. 72-666, § 6)

Secs. 74-37—74-60. - Reserved.

ARTICLE III. - COUNTY SHERIFF[3]

Footnotes:

--- (**3**) ---

Cross reference— Officers and employees, § 2-51 et seq.; elections, ch. 50.

State Law reference— Sheriff's, F.S. ch. 30.

DIVISION 1. - GENERALLY

Sec. 74-61. - Chief correctional officer.

(a)

Legislative authority. This section is adopted pursuant to F.S. §§ 30.15, 951.06(1), and 951.061.

(b)

Designation of chief correctional officer.

(1)

As provided for in F.S. § 951.06, the Pinellas County sheriff is hereby designated as the chief correctional officer.

(2)

The Pinellas County sheriff shall appoint such officers as deemed necessary to assist in the operation of the county jails.

(3)

The Pinellas County sheriff shall enforce all existing state laws, federal laws, and administrative rules concerning the operation and maintenance of the county jails.

(4)

The Pinellas County sheriff shall include salaries for correctional officers in the annual proposed budget of expenditures for the maintenance and operation of the county jails as provided in F.S. § 30.49. The salaries for correctional officers shall be paid from the general revenue fund of the county.

(Ord. No. 11-05, § 2, 2-22-11)

Sec. 74-62. - Jail operations.

(a)

Legislative authority. This section is adopted pursuant to F.S. §§ 901.35, 951.15, 951.21, 951.23 and 951.25.

(b)

Jail operations.

(1)

The Pinellas County sheriff shall operate and maintain county jails.

(2)

The Pinellas County sheriff shall include costs of medical care, treatment, hospitalization and transportation of arrestees in his annual proposed budget of expenditures for the maintenance and operation of the county jails and shall assume the county's responsibility for medical expenses as provided for in F.S. § 901.35, and indemnify and defend the county for any actions brought against the county for payment of costs of medical care, treatment, hospitalization and transportation of arrestees, as provided for in F.S. § 901.35. The costs of such care, treatment, hospitalization and transportation shall be paid out of the sheriff's budget from the general revenue fund of the county.

(3)

The Pinellas County sheriff shall inform the county administrator of any request for proposal reviews

involving major jail services.

(c)

Prisoner credit.

(1)

As provided for in F.S. § 951.15, Pinellas County sheriff shall provide a credit to working county prisoners for fines and costs adjudged by a court of the Sixth Judicial Circuit of Florida.

(2)

The amount provided in credit shall be designated as provided for in F.S. § 951.15.

(d)

Gain time.

(1)

As provided for in F.S. § 951.21, the county commission authorizes commutation of time for good conduct of county prisoners.

(2)

Deduction for good conduct shall be made as provided for in F.S. § 951.21(1).

(3)

Gain time earned by a county prisoner shall be forfeited by the Pinellas County Sheriff acting by designation of the county commission for violation of any law of the state. A county prisoner shall retain all rights provided for under the Pinellas County Sheriff's Office Standard Operating Procedures for Disciplinary Reports and Hearings (see Exhibit A), as amended from time to time with approval of the county commission, prior to forfeiture of gain time.

(e)

Sale of goods by county prisoners.

(1)

As provided for in F.S. § 951.25, the county commission authorizes the Pinellas County sheriff to establish rules for the sale to the public of any items manufactured, processed, grown or produced by county prisoners.

(2)

Sale of any items as provided for above shall be conducted in a manner consistent with the rules set forth by the Pinellas County sheriff.

(Ord. No. 11-05, § 3, 2-22-11; Ord. No. 11-37, § 1, 9-27-11)

Secs. 74-63—74-75. - Reserved.

DIVISION 2. - CIVIL SERVICE[4]

Footnotes:
--- (**4**) ---

Editor's note—The act contained in this division retains its status as a special act because it was enacted after the county charter. The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Sec. 74-76. - Intent.

It is the intent of this division to create a civil service system for members of the classified service, as defined herein, within the service of the sheriff of Pinellas County, for the purposes of ensuring fairness and consistency in discipline and dismissal. It is also the intent of this division to maintain the existing legal limitations on the right of collective bargaining and other rights under F.S. ch. 447, pt. II (F.S. § 447.201 et seq.), and to not grant such rights to any deputy, member, or personnel of the office of the Pinellas County sheriff who, prior to the effective date of this division, did not possess such rights pursuant to law.

(Laws of Fla. ch. 89-404, § 1)

Sec. 74-77. - Applicability of division; authority of sheriff.

(a)

The provisions of this division shall apply to all certified, noncertified and executive persons within the office of the Pinellas County sheriff. The provisions of this division shall not apply to the sheriff, special deputy sheriffs appointed pursuant to F.S. § 30.09(4), contract personnel, legal advisors, chaplains, or individuals appointed as part-time deputy sheriffs, as defined by the criminal justice standards and training commission, unless any such part-time deputy sheriff is also a full-time member in the office of the sheriff.

(b)

For the purposes of this division, the term "personnel" shall refer to all persons working for the Pinellas County sheriff's office; provided, that nothing stated herein shall be construed as changing the status of certified personnel from appointed officers to members covered by the provisions of F.S. ch. 447.

(c)

The sheriff shall have the authority to adopt such rules and regulations as are necessary for the implementation and administration of this division. However, nothing in this division shall be construed as affecting the budget-making powers of the board of county commissioners of Pinellas County.

(Laws of Fla. ch. 89-404, § 2)

Sec. 74-78. - Classified and unclassified services; executive staff; status of members.

(a)

The classified service shall consist of full-time positions held by corrections officers, deputy sheriffs and noncertified personnel who have attained permanent status as defined herein and who are serving in the unclassified service or as members of the sheriff's executive staff.

(b)

The unclassified service shall consist of the following positions: all part-time positions, all full-time personnel who have not attained permanent status as defined herein, all volunteer or nonsalaried positions, school crossing guards, reserve deputies, and special deputies. Members of the unclassified service shall serve at the pleasure of the sheriff and may be suspended, demoted, or terminated at any time without cause and without any right to appeal to the civil service board.

(c)

The sheriff's executive staff shall consist of all certified personnel who have attained the rank of captain or above, the public information coordinator, the sheriff's executive secretary and all noncertified personnel whose salary is equal to or greater than the base salary for the rank of law enforcement captain.

(d)

Members of the sheriff's executive staff shall serve in those positions at the pleasure of the sheriff. Except as provided herein, such personnel may be suspended, demoted, or dismissed at any time without cause and without any right of appeal to the civil service board. However, persons serving as members of the sheriff's executive staff who have, previous to their appointment to the executive staff, attained permanent status in the classified service may be returned to the highest rank or position such person achieved in the classified service without cause and without any right to appeal such return to classified service.

(Laws of Fla. ch. 89-404, § 3)

Sec. 74-79. - Permanent status; effect of rehire; probationary promotion and extension of probation.

(a)

After classified personnel of the sheriff to whom the provisions of this division apply have served in such position for a period of one calendar year without break in service, such personnel shall have attained permanent status in the office of the sheriff, unless such personnel are placed on an extended probation.

(b)

When personnel are terminated, resign, or are otherwise separated from service, and are rehired at a later date, they shall be required to complete one calendar year of service, without break in service, following such

rehire before attaining permanent status in the office of the sheriff.

(c)

Personnel in the classified service who are required to serve a probationary period attendant to a promotion shall retain permanent status in the office of the sheriff, but may be demoted to their prior rank during such probationary period for any reason and without the right of appeal as provided in this division.

(d)

When, in the sole discretion of the sheriff, an extension of a probationary period for newly hired or newly promoted personnel is warranted, such probationary period may be extended for a period [of] up to six additional months. In the case of newly hired personnel, the affected personnel shall be required to satisfactorily complete the extended probationary period before attaining permanent status in the office of the Pinellas County sheriff.

(Laws of Fla. ch. 89-404, § 4)

Sec. 74-80. - Effect of election or appointment of new sheriff on status of personnel.

(a)

When a newly elected or appointed sheriff assumes office, the new sheriff shall continue the members of the classified service at their existing rank and/or salary level unless cause for demotion or dismissal, as provided herein, exists.

(b)

When a newly elected or appointed sheriff assumes office, persons then serving as members of the sheriff's executive staff who, previous to their appointment to the executive staff, had attained permanent status in the classified service shall not be suspended without pay for more than one working day or dismissed unless cause as provided herein exists. However, such personnel may be demoted to the highest rank achieved in the classified service without cause and without any right to appeal.

(Laws of Fla. ch. 89-404, § 5; Laws of Fla. ch. 90-395, § 1)

Sec. 74-81. - Members of classified service and executive staff; suspension, demotion, or dismissal only for cause.

(a)

Members of the classified service may only be suspended, for a period in excess of one working day, reduced in rank or base pay, or dismissed from service for cause. Members of the executive staff who have, previous to their appointment to the executive staff, achieved permanent status in the classified service may only be dismissed or suspended for a period in excess of one working day or demoted to a rank or rate of base pay less than the highest rank or base pay the member attained while in the classified service for cause. Prior to such action described above, the member shall be furnished with written notice of the proposed action and an explanation of the reasons for the action, and offered an opportunity to respond to the reasons for the action. However, nothing stated herein shall be construed as changing the status of deputy sheriffs from appointed officers to employees covered by the provisions of F.S. ch. 447.

(b)

In situations where the delay occasioned by furnishing personnel such written notice and opportunity to respond could result in damage or injury, personnel may be suspended or dismissed for cause immediately and provided such written notice and opportunity to respond within 24 hours.

(c)

Written notice of disciplinary action to a department member shall be deemed to be effective upon hand delivery, or upon mailing to the member's last-known address.

(d)

Cause for suspension, dismissal, or demotion shall include, but not be limited to: negligence, inefficiency, or inadequate job performance; inability to perform assigned duties, incompetence, dishonesty, insubordination, violation of the provisions of law or the rules, regulations, and operating procedures of the office of the sheriff, conduct unbecoming a public servant, misconduct, or proof and/or admission of use of illegal drugs. Cause for suspension or dismissal shall also include the adjudication of guilt by a court of competent jurisdiction, a plea of guilty or of nolo contendere, or a verdict of guilty where adjudication of guilt is withheld and the accused is placed on probation, with respect to any felony or misdemeanor. The filing of felony or misdemeanor charges against sheriff's office personnel may also constitute cause for suspension. Subsequent dropping of charges shall result in automatic reinstatement, provided that independent departmental charges are not pending.

(e)

The listing of causes for suspension, demotion, or dismissal in this section is not intended to be exclusive. The sheriff may, by departmental rule, add to this listing of causes for suspension, dismissal, or demotion.

(Laws of Fla. ch. 89-404, § 6)

Sec. 74-82. - Creation, membership and qualifications of civil service board.

(a)

Created; composition. The sheriff of Pinellas County is hereby authorized to create a civil service board which shall be composed of five members, which shall be determined as follows:

(1)

Two members of the civil service board shall be appointed by the sheriff after being elected in an election among the members of the classified service. The sheriff shall appoint the two persons receiving the highest number of votes in such election.

(2)

Two members shall be appointed by the sheriff.

(3)

The fifth member shall be selected by the majority of the other four board members within 15 days of their

appointments. In the event that the selection process of the fifth member results in an impasse, within 15 days, the fifth member shall be appointed by the chief judge of the sixth judicial circuit.

(4)

The five members of the board shall then select a sixth or alternate member who shall serve upon the inability of any other member to serve.

(5)

The fifth member shall be chairperson of the civil service board, unless the board elects otherwise.

(6)

Four members of the civil service board shall constitute a quorum.

(b)

Membership qualifications and term.

(1)

All members of the civil service board shall be at least 21 years of age, of good moral character, of good reputation in the community, citizens of the United States, permanent residents of Florida, and permanent residents of Pinellas County for at least two years prior to the date of their appointment.

(2)

No member of the board may be:

a.

A member of any national, state, or county committee of a political party;

b.

A candidate for or incumbent of any elected public office;

c.

A member of the Pinellas County sheriff's office, or the spouse, parent, grandparent, child, grandchild, brother, sister, aunt, uncle, niece, or nephew, by consanguinity or affinity of a member; or

d.

Positioned as to have a conflict of interest in the terms of his or her related business, duties or responsibilities in connection with the civil service board.

(3)

The members of the board shall serve a term of one year from the date of their election or appointment, as the case may be.

(4)

Members of the board will receive no salary, but will be paid a stipend as determined by the sheriff to offset expenses incurred in performing the duties of the civil service board.

(Laws of Fla. ch. 89-404, § 7)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 74-83. - Duties and authority of civil service board.

(a)

The civil service board shall have the following authority and duties:

(1)

To adopt and amend reasonable rules and regulations for its hearing procedures.

(2)

To hear all appeals of the members of the classified service arising from personnel actions brought under the sheriff's rules, procedures, or policies which result in dismissal, suspension for more than one working day without pay, demotion, or reduction in base pay.

(3)

To hear appeals of members of the executive staff who have, previous to their appointment to the executive staff, achieved permanent status in the classified service, arising from personnel actions brought under the sheriff's rules, procedures, or policies which result in dismissal or suspension for more than one working day or demotion to base pay less than the highest rank or base pay the member attained while in the classified service.

(4)

To contract with the division of administrative hearings conduct pursuant to F.S. ch. 120, as provided in section 74-86(h).

(b)

Other than those appeals specified in subsection (a) above, the civil service board shall not have authority to hear appeals.

(c)

The authority of the civil service board shall not include the establishment or deletion of the categories of conduct which constitute cause for suspension, demotion, or dismissal. In hearing appeals, the civil service board shall:

(1)

Determine whether the aggrieved member engaged in conduct prohibited by section 74-81 or by a

departmental rule promulgated by the sheriff;

(2)

Determine whether the action taken against the aggrieved member is consistent with action taken against other members; and

(3)

Make findings of fact and state a conclusion as specified in subsection (f).

(d)

The civil service board may also provide assistance and advice to the sheriff in matters concerning disciplinary actions and may take any other actions authorized by the sheriff.

(e)

The civil service board, pursuant to its authority to hear appeals of members of the classified service, shall have the power to schedule hearings, administer oaths, take or allow the taking of depositions, issue subpoenas to compel the attendance of witnesses and the production of books, accounts, papers, records, documents, testimony, and other items to effect such other discovery as it deems fit and proper upon the written request of either party.

(1)

The chairperson of the civil service board or his/her designee shall be authorized to sign all notices, subpoenas, and final orders on behalf of the board. In the case of disobedience or failure of any person to comply with a subpoena issued by the board or any of its members, or upon the refusal of a witness to testify on any matter on which he or she may be lawfully interrogated, a judge of the circuit court of Pinellas County, on application of the civil service board, shall compel obedience by proceedings as for contempt.

(2)

The service of a subpoena shall be made in the manner provided by the Florida Rules of Civil Procedure. Each witness subpoenaed by the civil service board shall receive for his attendance, from the party requesting the subpoena, fees and mileage in the amount as provided for witnesses in civil cases. Personnel of the sheriff's office appearing before the civil service board while on duty shall not receive witness fees or reimbursements for mileage.

(f)

Within ten days of the conclusion of the appeals hearing, the civil service board, by a majority vote, shall dispose of the appeal and shall make findings of fact and state a conclusion; such findings of fact and conclusion shall be separately stated and shall be in writing. Such conclusion shall either sustain, modify, or not sustain the action being appealed. Upon a finding that cause did not exist for a suspension, demotion, reduction in pay, or dismissal, the civil service board shall reinstate the appellant and direct the sheriff to pay the appellant for the period of any suspension, demotion, loss of pay, or dismissal. The civil service board shall not have the authority to impose any penalty more severe than that which formed the basis of the appeal. Should the civil service board be unable to reach a majority decision on any appeal, the personnel action

taken shall be sustained.

(g)

The decision of the civil service board shall be final and binding on all parties concerned.

(Laws of Fla. ch. 89-404, § 8; Laws of Fla. ch. 90-395, § 2)

Sec. 74-84. - Appeals procedure.

(a)

A member of the classified service who has been suspended without pay for more than one working day, demoted, reduced in base pay, or dismissed, and those members of the executive staff to whom rights of appeal are granted pursuant to section 74-78, may obtain a hearing before the civil service board by filing a written notice of appeal with the sheriff or his designee. Filing shall be effected by delivery in person to the sheriff or his designee, or by U.S. mail, registered, return receipt requested. Such notice of appeal shall be filed within five calendar days of receipt of notice of the suspension, demotion, reduction in pay, or dismissal. Failure to file said written notice within the five-day period prescribed herein shall constitute a voluntary waiver of all rights to an appeal under this division.

(b)

The notice of appeal shall contain:

(1)

A statement that the person filing the notice of appeal is entitled to an appeal pursuant to the terms of this division as a present or former member of the classified service;

(2)

A statement of the disciplinary action complained of and the basis for the appeal; and

(3)

A request for relief.

(c)

The appellant shall be limited in the scope of his or her appeal to the issues raised in the notice of appeal.

(Laws of Fla. ch. 89-404, § 9)

Sec. 74-85. - Settlement of appeals and precedent.

In order to encourage resolutions of appeals prior to hearing, any settlement of an appeal acceptable to the appellant shall not establish a precedent against either the sheriff, any member of the classified service or any member of the executive staff to whom the right of appeal is afforded by this division. Such settlement shall not conflict in any manner with the provisions of this division and shall not be used in any subsequent appeal hearing.

(Laws of Fla. ch. 89-404, § 10)

Sec. 74-86. - Hearing procedure.

(a)

The civil service board shall commence a hearing on an appeal within 30 days from the date upon which the notice of appeal was received by the sheriff or his designee, and shall proceed diligently to conclude such hearing in an expeditious fashion while affording to all parties a full and fair hearing. The civil service board may grant a continuance of a hearing for good cause shown upon its own or a party's motion.

(b)

The civil service board shall establish appropriate rules and procedures for the conduct of all hearings pursuant to this division. All testimony of the parties and witnesses shall be made under oath or affirmation. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient in and of itself to support a finding unless it would be admissible over objections in civil actions.

(c)

Each party shall be entitled to call witnesses on his or her own behalf, to compel the attendance of witnesses through the service of subpoenas, to cross examine the witnesses, to represent himself or herself, or to be represented by any other representative of his or her choosing, and to be present at such hearing.

(d)

Each party shall bear his or her own costs and fees incurred with respect to such hearings. No costs or fees shall be reimbursed by one party to the other regardless of the decision of the civil service board under this division.

(e)

Appeal hearings shall be open to the public in accordance with the provisions of F.S. ch. 286.

(f)

The civil service board, its members, the sheriff, witnesses while giving truthful testimony, and all the representatives of the parties shall be immune from all civil liability arising from actions taken pursuant to the provisions of this division.

(g)

A tape recording shall be made of each civil service board hearing and minutes of the hearing shall be kept. Either party shall be entitled to engage the services of a certified court reporter to record such hearing. The party engaging services of the court reporter shall be solely responsible for payment for such services.

(h)

The civil service board may, upon stating its reasons, elect at any stage of the hearing procedure to contract with the division of administrative hearings of the department of administration to have the hearing conducted pursuant to F.S. ch. 120, in which case the board shall limit its considerations to the findings and

recommendations of the department of administration hearing officer.

(Laws of Fla. ch. 89-404, § 11)

Sec. 74-87. - Exemption from F.S. ch. 120.

Unless the election is made to proceed under section 74-86(h), the actions of the civil service board and the sheriff taken pursuant to this division shall be exempt from the provisions of F.S. ch. 120.

(Laws of Fla. ch. 89-404, § 12)

Sec. 74-88. - Members' advisory council.

There shall be a five-person members' advisory council which shall serve in an advisory capacity to the sheriff concerning personnel matters, policies, rules, and regulations affecting members of the classified service. The departmental representation of the members' advisory council shall be determined by the sheriff. All members of the members' advisory council shall be permanent members of the department and members of the classified service. One member shall be elected from each of five areas to be determined by the sheriff and shall be elected to serve by secret ballot of all members of the classified service within each respective area. Members of the members' advisory council shall serve a one-year term of office beginning July 1 of each year. The initial council shall serve from the date elected until July 1 of the following year.

(Laws of Fla. ch. 89-404, § 13)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 74-89. - Certified personnel to maintain status as appointed officers.

Nothing herein shall be construed as altering the traditional status of certified personnel as appointed officers, who, as such, are excluded from coverage as employees under F.S. ch. 447.

(Laws of Fla. ch. 89-404, § 14)

Sec. 74-90. - Procedure for review of citizen complaints and other actions.

The sheriff shall, contemporaneous with the effective date of this division, by department rule or regulation, establish a procedure to review and resolve citizen complaints and disciplinary actions for which an appeal is not provided by this division.

(Laws of Fla. ch. 89-404, § 14)

Chapter 78 - LIBRARIES[1]
Footnotes:
--- (**1**) ---

Charter reference— General powers of county, § 2.01.

Cross reference— Palm Harbor community services district library, § 114-214.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g).

ARTICLE I. - IN GENERAL

Sec. 78-1. - Definitions.

Chief judge means the chief judge of the Sixth Judicial Circuit, duly elected pursuant to Rule 2.050, of the Florida Rules of Judicial Administration, or her successors in office.

County means Pinellas County, Florida, a political subdivision of the State of Florida.

Special act means Laws of Florida, Chs. 61-2668 and 69-1492 which became ordinances in 1978 pursuant to Ch. 78-596, Section 4(14) Laws of Florida.

(Ord. No. 97-31, § 1, 5-13-97)

Sec. 78-2. - Library services district.

(a)

Established. There is hereby established a municipal service taxing unit under the name of Pinellas County Library Services District. The district shall exist until dissolved by law.

(b)

District boundaries. All of the lands described in this section shall be incorporated into a municipal service taxing unit under the name of Pinellas County Library Services District. The land so incorporated shall include all of the unincorporated area of the county except for the Palm Harbor Community Services District and the East Lake Library Services District.

(c)

Governing board. The board of county commissioners shall be the governing board of the library services district.

(d)

Administration; purpose. The board of county commissioners may enter into an interlocal agreement with governmental units and other appropriate providers of library services within the county in order to establish a nonprofit corporation ("cooperative") to be created for the administration and operation of a cooperative library services system. The purposes of the cooperative shall be to extend library services to unincorporated areas of the county and of participating municipalities that do not have such services, and to improve library services to citizens of municipalities and of library tax districts that have library services.

(e)

Tax levy. Within the unincorporated areas of the county covered by this section, there is hereby levied and imposed an ad valorem tax not to exceed one-half mill for the purpose of providing free access to library services to citizens of the county residing in such unincorporated areas and to participate in a library cooperative to administer such funds.

(Ord. No. 89-5, §§ 1—5, 2-7-89; Ord. No. 13-11, § 2, 5-21-13)

Editor's note— Section 6 of Ord. No. 89-5 called for a referendum election to be held March 28, 1989, to approve the tax referred to in subsection (e). The county has advised this tax was approved.

Cross reference— Special districts, ch. 114.

State Law reference— General power of board of county commissioners relative to special districts, F.S. § 125.01(5).

Sec. 78-3. - Appointment of trustees.

The chief judge shall have full authority to appoint trustees for law libraries within the county, who will serve at the pleasure of the chief judge.

(Ord. No. 97-31, § 3, 5-13-97)

Sec. 78-4. - Location of law libraries.

The chief judge shall have the authority to assign or designate the location of law libraries within courthouses and other county buildings located within the county.

(Ord. No. 97-31, § 4, 5-13-97)

Sec. 78-5. - Expenditure and management of funds budgeted for law libraries.

The chief judge, in accordance with the provisions of this article and by issuance of whatever orders deemed appropriate, shall have authority to provide for the expenditure of funds budgeted by the BCC for the provision and maintenance of law libraries.

(Ord. No. 97-31, § 5, 5-13-97)

Sec. 78-6. - Consolidated budget.

The law libraries funded hereunder and the board(s) of trustees however constituted by orders of the chief judge shall present one consolidated budget which shall be approved by the chief judge before being introduced into the county budget process.

(Ord. No. 97-31, § 6, 5-13-97)

Sec. 78-7. - Library personnel.

Personnel for the law libraries shall be governed by the provisions of the interlocal agreement executed September 24, 1996, between the chief judge, the chief judicial officer of the circuit and the BCC and as such agreement may from time to time be amended or replaced.

(Ord. No. 97-31, § 7, 5-13-97)

Secs. 78-8—78-40. - Reserved.

ARTICLE II. - OFFENSES INVOLVING LIBRARY MATERIALS

Sec. 78-41. - Unlawful to fail to return library materials.

It shall be unlawful for any person to fail to return any library books, audio or video recording, magazine or any other library article or personal property borrowed from any public library within the county after ten days have elapsed from the date of written request for return by said library or an authorized agent of said library. The notice requesting the return of such materials shall be sent by registered or certified mail addressed to said person at the last-known address furnished to the library as evidenced by the records retained by said library.

(Ord. No. 96-52, § 1, 7-2-96)

Sec. 78-42. - Unlawful to fail to report lost library materials and reimburse for same.

It shall be unlawful to fail to report any lost library book, audio or video recording, magazine or any other article of personal property borrowed from any public library within the county and to fail to reimburse said library after ten days have elapsed from the date of written request for reimbursement by said library. The notice requesting reimbursement for such materials shall be sent by registered or certified mail addressed to said person at the last-known address furnished to the library.

(Ord. No. 96-52, § 1, 7-2-96)

Sec. 78-43. - Unlawful to defraud library.

It shall be unlawful to register or furnish, with the intent to defraud, a false name or address, or use with intent to defraud, any card other than one issued to said person for the purpose of borrowing any book or other article from the public libraries in the county.

(Ord. No. 96-52, § 1, 7-2-96)

Sec. 78-44. - Unlawful to destroy or damage library materials or to fail to reimburse for such materials or damages thereto.

It shall be unlawful for any person to willfully destroy, deface, mar or otherwise damage any library book, audio or video recording, film, magazines, or any other article of personal property borrowed from the public libraries of the county, or to fail to reimburse said library for destruction of or damage to such materials after ten days have elapsed from the date of receipt of a written request for reimbursement by said library or an authorized agent of said library, whether or not said destruction or damage is willful or accidental. The notice requesting reimbursement for such destruction or damage shall be sent by registered or certified mail, addressed to said person at the last-known address furnished to the library as evidenced by the records retained by said library.

(Ord. No. 96-52, § 1, 7-2-96)

Sec. 78-45. - Service fee.

In addition to any reimbursement herein required, any individual to whom a notice has been sent under the provisions of this article shall pay to the libraries in the county a service fee in the amount of $5.00 per item.

(Ord. No. 96-52, § 1, 7-2-96)

Sec. 78-46. - Penalty for violation of sections 78-41, 78-42, 78-43, 78-44.

Any person or persons who shall violate the provisions of this article shall be prosecuted in accordance with

F.S. § 125.69, and punishable by a fine in a sum not to exceed $500.00 per any book, audio or video recording film, magazine, or any other article or personal property borrowed from any public library within the county.

(Ord. No. 96-52, § 1, 7-2-96; Ord. No. 00-23, § 1, 3-21-00)

Sec. 78-47. - Delivery of services.

No function or power relating to services is transferred from any municipality to the county. The municipality may continue to deliver any service to their libraries which should not be duplicated by the county.

(Ord. No. 96-52, § 1, 7-2-96)

Chapter 82 - NATURAL RESOURCES[1]

Footnotes:
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Charter reference— General powers of county, § 2.01.

Cross reference— Fresh water conservation board, § 2-251 et seq.; water and navigation control authority, § 2-271 et seq.; game and fish, § 14-86 et seq.; environment, ch. 58; aquatic preserves, § 58-366 et seq.; Pinellas Park water management district, § 114-131 et seq.; Honeymoon Island, setback line for coastal construction, § 130-2; public lake improvements, § 130-31 et seq.; floodplain management, ch. 158; environmental and natural resource protection, ch. 166; flood damage prevention, § 170-101 et seq.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g).

Sec. 82-1. - Local enforcement of water management district declared water shortage.

(a)

Definitions. For the purpose of this section, the following terms, phrases, words and their derivations shall have the meaning given in this subsection:

District means the Southwest Florida Water Management District.

Water resource means any and all water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds or diffused surface water, and water percolating, standing or flowing beneath the surface of the ground, specifically including water withdrawn from wells, but excluding sea water.

Water shortage condition means when sufficient water is not available to meet present or anticipated needs of persons using the water resource, or when conditions are such as to require temporary reduction in total water usage within a particular area to protect the water resource from serious harm. A water shortage usually occurs due to drought.

Water shortage plan means chapter 40D-21, Florida Administrative Code, the codification of the water shortage plan adopted and published by the Southwest Florida Water Management District, or any modification or derivative of chapter 40D-21 which may be current at the time a water shortage or water

shortage emergency is declared.

Water user means an owner of the real property on which water use is occurring, a tenant with current right to occupancy of the real property on which water use is occurring, the local managerial person in control of the day to day activities on real property on which water use is occurring, or the county utilities account holder for the real property on which water use is occurring.

(b)

Scope. The provisions of this section shall apply to all persons or water users using the water resource, whether from public or privately owned water utility systems, private wells, or private connections with surface water bodies. This section shall not apply to persons using reclaimed water.

(c)

Declaration of water shortage; water shortage emergency. The declaration of a water shortage or water shortage emergency within all or any part of the county by the governing board or the executive director of the district or by resolution of the board of county commissioners shall invoke the following provisions:

(1)

Upon such a declaration by the governing board or the executive director of the district, all water use restrictions or other measures adopted by the district pursuant to chapter 40D-21, Florida Administrative Code, applicable to the county, or any portion thereof, shall be subject to enforcement action pursuant to this section. Any violation of the provisions of chapter 40D-21, Florida Administrative Code, or any order issued pursuant thereto, shall be a violation of this section.

(2)

Upon such a declaration by the board of county commissioners, all water use restrictions adopted by the board of county commissioners shall be subject to enforcement action pursuant to this section. The resolution of the board of county commissioners declaring a water shortage or water shortage emergency shall specify those restrictions deemed necessary to meet the water shortage. Such restrictions may include but are not limited to apportioning, rotating, limiting or prohibiting the uses of water. The board of county commissioners is hereby authorized to adopt any restrictions as specified in chapter 40D-21, Florida Administrative Code. The board of county commissioners shall choose a combination of the restrictions contained in chapter 40D-21 or any other appropriate and necessary restrictions deemed necessary to meet the water shortage. Any violation of such restrictions shall be deemed a violation of this section.

(d)

Enforcement. All law enforcement officers and code enforcement officers in the county shall, in connection with all other duties imposed by law, diligently enforce the provisions of this section. In addition, the county administrator may also delegate enforcement responsibility for this section to agencies and departments of the county government in the service areas governed by this section, in accordance with state and local law.

(e)

Penalty. Violations of this section are punishable as provided in section 1-8.

(Ord. No. 94-51, §§ 1—5, 6-7-94; Ord. No. 03-99, § 1, 12-16-03)

Sec. 82-2. - County year-round water conservation measures.

(a)

Definitions. Terms used, but not otherwise defined, in this section shall be defined as in Rule 40D-22, Florida Administrative Code.

Overhead irrigation means the use of equipment and devices, which deliver water under pressure, through the air, above the level of the plant being irrigated.

Water user means an owner of the real property on which water use is occurring, a tenant with current right to occupancy of the real property on which water use is occurring, the local managerial person in control of the day to day activities on real property on which water use is occurring, or the county utilities account holder for the real property on which water use is occurring.

(b)

Violation of year-round conservation measures. Any violation of the Southwest Florida Water Management District Chapter 40D-22 F.A.C. Year-Round Water Conservation Measures shall be a violation of this section. Variances granted by the Southwest Florida Water Management District are exempt from the provisions of this section.

(c)

Penalties. Violations of this section are punishable as provided in section 1-8.

(d)

Area embraced. All territory within the legal boundaries of Pinellas County, Florida, including all incorporated and all unincorporated areas served directly or indirectly by the county water system, either by wholesale or retail service, are subject to this section.

(e)

Variances.

(1)

Authority. To the extent not inconsistent with Rules 40D-22, F.A.C., the county administrator or his designee may grant a variance from the terms of this section when such variance will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this section would result in hardship on the applicant. Hardship may include, but is not limited to, physical hardship, irrigation system limitations, religious convictions or the health and safety of the applicant. Such variance shall not be granted by the county administrator or his designee unless and until a written application for a variance shall be submitted to the county utilities department demonstrating that:

a.

The variance shall not be in conflict with any other applicable ordinance or state law.

b.

The variance will not adversely affect the water supply.

c.

The variance will not violate the general spirit and intent of this section nor will it be inconsistent with the comprehensive plan.

(2)

Approval by county administrator. The county administrator or his designee shall consider a variance from the terms of this section as soon as possible after submittal of the written application therefor. In granting any variance, the county administrator or his designee may prescribe appropriate conditions and safeguards to assure conformance with the criteria listed in subsection (e)(1) of this section. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this section.

(3)

Appeal. The applicant for a variance may appeal the denial of a variance by requesting a hearing before the board of county commissioners. The applicant shall have 15 days from receipt of notice of denial of the variance to request a hearing. The hearing shall occur as soon as reasonably practicable but in no event later than 35 days after receipt of the request for the hearing. The hearing shall provide for adequate due process as constitutionally required in any quasijudicial proceeding. The board of county commissioners may uphold the denial of the variance, grant the variance, or grant a variance with such terms as it deems necessary to assure conformance with the criteria listed in subsection (e)(1) of this section.

(Ord. No. 94-53, §§ 1—5, 7, 6-7-94; Ord. No. 03-99, § 2, 12-16-03; Ord. No. 10-60, § 1, 10-26-10)

Sec. 82-3. - County reclaimed water shortage conservation measures.

(a)

Definitions. Terms used but not otherwise defined in this section shall be defined as in Rule 40D-22, Florida Administrative Code (F.A.C.).

Director: The director of the utilities department or his designee.

Low volume irrigation: The use of equipment and devices specifically designed to both limit the volume of water being applied and efficiently deliver that water within the root zone of the plant. Examples of low-volume irrigation include hand watering, microirrigation (emitters and drip tubes) and soaker hoses.

Overhead irrigation: The use of equipment and devices, which deliver water under pressure, through the air, above the level of the plant being irrigated.

Reclaimed water: Water that has received at least secondary treatment with high level disinfection pursuant to Chapter 62-610, F.A.C.

Reclaimed water system: The network of pipes, pumps and other appurtenances, as described in Article III of Chapter 126 of the Pinellas County Code, and which transports reclaimed water from a water reclamation

facility and delivers it to the reclaimed water user.

Reclaimed water user: The owner of the real property on which reclaimed water application is occurring, a tenant with current right to occupancy of the real property on which reclaimed water application is occurring, the local management person in control of the day-to-day activities on real property on which reclaimed water application occurring, or the county utilities account holder for the real property on which reclaimed water application is occurring.

Retail service: Each account to which reclaimed water is provided in relatively small quantities for irrigation, primarily single-family residential, commercial or industrial customers, for which a periodic billing is made at the retail billing rate adopted by the board of county commissioners.

Sanitary sewer collection system: A network of pipes that receives the wastewater from a community and conveys it to a water reclamation facility for treatment.

Wastewater: The spent water from a community, previously used for cooking, bathing, toilet flush, etc., that is discharged to a sanitary sewer collection system.

Water reclamation facility: A system of tanks that clean wastewater through a series of processes to remove organics, solids and other deleterious material and/or compounds from the waste stream and disinfects the treated water so as to render it of such quality as to be able to apply it to public access areas and residential lawns and landscapes.

(b)

Violation of year-round conservation measures. Any violation of the Southwest Florida Water Management District Chapter 40D-22 F.A.C. Year-Round Water Conservation Measures that pertains to usage of reclaimed water shall be a violation of this section.

(c)

Additional restrictions. Overhead irrigation of established lawns and landscaping by reclaimed water supplied directly from the county reclaimed water system to a reclaimed water user is further restricted as follows:

(1)

Low volume irrigation of landscaping and lawns shall not be further restricted except in accordance with Rule 40D-22, F.A.C.

(2)

Annually during two separate periods of the year, from April 1 to June 30 and from October 1 to November 30, unless excepted herein, permitted overhead irrigation of established lawns and landscaping by reclaimed water shall be limited to three days per week as follows:

a.

At addresses ending in 1, 3, 5, 7, 9 ("house numbers"), or a mix of addresses, or for which an address can not be determined, such as common areas associated with a residential subdivision, on Wednesday, Friday and Sunday;

b.

At addresses ending in the numbers 0, 2, 4, 6, 8 ("house numbers") on Tuesday, Thursday and Saturday;

c.

Overhead irrigation is prohibited between the hours of 10:00 a.m. to 4:00 p.m. on permitted days and is prohibited at all times on Mondays;

d.

Overhead irrigation of properties at any other time, or any other day, is unlawful and a violation of this section; and

e.

Establishment period watering for lawn and landscaping and irrigation for the purpose of watering in fertilizers, insecticides, fungicides, and herbicides is in accordance with 40D-22 F.A.C.

f.

The director may suspend implementation of limitations on reclaimed water usage based upon consideration of the following factors:

1.

Excess reclaimed water in the storage facilities at the water reclamation facilities; or

2.

Extended period of seasonal rainfall.

(3)

In accordance with section 126-511 of this Code: "The director shall have the authority to establish schedules which restrict the use of the reclaimed water system at certain times in order to reduce maximum pressure demands on the system and to regulate usage during periods of limited reclaimed water availability".

(d)

Penalties. Violations of this section are punishable as provided in section 1-8 of this Code. More than three violations in any one calendar year may result in reclaimed water service being terminated.

(e)

Area embraced. All territory within the legal boundaries of Pinellas County, Florida, that are served directly by the county reclaimed water system as retail service, are subject to this section.

(f)

Variances.

(1)

Authority. The county administrator or his designee may grant a variance from the terms of this section when such variance will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this section would result in hardship, irrigation system limitations, religious convictions or the health and safety of the applicant. Such variance shall not be granted by the county administrator or his designee unless or until a written application for a variance shall be submitted to the county utilities department demonstrating that:

a.

The variance shall not be in conflict with any other applicable ordinance or state law.

b.

The variance will not adversely affect the reclaimed water supply.

c.

The variance will not violate the general spirit and intent of this section nor will it be inconsistent with the county comprehensive plan.

(2)

Approval by the county administrator. The county administrator or his designee shall consider a variance from the terms of this section as soon as possible after submittal of the written application heretofore. In granting any variance, the county administrator or his designee may prescribe appropriate conditions and safeguards to assure conformance with the criteria listed in subsection (f)(1) of this section. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this section.

(3)

Appeal. The applicant for a variance may appeal the denial of a variance by requesting a hearing before the board of county commissioners. The applicant shall have 15 days from receipt of notice of denial of the variance to request a hearing. The hearing shall occur as soon as reasonably practicable, but in no event later than 35 days after receipt of the request for the hearing. The hearing shall provide for adequate due process as constitutionally required in any quasijudicial proceeding. The board of county commissioners may uphold the denial of the variance, grant the variance, or grant a variance with such terms and conditions as it deems necessary to assure conformance with the criteria listed in subsection (f)(1) of this section.

(Ord. No. 09-13, § 1, 3-17-09)

Chapter 86 - OFFENSES AND MISCELLANEOUS PROVISIONS[1]
Footnotes:
--- (**1**) ---

Charter reference— General powers of county, § 2.01.

Cross reference— Noise, § 58-441 et seq.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g).

ARTICLE I. - IN GENERAL

Secs. 86-1—86-30. - Reserved.

ARTICLE II. - OFFENSES INVOLVING PROPERTY RIGHTS

Sec. 86-31. - Penalty for violation of article.

Violations of this article are punishable as provided in section 1-8.

Sec. 86-32. - Combat automobile theft program.

(a)

Creation. The combat automobile theft program is hereby created.

(b)

Definitions. As used in this section:

Administrative fees means the actual cost, if any, to the county sheriff's office incurred through the printing of decals and consent forms for the combat automobile theft program.

Consent form means a legally binding form designed by the sheriff's office in accordance with F.S. § 316.008, signed by the registered and/or titled owner of the vehicle enrolled in the combat automobile theft program. Once signed, the consent form will be kept on file with the appropriate law enforcement agency and serve as written authorization to stop the vehicle designated on the form between the hours of 1:00 a.m. and 5:00 a.m.

Decal means an adhesive emblem approved by the sheriff's office in accordance with the provisions of F.S. § 316.008 for the purpose of posting in the bottom left corner of the back window of a motor vehicle to indicate owner consent for a traffic stop in accordance with the requirements of the combat automobile theft program.

Motor vehicle means a conveyance meeting the description of a motor vehicle as defined in F.S. § 316.003(21).

Registered owner means the legally recorded holder of a motor vehicle, whose name appears on the motor vehicle's registration certificate.

Titled owner means the legally recorded holder of the motor vehicle's title, whose name appears on the motor vehicle's title.

(c)

Procedure for enrolling vehicles in program. All persons wishing to enroll a vehicle or vehicles in the county's combat automobile theft program shall comply with the following regulations:

(1)

Complete a consent form for each vehicle to be enrolled in the program to the appropriate county law enforcement agency.

(2)

At the time of submission of the consent form, provide proof of ownership of each vehicle to be enrolled in the program, either in the form of a certified title or registration certificate.

(3)

At the time of submission of the consent form, provide the law enforcement agency with personal identification either in the form of a driver's license or birth certificate. Only the registered and/or titled owner of a vehicle to be enrolled can enroll the vehicle into the program.

(4)

At the time of enrollment, the decals must be conspicuously affixed to the bottom left corner of the back window of the vehicle.

(5)

Upon selling or otherwise transferring ownership of the vehicle, the registered or titled owner shall remove the decals.

(6)

Upon terminating participation in the program, the registered or titled owner shall remove the decals.

(7)

Before selling, transferring ownership of the vehicle or upon terminating participation in the combat automobile theft program, the registered or titled owner shall also notify the issuing law enforcement agency thereof in writing.

(d)

Authorization to stop vehicle. A consent form signed by a motor vehicle owner provides authorization for a law enforcement officer to stop the vehicle when it is being driven between the hours of 1:00 a.m. and 5:00 a.m., provided that a decal is conspicuously affixed to the bottom left corner of the back window of the vehicle to provide notice of its enrollment in the combat automobile theft program.

(e)

Territory embraced. All territory within the legal boundaries of Pinellas County, including all incorporated and unincorporated areas, shall be embraced by the provisions of this section.

(Ord. No. 91-6, §§ 1—4, 6, 1-29-91)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Cross reference— Law enforcement, ch. 74; traffic and vehicles, ch. 122.

State Law reference— Combat automobile theft programs, F.S. § 316.008(6).

Secs. 86-33—86-50. - Reserved.

ARTICLE III. - OFFENSES INVOLVING PUBLIC SAFETY

DIVISION 1. - GENERALLY

Sec. 86-51. - Penalty for violation of division.

Violations of this division are punishable as provided in section 1-8.

Secs. 86-52—86-70. - Reserved.

DIVISION 2. - WEAPONS AND RELATED OFFENSES[2]

Footnotes:

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State Law reference— Weapons, F.S. ch. 790.

Sec. 86-71. - Reserved.

Editor's note— Ord. No. 11-35, § 1, adopted Sept. 27, 2011, repealed § 86-71, which pertained to discharge of firearms and derived from Ord. No. 79-41, §§ 1—3, 5 and 6, adopted Dec. 4, 1979 and Ord. No. 81-2, § 1, adopted Feb. 24, 1981.

Sec. 86-72. - Use of blowguns, dartguns restricted.

(a)

Definitions. As used in this section:

Blowgun means a device or instrument capable of discharging, expelling or propelling, by either respiratory, mechanical or other means, a projectile, such as a pointed instrument, metal object, shot or pellet of lead, such that when the projectile is discharged, expelled or propelled it is capable of causing any kind of harm, death or destruction to human beings or animals.

Dartgun means any device or instrument capable of discharging, expelling or propelling, by respiratory, mechanical or other means, a projectile such as a pointed instrument, metal object, shot or pellet of lead, such that when the projectile is discharged, expelled or propelled it is capable of causing any kind of harm, death or destruction to human beings or animals.

(b)

Prohibitions.

(1)

It shall be unlawful for any person under the age of 16 years to discharge, fire, shoot, or in any manner cause the expulsion or propulsion of a projectile from instruments defined in this section as blowguns or dartguns within the county unless such use is under the supervision and in the presence of an adult.

(2)

It shall further be unlawful for any adult having responsibility for the welfare of any child under the age of 16 years to knowingly permit or allow such child to use or have possession of a dartgun or blowgun in violation of subsection (b)(1) of this section.

(3)

Notwithstanding the provisions of subsections (b)(1) and (b)(2) of this section, it shall be unlawful for any person to use a dartgun or blowgun in a manner which can reasonably be considered to constitute a threat to, or actually injure or kill, any animal, wildlife, or human being.

(4)

Notwithstanding the provisions of subsections (b)(1) and (b)(2) of this section, it shall be unlawful for any person to knowingly allow a person whose welfare is their responsibility to use a dartgun or blowgun in a manner which can reasonably be considered to constitute a threat to, or actually injure or kill, any animal, wildlife, or human being.

(c)

Territory embraced. All territory within the legal boundaries of Pinellas County, Florida, including all incorporated and unincorporated areas, shall be embraced by the provisions of this section.

(Ord. No. 85-27, §§ 1, 2, 4, 9-10-85)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Secs. 86-73—86-84. - Reserved.

DIVISION 3. - SALE OF FIREARMS

Sec. 86-85. - Intent and purpose.

It is the intent of this ordinance to implement in the county the constitutionally granted authority to ensure that no firearm is sold, offered for sale, transferred or delivered where any part of the transaction is conducted on property to which the public has a right of access unless there is a three full day waiting period and a national criminal history background check of the potential purchaser is conducted. This ordinance applies to both seller and purchasers of firearms.

(Ord. No. 99-6, § 1, 1-26-99)

Sec. 86-86. - Definitions.

For purposes of this section, the following terms shall be defined as:

Any part of the transaction means any part of the sales transaction, including but not limited to, the offer of sale, negotiations, the agreement to sell, the transfer of consideration, or the transfer or delivery of the firearm.

Firearm means any weapon which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer;

any destructive device; or any machine gun. Such term does not include an antique firearm.

Property to which the public has the right of access means any real or personal property to which the public has a right of access, including property owned by either public or private individuals, firms and entities and expressly includes, but is not limited to, flea markets, gun shows and firearms exhibitions.

Sale means the transfer of money or other valuable consideration.

(Ord. No. 99-6, § 2, 1-26-99)

Sec. 86-87. - Application and enforcement of section.

Law enforcement officers shall enforce the provisions of this section against any person found violating these provisions within their jurisdiction.

(Ord. No. 99-6, § 3, 1-26-99)

Sec. 86-88. - Mandatory three-day waiting period.

There shall be a mandatory three-day waiting period, which shall be three full days, excluding weekends and legal holidays, in connection with the sale of firearms occurring within the county when the sale involves a transfer of money or other valuable consideration, and any part of the sale transaction is conducted on property to which the public has the right of access. Some examples of properties to which the public has the right of access include but are not limited to: gun shows, firearm exhibits, wholesale and retail stores, and flea markets. An uninterrupted, continuous, and cumulative aggregate of 72 hours must elapse between such sale and receipt of the firearm, excluding the hours of weekends and legal holidays. A person who violates the prohibition of this section is guilty of a violation of a county ordinance, punishable as provided in F.S. § 125.69, as it may be amended, and the violation shall be prosecuted in the same manner as misdemeanors are prosecuted.

(Ord. No. 99-6, § 4.1, 1-26-99)

Sec. 86-89. - Mandatory criminal records check.

There shall be a mandatory national criminal history records check done in connection with the sale of firearms occurring within the county. No person shall transfer or receive a firearm when any part of the sale transaction is conducted on property to which the public has the right of access until all procedures and requirements of F.S. § 790.065, have been complied with by a person statutorily authorized to request that a background information check be conducted by the Florida Department of Law Enforcement, which person has received an approval number from that department and documented same, as provided by F.S. § 790.065. In case of repeal or amendment of F.S. § 790.065, no person shall transfer or receive a firearm by sale when any part of the sale transaction is conducted on property to which the public has a right of access until all procedures, requirements, and prohibitions set forth in other federal or state laws relating to background checks have been complied with by persons selling or buying firearms.

(Ord. No. 99-6, § 4.2, 1-26-99)

Sec. 86-90. - Non-applicability to holders of Florida concealed weapon permits.

This division does not apply to the purchaser of firearms by holders of a Florida concealed weapons or

firearms permit or license issued pursuant to general law. However, this exemption shall not relieve such purchasers from compliance with otherwise applicable state or federal law requirements.

(Ord. No. 99-6, § 5, 1-26-99)

Sec. 86-91. - Areas embraced.

This ordinance shall be effective in the incorporated as well as unincorporated areas of the county.

(Ord. No. 99-6, § 6, 1-26-99)

Sec. 86-92. - Penalty.

Violation of a prohibition of this ordinance shall be punishable by a fine not to exceed $500.00 or by imprisonment in the county jail not to exceed 60 days or by both such a fine and imprisonment as provided in F.S. § 125.069, as it may be amended.

(Ord. No. 99-6, § 7, 1-26-99)

Secs. 86-93—86-100. - Reserved.

ARTICLE IV. - OFFENSES INVOLVING PUBLIC MORALS[3]

Footnotes:

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Cross reference— Alcoholic beverages, ch. 6; female nudity in alcoholic beverage establishments, § 6-2; bingo, § 10-61 et seq.; cruelty to animals, § 14-32; commercial exploitation of nudity, § 26-176 et seq.; adult uses, § 42-51 et seq.

DIVISION 1. - GENERALLY

Sec. 86-101. - Penalty for violations of article.

Violations of this article are punishable as provided in section 1-8.

Sec. 86-102. - Drunkenness from use of drugs.

(a)

Prohibition. Whoever shall be or become drunk from the use of drugs shall be punished as provided in section 1-8.

(b)

Areas embraced. All territory within the legal boundaries of Pinellas County, Florida, including all incorporated and unincorporated areas, shall be embraced by the provisions of this section.

(Ord. No. 73-12, §§ 1, 3, 12-11-73)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Cross reference— Additional court costs imposed upon persons found guilty of misdemeanor involving illegal use of alcohol or drugs, § 46-26.

Secs. 86-103, 86-104. - Reserved.

DIVISION 2. - DRUG PARAPHERNALIA

Sec. 86-105. - Legislative intent.

The Board of County Commissioners of Pinellas County hereby determines that the findings of the Drug Paraphernalia Abatement Task Force, created by Resolution 05-195 are incorporated herein to provide legislative support for the enactment of this division.

(Ord. No. 06-73, § 1, 10-10-06)

Sec. 86-106. - Definitions.

For the purpose of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Cannabis means all parts of the plant of the species cannabis sativa, l., including all varieties thereof, whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake; or the sterilized seed of the plant which is incapable of germination.

Close proximity means within 1,000 feet on a straight line commencing at the property lines nearest to each other.

Controlled substance means any drug or substance as described and defined in F.S. § 893.03, 893.035 or 893.036; which are adopted by reference.

Deliver or delivery means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

Drug paraphernalia means all equipment, products and materials of any kind which are used in converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, inhaling or otherwise introducing into the human body a controlled substance in violation of subsection 86-109(b) below, as further defined and enumerated in the definition of the term instrument herein.

Inhalants are a diverse group of substances that include volatile solvents, gases, and nitrites that are sniffed, snorted, huffed, or bagged to produce intoxicating effects similar to alcohol. The gas used as a propellant in canned whipped cream and in small metallic containers called "whippets" (used to make whipped cream) is nitrous oxide or "laughing gas" — the same gas used by dentists for anesthesia.

Instrument means a device designed for use or intended for use in ingesting, smoking, administering or preparing marijuana, cocaine, phencyclidine, opium or any derivative thereof, or any other controlled substance. For purposes of this subsection, the phrase "intended for use" shall refer to the intent of the person selling, offering to sell, dispensing, giving away or displaying the instrument herein defined. In determining

whether an item constitutes an "instrument," the following items shall be considered:

(1)

Whether a person or business establishment charged with violating this section is a licensed distributor or dealer of tobacco products by the state.

(2)

Expert testimony as to the principal use of the devices, articles or contrivances claimed to be instruments.

(3)

Evidence concerning the total business of a person or business establishment and the type of devices, articles, contrivances or items involved in the business.

(4)

National and local advertising concerning the use of the devices, articles or contrivances claimed to be instruments.

(5)

Evidence of advertising concerning the nature of the business establishment.

(6)

Devices within the meaning of this definition include, but are not limited to the following:

(a)

Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b)

Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(c)

Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

(d)

Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

(e)

Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in

otherwise cleaning or refining marijuana;

(f)

Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances;

(g)

Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances;

(h)

Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;

(i)

Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body;

(j)

Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

1.

Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

2.

Water pipes;

3.

Carburetion tubes and devices;

4.

Smoking and carburetion masks;

5.

Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

6.

Miniature cocaine spoons and cocaine vials;

7.

Chamber pipes;

8.

Carburetor pipes;

9.

Electric pipes;

10.

Air-driven pipes;

11.

Chillums;

12.

Bongs;

13.

Ice pipes or chillers;

14.

Cigarette papers or rollers designed for smoking any controlled substance.

Minor means any person who has not attained 18 years of age.

Patient means, as the case may be:

(1)

The individual for whom a drug is prescribed or to whom a drug is administered; or

(2)

The owner or the agent of the owner of the animal for which a drug is prescribed or to which a drug is administered.

Person means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.

Pharmacist means an individual currently licensed by the Florida Health Department Board of Pharmacy, to practice the profession of pharmacy in this state.

Place of display means any museum, library, school or other similar public place upon which business is not

transacted for a profit.

Practitioner means a physician (M.D. or D.O.), dentist, podiatrist, veterinarian, scientific investigator or other person licensed, registered or otherwise authorized by law to administer and prescribe, use in teaching or chemical analysis, or conduct research with respect to a controlled substance in the course of professional practice and research.

Premises means a business establishment and the structure of which it is a part and facilities and appurtenances therein and grounds, areas and facilities held out for the use of patrons.

Premises open to minors means any business establishment which sells its wares or merchandise to minors or which permits minors to enter into its place of business.

Prescription drug means:

(1)

Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopeia of the United States, or official national formulary or any supplement to any of them;

(2)

Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals;

(3)

Substances (other than food) intended to affect the structure or any function of the body of man or animals;

(4)

Substances intended for use as a component of any article specified in subsections (1)—(3) hereinabove. It does not include devices or their components, parts or accessories;

(5)

Obtained by written order and, in cases of emergency, a telephone order, issued by a practitioner in good faith in the course of his professional practice to a pharmacist for a drug for a particular patient, which specifies the date of its issue, the name and address of the patient (and, if such drug is prescribed for an animal, the species of such animal), the name and quantity of the drug prescribed, the directions for use of such drug, and the signature of such practitioner.

Production includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

School means any public or private elementary, middle school or high school.

Simulated drugs and simulated controlled substances means any products which identify themselves by using a common name or slang term associated with a controlled substance or indicate by label or accompanying promotional material that the product simulates the effect of a controlled substance or drug.

Somnifacient and stimulating is the meaning attributable in standard medical lexicons.

(Ord. No. 06-73, § 2, 10-10-06)

Sec. 86-107. - Drug paraphernalia; sales or display.

(a)

Restrictions.

(1)

No owner, manager, proprietor or other person in charge of any place of business selling or displaying for the purpose of sale, any device, contrivance, instrument or paraphernalia, simulated drugs or simulated controlled substances, for smoking, injecting or consuming any controlled substance, as defined in section 86-106, other than prescription drugs and devices to ingest or inject prescription drugs, shall allow or permit any minor to be, remain in, enter or visit such business unless such minor person is accompanied by one of his or her parents or by his or her legal guardian. Such premises must prominently display a sign as provided by the county, posted at the entrance, stating that drug paraphernalia is located on the premises unless the establishment clearly and properly posts signage with lettering no less than three inches tall stating that no persons under 18 may enter the establishment without their parent or guardian.

(2)

No owner, manager, proprietor or other person in charge of any place of business selling or displaying for the purpose of sale, any device, contrivance, instrument or paraphernalia, simulated drugs or simulated controlled substances, for smoking, injecting or consuming any controlled substance, as defined in section 86-106, other than prescription drugs and devices to ingest or inject prescription drugs, shall sell, offer for sale, or deliver such device, contrivance, instrument, paraphernalia, simulated drugs or simulated controlled substances, to any minor.

(3)

No place of business that sells, offers for sale or delivers any of the above referenced devices, contrivances, instruments, simulated drugs or simulated controlled substances or paraphernalia shall be located in close proximity to any public or private elementary, middle school or high school, as defined in section 86-106. The board of county commissioners has determined that a one-year amortization period for nonconforming uses is reasonable in that the premises affected by this article are readily adaptable to conforming uses.

(b)

Exceptions to restrictions.

(1)

Minors may be allowed on the premises of any place of business described in subsection (a)(1) provided that the devices, contrivances, instruments, paraphernalia, simulated drugs or simulated controlled substances are kept, displayed, offered for sale, sold or delivered, in a part of the premises that are not open to view by minors or to which minors do not have access. Each entrance to such part of the premises shall have a sign posted in letters not less than three inches tall, excluding minors from the area unless accompanied by a parent or legal guardian.

(2)

Nothing in this section shall prohibit the display of any devices, contrivances, instruments, paraphernalia, simulated drugs or simulated controlled substances at a place of display, as defined in section 86-106.

(Ord. No. 06-73, § 3, 10-10-06; Ord. No. 12-37, § 1, 8-7-12)

Sec. 86-108. - Drug paraphernalia; possession, manufacture and/or delivery, advertisement.

(a)

Possession. It shall be unlawful for any person to use or possess with intent to use, drug paraphernalia, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this section.

(b)

Manufacture or delivery of. It is unlawful for any person to deliver, possess with intent to deliver, or manufacture, with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test or otherwise introduce into the human body a controlled substance in violation of this section.

(c)

Advertisement. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(Ord. No. 06-73, § 4, 10-10-06)

Sec. 86-109. - Possession, transfer or use prohibited.

(a)

As used in this section, the phrase chemical substance containing a solvent or chemical compound having the property of releasing toxic vapors or fumes shall include, but not be limited to, any glue, cement, cleaning fluid, paint thinner, lacquer or lacquer thinner, or other adhesive or solvent containing one or more of the following chemical compounds: acetone, benzene, butyl alcohol, ethyl alcohol, ethylene dichloride, isopropyl alcohol, methylethyl ketone, pentachlorophenol, petroleum ether, toluene, trichlorethylene or amyl acetate.

(b)

Inhalation of fumes prohibited. It shall be unlawful for the purpose of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system, to intentionally smell, to ingest or inhale the fumes from any chemical substance containing a solvent or chemical compound having the property of releasing toxic vapors or fumes; however, nothing in this division shall be interpreted as applying to the inhalation of any anesthesia for medical or dental purposes.

(c)

Possession or transfer for unlawful purpose prohibited. It shall be unlawful for the purpose of violating subsection (b) above, to use or possess for the purpose of so using, any chemical substance containing a solvent or chemical compound having the property of releasing toxic vapors or fumes. No person shall sell, offer to sell, or give to any other person, or obtain for any other person, any chemical substance containing a chemical compound having the property of releasing toxic vapors, fumes, or other inhalants, if he has reasonable cause to suspect that the product sold, offered for sale, or obtained, will be used for any purpose set forth in subsection (b) above.

(Ord. No. 06-73, § 5, 10-10-06)

Sec. 86-110. - Penalty.

Violations of this division shall be prosecuted in the same manner as misdemeanors and shall be prosecuted in the name of the state in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and upon conviction shall be punished by a fine not to exceed $500.00 or by imprisonment in the county jail not to exceed 60 days or by both such fine and imprisonment or by injunctive relief on behalf of the county.

(Ord. No. 06-73, § 6, 10-10-06)

Secs. 86-111—86-124. - Reserved.

ARTICLE V. - PRESCRIPTION MANAGEMENT[4]

Footnotes:
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Editor's note—Ord. No. 11-44, adopted November 8, 2011, changed the title of Article V from Pain Management Clinic to Prescription Management.

Sec. 86-125. - Authority.

This article is enacted pursuant to F.S. § 125.66 and under the home rule powers of the county in the interest of the health, peace, safety and general welfare of the people of Pinellas County and section 2.04(i) of the Pinellas County Charter.

(Ord. No. 10-26, § 1, 5-4-10)

Sec. 86-126. - Legislative findings of fact.

The county commission found that it was in the best interest of the general public and there exists a need to enact an ordinance requiring the registration of high prescribing health clinics operating in Pinellas County because of their negative impacts on citizens of the county. An opportunity to register was provided any clinic after which a moratorium on new clinics went into effect with the desire that the state Legislature would address the concerns found by the county commission. In the most recent Legislative Session the state failed to take action on this issue, therefore the county will pursue a regional approach to address the problems related to high prescribing health clinics and consider further options for enacting stricter standards of regulation consistent with our home rule authority.

(Ord. No. 10-26, § 2, 5-4-10; Ord. No. 11-44, § 1, 11-8-11; Ord. No. 12-19, § 1, 5-8-12; Ord. No. 13-16, § 1, 7-9-13)

Sec. 86-127. - Intent and purpose.

It is the purpose and intent of this article to promote the health and general welfare of the residents of Pinellas County through the continued analysis of any impacts from high prescribing health clinics, the effectiveness of existing and emerging regulatory efforts and education and prevention efforts within Pinellas County.

(Ord. No. 10-26, § 3, 5-4-10; Ord. No. 11-44, § 2, 11-8-11; Ord. No. 12-19, § 2, 5-8-12)

Sec. 86-128. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Chronic nonmalignant pain means pain unrelated to cancer, which persists beyond the usual course of the disease of the injury that is the cause of the pain for more than 90 days after surgery.

Code enforcement officer means those employees designated as code enforcement officers pursuant to F.S. § 125.69.

Department means the department designated by the county administrator through the board of county commissioners to administer the mandates of this article.

High prescribing health clinic means a privately owned health care clinic, facility or office which:

(1)

Advertises in any medium for any type of pain management services; or

(2)

Employs a physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications when the majority of the patients seen are prescribed or dispensed controlled substance medications for the treatment of chronic nonmalignant pain or who issues more than 20 prescriptions of CII and CIII controlled substances for treatment of pain in a single day; or

(3)

Prescribes more than 20 prescriptions of CII and CIII controlled substance medications for treatment of pain in a single day and is registered with the Florida Department of Health pursuant to F.S. § 458.309 or § 459.005, or any successor state law; or

(4)

Is otherwise registered with the state as a pain management clinic.

Permit means a certificate issued by Pinellas County acknowledging the submission and accurate completion of the high prescribing health clinic registration forms required to be completed in order to conduct business in Pinellas County as a high prescribing health clinic.

(Ord. No. 10-26, § 4, 5-4-10; Ord. No. 11-44, § 3, 11-8-11; Ord. No. 12-19, § 3, 5-8-12; Ord. No. 14-37, § 1, 9-23-14)

Sec. 86-129. - Exemptions.

(a)

The following are exempted from this article:

(1)

Any clinic licensed by the state health department as a facility pursuant to F.S. Ch. 395;

(2)

Any clinic, facility, or office in which the majority of the patients primarily receive surgical services;

(3)

The clinic is owned by a publicly held corporation whose shares are traded on a national exchange or on the over-the-counter market and whose total assets at the end of the corporation's most recent fiscal quarter exceeded $50,000,000.00;

(4)

The clinic is owned by a corporate entity exempt from federal taxation under 26 U.S.C. s. 501(c)(3);

(5)

Any clinic, facility, or office in which the majority of the patients receive treatment for terminal illness;

(6)

Any clinic, facility, or office in which the majority of the patients receive cancer treatment; and

(7)

Any clinic, facility, or office in which the majority of the patients receive Hospice treatment; and

(8)

Any clinic, facility, or office subject to Florida Administrative Code Rules: Chapter 59A4, Florida Administrative Code (Agency for Health Care Administration — Minimum Standards for Nursing Homes).

(b)

Physicians shall provide documentation supporting any claimed exemption upon request.

(Ord. No. 10-26, § 5, 5-4-10; Ord. No. 11-44, § 4, 11-8-11; Ord. No. 12-19, § 4, 5-8-12)

Sec. 86-130. - Boundaries.

All territory within the legal boundaries of the county, including all incorporated and unincorporated areas, shall be embraced by the provisions of this article.

(Ord. No. 10-26, § 6, 5-4-10)

Sec. 86-131. - Inspection.

(a)

Any law enforcement, code enforcement officer or employee of the department designated by the county administrator who is authorized by the head of that department is authorized access to inspect any facility registered under this article for proof of registration, at any reasonable hour, without notice.

(b)

Nothing in this article shall be read to limit the authority of law enforcement in any matter as relates to their authority to conduct criminal investigations.

(c)

The department shall perform inspections of any facility registered under this article to determine accuracy of the information provided by the registrant in all respects for registration issuance and throughout the registration period. During these visits, the clinic shall assist in verifying the clinic information.

(Ord. No. 10-26, § 7, 5-4-10; Ord. No. 10-45, § 1, 9-28-10)

Sec. 86-132. - Registration.

(a)

No high prescribing health clinic, unless otherwise exempted, shall operate in Pinellas County by any means without having been issued a high prescribing health clinic permit by the department.

(b)

The department shall maintain a database of registered high prescribing health clinics operating in Pinellas County.

(c)

Proof of registration shall be prominently displayed in the common public area of the high prescribing health clinic.

(Ord. No. 10-26, § 8, 5-4-10; Ord. No. 11-44, § 5, 11-8-11; Ord. No. 12-19, § 5, 5-8-12; Ord. No. 13-16, § 2, 7-9-13)

Sec. 86-133. - Application.

(a)

Application required. Any high prescribing health clinic operating in Pinellas County shall file a sworn application created by the department, which shall contain at least the following information:

(1)

Applicants that are registered with the state department of health as of the effective date of the ordinance from which this article derives as required by F.S. § 458.309 or § 459.005, or any successor state law, shall provide proof of current registration, including copy of the applicant's state application form, including all information required for the state department of health registration.

(2)

A sworn statement by the clinic owner and medical director attesting to the veracity and accuracy of the information provided in the application.

(3)

A typewritten, signed and notarized application that shall include the post office address of the applicant and the property owner. The application shall not be signed by an authorized agent.

(4)

A statement including the following information:

i.

The professional license numbers of the medical director, including DEA number;

ii.

A list of all persons associated with the management or operation of the high prescribing health clinic whether paid or unpaid, part time or full time. The list must include, but is not limited to, all owners, operators, physicians, physicians' assistants, employees or authorized agents;

iii.

For persons listed, the following information must be provided: title; current home address; telephone numbers and date of birth; all criminal convictions whether misdemeanor or felony; photocopy of current Florida driver's license; and

iv.

For physicians, physicians assistants, medical director, office managers, and owners, a fingerprint card completed at the Pinellas County Sheriff's Office must be included.

(5)

Information provided in the application shall be updated within ten days of any changes to the application associated with the high prescribing health clinic.

(6)

That no employees of the facility have been convicted of a drug-related felony within the five-year period to the date of application.

(7)

That the high prescribing health clinic will not knowingly employ any such convicted felons.

(8)

A floor plan of the high prescribing health clinic showing the location and size of the waiting area, location of and size of the patient rooms and location and type of diagnostic equipment.

(b)

Incomplete application. If the application for a high prescribing health clinic permit is not properly completed, the department shall notify in writing the person designated for service in the application. This notification shall explain the reason the department has determined the application to be incomplete. The applicant shall have 15 days from the date of such notification to properly complete the application. Failure to respond within 15 days to a request for information necessary to complete the application shall result in a denial of the application.

(c)

Any person with multiple physical business locations shall submit a separate registration for each business location.

(d)

Time period for granting or denying.

(1)

The department shall grant a new or renewal high prescribing health clinic permit within 30 days from the date of its proper filing provided the applicant is registered with the state department of health pursuant to F.S. § 458.309 or § 459.005, or any successor state law, as of the effective date of the ordinance from which this article derives unless there exists a basis for denial of the permit.

(2)

The director or his or her designee shall mail a notice of intent to deny a high prescribing health clinic permit within 15 days from the date of its filing.

(3)

The director shall send a notice of denial based on any of the grounds set forth herein.

(4)

Any applicant who received a notice of denial of a high prescribing health clinic permit may request a hearing before the director of the department within 15 days of the date of the mailing of the notice of denial. The director shall set a date for the requested hearing and decide whether to maintain the denial within 15 days of receipt of the request for hearing.

(e)

Granting of permit. If there is no basis for denial of a high prescribing health clinic permit pursuant to the criteria set forth herein, the department shall grant the permit, notify the applicant and issue the permit to the applicant.

(f)

Denial of permit. The department shall deny a high prescribing health clinic permit on the basis of any one of the following grounds:

(1)

An applicant has submitted an application which contains material false information.

(2)

An applicant has had a registration issued under either F.S. § 458.309 or § 459.005 suspended or revoked.

(3)

An applicant has submitted an incomplete application.

(4)

The owner or physician has been convicted of violating a pain management ordinance in any city, county or state.

(5)

The facility is owned by or has any contractual or employment relationship with a physician:

i.

Whose drug enforcement administration number has ever been revoked.

ii.

Whose application for a license to prescribe, dispense or administer a controlled substance has been denied, revoked, voluntarily relinquished, or otherwise encumbered due to final disciplinary actions of the state or by any jurisdiction.

iii.

Who has been convicted of or plead guilty within the last five years to an offense that constitutes a felony for receipt of illicit and diverted drugs, including any controlled substance listed in Schedule I, Schedule II, Schedule III, Schedule IV or Schedule V of F.S. § 893.03, or any other state, or the United States. Physicians shall not be subject to this provision if their conviction or plea occurred more than five years prior to the application.

(g)

Application fee. Each application for a high prescribing health clinic permit shall be accompanied by a nonrefundable $250.00 application fee to offset the cost of processing the application. Any changes to the

application fees authorized by this article shall be accomplished by resolution of the county commissioners.

(h)

Tolling of time. The time allotted for obtaining a high prescribing health clinic permit shall be tolled during the pendency of any final determination by the director based on a denial of a permit application.

(Ord. No. 10-26, § 9, 5-4-10; Ord. No. 10-45, §§ 2—5, 9-28-10; Ord. No. 11-44, § 6, 11-8-11; Ord. No. 12-19, § 6, 5-8-12; Ord. No. 14-37, § 2, 9-23-14)

Sec. 86-134. - Violation.

It shall be unlawful for any person to violate any provision of this article.

(Ord. No. 10-26, § 10, 5-4-10)

Sec. 86-135. - Registration moratorium declared.

(a)

It is the legislative determination of the county commission that the moratorium on submission of applications for issuance of permits for high prescribing health clinics as to any property located in whole or part within Pinellas County be maintained pending further review by the board of county commissioners no later than 60 days after the close of the 2015 Legislative Session.

(b)

High prescribing health clinics currently registered with Pinellas County may retain their status subject to their continued compliance with this ordinance as codified and applicable administrative rules. All other high prescribing health clinics shall register with Pinellas County as provided for in this ordinance.

(c)

The county commission shall receive a semi-annual report from the county administrator or designee outlining the effectiveness of the regulation of high prescribing health clinic in achieving the purpose of this ordinance.

(Ord. No. 10-26, § 11, 5-4-10; Ord. No. 10-45, § 6, 9-28-10; Ord. No. 11-44, § 7, 11-8-11; Ord. No. 12-19, § 7, 5-8-12; Ord. No. 13-16, § 3, 7-9-13; Ord. No. 14-37, § 3, 9-23-14)

Sec. 86-136. - Service of notice; public records.

(a)

Any notice required under this article shall be in writing and sent by certified mail or hand delivery to the mailing address set forth on the application for the business registration. This mailing address shall be considered the correct mailing address unless the department has been otherwise notified in writing.

(b)

Any information contained in an application under this article is subject to the public records law, F.S. § 119.

(Ord. No. 10-26, § 12, 5-4-10)

Sec. 86-137. - Penalty.

Violations of this article are punishable as provided in section 1-8 of this Code or by civil injunction filed in the Sixth Judicial Circuit Court of the State of Florida. Nothing herein shall be read to limit the authority of the law enforcement officers in their enforcement of this or any other related ordinance or law.

(Ord. No. 10-26, § 13, 5-4-10; Ord. No. 10-45, § 7, 9-28-10)

Sec. 86-138. - Permit requirements.

(a)

Requirements. A separate permit is required for each high prescribing health clinic location. At least one applicant for a permit shall be the medical director of the high prescribing health clinic. The applicant(s) shall be fully responsible for compliance with this section.

(b)

Permit fee. Each high prescribing health clinic operating in Pinellas County under this article shall pay an annual fee of $1,500.00 to recoup the cost of maintaining this article.

(1)

The permitee may receive a permit rate reduction equal to the application fee of $250.00 by providing:

i.

A clear operational plan that explains the patient assessment procedures, referral opportunities discussed, pregnancy assessment procedures, and any other screening procedures conducted by the permitee. The operational plan must clearly explain how these areas are approached and must be accompanied by a copy of the valid assessment tool being used prior to prescribing pain medication; and

ii.

Verification of user access to the Florida prescription drug monitoring program to enable patient due diligence by the physicians.

(2)

This information must accompany the notarized application packet and is subject to further verification during site visits.

(c)

Permit renewal. The permit required for operating a high prescribing health clinic under this article shall be valid for one year beginning upon date of issuance by the department, unless otherwise provided for in this article. If required, a renewal permit shall be issued by the department after payment of the annual application and permit fee provided the high prescribing health clinic named in the renewal application and all information on the application is in compliance with this article and applicable administrative rules.

(Ord. No. 10-45, § 8, 9-28-10; Ord. No. 11-44, § 8, 11-8-11; Ord. No. 12-19, § 8, 5-8-12)

Sec. 86-139. - Operation.

(a)

It is the responsibility of a designated medical director, on-site physicians, or the clinic owner to adhere to all requirements contained within this article and applicable administrative rules.

(b)

A permit shall be issued to the person(s) deemed the permitee(s) for the particular location provided for in the application and shall be transferable upon approval of a new application.

(c)

The grant of a permit is expressly conditioned upon compliance with the following operational standards:

(1)

The permit must be posted in a conspicuous place at or near the entrance to the high prescribing health clinic so that it may be easily read at any time.

(2)

The high prescribing health clinic shall not limit the form of payment for services or prescriptions to cash only.

(3)

The high prescribing health clinic shall be operated by a medical director or lead physician who is a licensed physician in the state.

(4)

The hours of operation of the high prescribing health clinic shall be limited to 7:00 a.m. to 9:00 p.m. Monday through Sunday.

(5)

The high prescribing health clinic shall maintain the routine diagnostic equipment to diagnose and treat patients complaining of chronic pain.

(6)

The facility shall secure prescription pads, electronic pads or any format where a prescription is created, so that only authorized persons may access them. All prescription pads, electronic pads or any format where a prescription is created, shall contain the name of the high prescribing health clinic and the high prescribing health clinic permit number.

(7)

Upon the determination of the department, if a meeting is requested, the clinic owner shall coordinate to meet within 15 business days of the request.

(8)

A physician or licensed medical professional is required to be on site at all times during operating hours.

(9)

All permitted high prescribing health clinics shall request a "patient advisory report" from the Prescription Drug Monitoring Program (PDMP) and review its contents prior to prescribing a controlled substance.

(10)

All high prescribing health clinics must adhere to all codes set forth by code enforcement. High prescribing health clinics must provide ample parking for their patient flow and patient related vehicular traffic must not interfere with the normal flow of traffic on the streets adjacent to or influenced by the ingress and or egress to the parking area of the clinics.

(11)

The high prescribing health clinic shall educate patients on the dangers and proper use of prescription pain medication, securing the medication to avoid diversion, and how to dispose of unused medication. Additionally, patients are to receive educational materials as provided for distribution.

(12)

The high prescribing health clinic shall medically determine pregnancy status of female patients prior to prescribing prescription pain medication, and will educate the patient on the dangers of these medications when taken during pregnancy.

(13)

The high prescribing health clinic shall perform an accepted patient assessment to determine possible addiction and mental health needs for referral prior to prescribing pain medication.

(d)

A violation of this article or the administrative rules created under this article shall be considered "operation of a non-compliant high prescribing health clinic" for purpose of enforcement.

(e)

Incurable violations.

(1)

Providing false information in statements or reports required to be filed with the department.

(2)

Providing false information on application to Pinellas County including materially false omissions.

(3)

Refusing to allow for inspection of the clinic by a code enforcement officer, law enforcement officer, or any other person authorized to enforce ordinance violations in Pinellas County at any time the clinic is open or occupied.

(f)

Suspension/revocation.

(1)

Two convictions of violations of the Pinellas County high prescribing health clinic ordinance within a two-year period beginning the date of the first conviction, or commission of an incurable violation created under this article shall constitute grounds for a suspension of the permit holder's high prescribing health clinic permit.

(2)

A suspension shall be for a period of three months.

(3)

Subsequent violations of the Pinellas County high prescribing health clinic ordinance or commission of an incurable violation created under this article shall constitute grounds for a revocation.

(4)

Any revocation of a permit issued under these rules shall be for a minimum period of three years and shall require a new application for reinstatement.

(5)

The permit holder shall surrender the permit to the department prior to the first day of the period of suspension or revocation of the permit.

(g)

Effective date of suspension. The period of suspension shall begin 20 days after the date the department mails the notice of suspension to the permit holder or on the date the permit holder delivers the permit to the department; whichever happens first. The department shall provide the basis for suspension in the notice to the permit holder.

(h)

Right to appeal. The permit holder shall have the right to request a hearing before the department. The request for hearing must be made prior to the effective date of the suspension or revocation. The hearing shall be commenced within at least 30 days of the date of the request for the hearing. During the pendency of the hearing the period of suspension or revocation shall be stayed until a final decision is issued by the department.

(i)

The permit holder may appeal any final decision to the Sixth Judicial Circuit Court of the State of Florida.

(Ord. No. 10-45, § 1, 9-28-10; Ord. No. 11-44, § 9, 11-8-11; Ord. No. 12-19, § 9, 5-8-12; Ord. No. 14-37, §§ 4—9, 9-23-14)

Editor's note— Inasmuch as § 86-139 contained two subsections (c), the second (c)—(h) have been relettered (d)—(i) as herein set out, at the editor's discretion.

Sec. 86-140. - Administrative rules.

The department may promulgate additional rules and forms deemed necessary to carry out the purposes of this article which shall include provisions consistent with the procedural requirements set forth in this article for:

(a)

Suspension of a high prescribing health clinic permit for violating provisions of this article or applicable administrative rules.

(b)

Reporting requirements for high prescribing health clinic.

(c)

Operational guidelines for high prescribing health clinic.

(d)

Other rules as necessary to achieve the purposes of this article consistent with the purposes of this ordinance as designated by the board of county commissioners.

(Ord. No. 10-45, § 1, 9-28-10; Ord. No. 11-44, § 1, 11-8-11; Ord. No. 12-19, § 10, 5-8-12; Ord. No. 13-16, § 4, 7-9-13)

Chapter 90 - PARKS AND CONSERVATION RESOURCES[1]
Footnotes:
--- (**1**) ---

Charter reference— General powers of county, § 2.01.

Cross reference— Amusements and entertainments, ch. 10; game and fish, § 14-86 et seq.; aquatic preserves, § 58-366 et seq.; greater Seminole area special recreation district, § 114-171 et seq.; waterways, ch. 130.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g); authority of board of county commissioners to provide for parks, F.S. § 125.01(1)(f).

ARTICLE I. - IN GENERAL[2]

Footnotes:
--- (**2**) ---

Editor's note—Ord. No. 10-44, § 2, adopted Sept. 28, 2010, repealed Art. I, §§ 90-1—90-36, which pertained to parks and recreational generally. See the Code Comparative Table for full derivation.

Sec. 90-1. - Parks and conservation resources advisory board.

(a)

Establishment; appointment; qualification; organization.

(1)

Establishment. There is hereby established in and for the county a board to be known as the "Pinellas County Parks and Conservation Resources Advisory Board." The board shall consist of eight members.

(2)

Appointment. One member shall be a member of and nominated by the county youth advisory committee and appointed by the board of county commissioners. Of the seven remaining members, each county commissioner shall nominate one member without regard to political affiliation, and the members shall be appointed by the board of county commissioners. The term of office shall be one year and shall run concurrently with the term of the nominating commissioner, or, in the case of the county youth advisory committee nominee, from August 1 through July 31. Except in order to maintain concurrency of term, no member of the parks and conservation resources advisory board may be removed prior to the expiration of the member's term except by the board of county commissioners. The parks and conservation resources advisory board may request that the board of county commissioners remove a member of the board who misses 50 percent or more of the meetings scheduled in a year.

(3)

Qualification. Each member's background, education and experience shall be such as to qualify said member to carry out the duties and responsibilities vested in the parks and conservation resources advisory board by this article. Members shall be appointed from the county at large. In selecting a new member of the parks and conservation resources advisory board, the board of county commissioners of the county shall consider the interest and knowledge of such prospective member in parks, environmental lands, and natural resources, including the ecological and economic benefits thereof.

(4)

Organization. The parks and conservation resources advisory board shall elect annually one of its members as chair and one as vice-chair of the board, and may adopt rules and procedures for the conduct of its meetings. The parks and conservation resources advisory board shall meet at least quarterly to conduct the business of the board, unless notified that there is no business to conduct as determined by the chair.

(b)

Duties. It shall be the duty of the parks and conservation resources board to assist the board of county commissioners, county administrator and the department by:

(1)

Reviewing and commenting on park or environmental lands plans and design.

(2)

Reviewing and commenting on park or environmental lands operations and procedures.

(3)

Participating in public education and ceremonial activities.

(4)

Hearing citizen comment on park or environmental lands related activities.

(5)

Formulating proposals and suggestions with the goal of improving the parks and environmental lands of the county.

(6)

Reviewing specific issues referred to the parks and conservation resources advisory board from the board of county commissioners.

(7)

Reviewing specific issues referred to the parks and conservation resources advisory board from the county administrator.

(8)

Communicating with the county administrator and the board of county commissioners on issues related to the duties of the parks and conservation resources advisory board.

(c)

Selection of director. The chair of the parks and conservation resources advisory board or designee may participate in the selection process for the department director, including the interviews of director candidates with county staff.

(Ord. No. 10-44, § 1, 9-28-10)

Secs. 90-2—90-9. - Reserved.
Sec. 90-10. - Legislative purpose.

The parks and conservation resources department has been established primarily for the management and protection of the county's parks, preserves, ecological management areas, special purpose areas and other

designated department lands and waterways. It is desirous to acquire and protect such lands and waterways for their natural resources, biological diversity, ecological, hydrological, and open space significance to the county, scenic beauty, recreational value, and their potential for educating citizens and visitors. The objective of these regulations is to permit public use of parks, certain environmental lands and waterways consistent with their protection and management, as set forth in the county comprehensive plan and various management plans, as same may be amended from time to time.

(Ord. No. 10-44, § 1, 9-28-10)

Secs. 90-11—90-19. - Reserved.

Sec. 90-20. - Definitions.

When used herein, the following definitions shall apply:

Activity means the doing of any act or the failure to do any act by a person.

Administrator means the county administrator for Pinellas County.

Adverse impact means actual or potential harm or injury to any property, wildlife or plant life or other natural resource within the county-owned or managed lands.

Board means the Pinellas County Board of County Commissioners.

Commercial activity means the sale, service or solicitation of goods, items, services, entertainment or amusement for a fee at any county-owned or managed land that is not offered by the department, or department or county-approved concessionaire, licensee, or permittee.

County means Pinellas County.

County-owned or managed lands means all parks, environmental lands, department managed facilities, and public marinas managed by the department.

Cultural/historic resources means any prehistoric or historic site, structure, object or other real or personal property of historical, architectural, or archaeological value as determined through criteria for designation contained in chapter 146 of the County Code.

Department means the department of parks and conservation resources.

Department managed facilities means all facilities other than parks, environmental lands, and public marinas managed by the department including, but not limited to, neighborhood parks, community parks, and other facilities managed by the department.

Department property means all areas, buildings, locations and facilities defined under the term "county-owned or managed lands."

Department roads means all surfaced areas ten feet wide or wider designated for vehicular traffic, and passing through any legally defined county-owned or managed land or any part thereof. All other traffic ways, either unpaved or paved are classified as trails or paths.

Department staff means those individuals employed by the department who perform official duties within the county-owned or managed lands.

Department waters means all waters located within the boundaries of county-owned or managed lands, or managed by the department.

Director means the director of the department.

Environmental lands means all preserves and management areas, including, but not limited to, the county-owned real property identified as environmental lands in section 90-112 of this article, and any real property leased, subleased, or licensed to the county and identified as environmental lands in the management plan for the individual preserve or management area.

Firearm means any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun.

Law enforcement officer means any person who is elected, appointed, or employed full or part time by the state, the county, or municipality who is vested with the authority to bear arms and make arrests; and whose primary responsibility is the detection and prevention of crime, or the enforcement of the penal, criminal, traffic, or highway laws of the state or county.

Live-aboard means the occupancy or use of a watercraft by one or more persons, as a place of habitation, residence, living quarters or for dwelling purposes, temporarily or permanently, continuously or transiently.

Loud and raucous means any sound which because of its volume level, duration, and character, annoys, disturbs, injures, or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of a county-owned or managed land. This term shall be limited to that noise which can be heard within any county-owned or managed land from a location not less than 50 feet from the source of the noise.

Management area means all environmental lands, including waterways, not designated as "preserve." Such lands shall be as referenced in the latest resolution of the board describing the legal boundaries of the particular management area. Properties designated as "management areas" generally do not have a public use component, depending upon the ecological impacts of such use.

Management plan means the management plan developed by the department, unique to each individual county-owned or managed land, as each such plan may be amended from time to time.

Nude, or any derivative thereof, shall mean to display or expose:

(1)

The human male or female genitals or pubic area with less than fully-opaque covering;

(2)

The portion of the human female breast directly or laterally below a point immediately above the top of the areola with less than a fully opaque covering. This definition shall include the entire lower portion of the human female breast, including the areola and nipple, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided the areola is not exposed; and

(3)

For purposes of this definition, body paint, body dye, a tattoo, latex or any similar substances shall not be considered an opaque covering.

Ordinance means the parks and conservation resources ordinance; as same may be amended from time to time.

Parking area means any part of any county-owned or managed land road, or area contiguous thereto, specifically designated for the standing or stationing of any vehicle with appropriate signage.

Parks means regional parks and special purpose parks operated and maintained by the department, including Pinewood Cultural Park, but not including department managed facilities and public marinas as defined herein, which are under the control of or assigned for upkeep, maintenance or operation by the department.

Person means any individual including minors, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, estate, trust, business trust, syndicate, fiduciary, public or private corporation, and all other groups or combinations of groups.

Pet means any domesticated animal typically kept for companionship, protection, transportation or amusement, including wild animals licensed by state law for personal possession. Pet also includes domesticated species found in a feral, wild, or abandoned state. However, the term does not include certified service animals, specially trained for providing personal care services to the disabled.

Pinewood Cultural Park or park means the land and improvement comprising the Florida Botanical Gardens, Heritage Village, and the Gulf Coast Museum of Art, including trails, bridges, fields, museums, buildings, historic buildings and features, sculptures, ponds, streams, waterways, water areas, submerged lands, and shorelines therein and all public service facilities located on or in grounds, submerged lands, waters, buildings and structures which are under the control of or assigned for upkeep, maintenance or operation by Florida Botanical Gardens, Heritage Village, or the Gulf Coast Museum of Art, provided that to the extent there is any inconsistency with the lease agreement between the county and Florida Gulf Coast Art Center, Inc., dated November 18, 1997, as amended (the "lease"), the lease shall control and govern the use and operations of the Gulf Coast Museum of Art premises until said lease terminates as provided therein.

Pollution means the presence in the air, soil, or waters of any substance, noise, contaminant, or anthropogenic alteration of the chemical, physical, biological, or radiological integrity of the air, soil, or water in a quantity or at a level that is or may be potentially harmful or injurious to human health or welfare, biological diversity, or property, or that unreasonably interferes with the enjoyment of a preserve or management area.

Preserve means property managed by the department as referenced in the latest resolution of the board describing the legal boundaries of the particular preserve and includes all streams, canals, channels, lagoons, waterways, water areas, submerged lands, shorelines and beaches, as well as all structures and other facilities located within such boundaries. All preserves shall have a board approved management plan.

Public marina shall mean a county-owned facility which provides public moorings or dry storage for vessels on a rental basis, and is designated as a public marina by resolution of the board of county commissioners.

Regional parks means A.L. Anderson park, Boca Ciega Millennium park, Eagle Lake park, Fred Howard park, Fort DeSoto park, John Chestnut, Sr. park, John S. Taylor park, Lake Seminole park, Philippe park, Sand Key park, Walsingham park, Wall Springs park, and any other facility designated as a regional park by

resolution of the board.

Special purpose parks means the Indian Rocks, Madeira Beach, Redington Shores, St. Pete Beach, and Tiki Gardens/Indian Shores beach access parks, the Sutherland Bayou Boat Ramp, the Fred Marquis Pinellas Trail, the Progress Energy Trail, the Belleair Boat Ramp, the Park Blvd. Boat Ramp, Pinewood Cultural Park, and any other facility designated as a special purpose park by resolution of the board.

Vehicle means any passengered conveyance (except a baby carriage or wheelchair) for the transportation of persons or material whether:

(1)

Powered or drawn by motor as an automobile, truck, bus, motorcycle, scooter, minibike, all terrain vehicle, golf cart, or trail bike;

(2)

Animal-drawn as a carriage, wagon or cart;

(3)

Rider propelled or motorized bicycle or tricycle;

(4)

Trailer in tow of any size, or description;

(5)

Watercraft of any type, including hovercrafts or similar vehicles;

(6)

Aircraft of any type.

Wildlife means any species living, growing, or occurring in a natural, nondomesticated state, including but not limited to animals.

(Ord. No. 10-44, § 1, 9-28-10)

Secs. 90-21—90-29. - Reserved.

Sec. 90-30. - Areas embraced.

All county-owned or managed lands, including areas in unincorporated and incorporated areas of the county, shall be embraced by the provisions of this chapter, except where otherwise provided herein.

(Ord. No. 10-44, § 1, 9-28-10)

Secs. 90-31—90-39. - Reserved.

Sec. 90-40. - Vehicles and traffic control.

(a)

Traffic control. All persons shall observe and comply with posted traffic control devices and signs within all county-owned or managed lands.

(b)

Speed of vehicles. Within any county-owned or managed land, no person shall operate a vehicle at a speed that is greater than reasonable or prudent, having due regard for the surface width and surface condition and the traffic thereon, particularly when near pedestrians, horses, bicyclists or other public-use trails. At no time shall speed exceed the posted speed limit or 25 miles per hour if no speed limit is posted.

(c)

Restriction to roads. No person shall operate any vehicle within parks or environmental lands except on areas approved for vehicular use.

(d)

Parking. All vehicles shall be parked only in designated parking areas or in such other areas and at such other times as may be authorized by appropriate signage.

(e)

Bicycles. Bicycles shall only be ridden on roads and trails designated for bicycle traffic within parks and environmental lands. Where provided, bicycle racks must be used for the parking of bicycles. Bicycles shall not be chained or locked to trees, any other plant life or structures, or placed so as to obstruct pedestrian or vehicular movement.

(f)

Entering county-owned or managed lands. Any person entering or leaving a county-owned or managed land, whether by foot or vehicle, shall do so solely through designated entry and exit points. No vehicle, except as authorized by the staff of the department, shall enter or park in any county-owned or managed land until the required fee, if any, has been paid.

(g)

Vehicle emergencies. In case of emergency requiring a vehicle to stop or park in an unauthorized location, the driver must immediately report to a county employee or volunteer to receive an exemption from this section.

(h)

Trucks. No truck, commercial vehicle, or bus of any type shall be driven on any restricted park roads or county-owned or managed property without authorization from the department for the purpose of work, service or activities. Those trucks and buses used for transporting persons to a county-owned or managed land for any approved purposes will be afforded use of ingress and egress upon instruction by the department staff.

(i)

Soliciting rides or fares. No pedestrian shall solicit rides from any driver nor shall any driver of any vehicle solicit riders for money or fares, in any county-owned or managed land unless authorized by the director.

(j)

Miscellaneous motorized vehicles. No unauthorized person shall operate any motorized scooter, motorized skateboards, go-cart, all-terrain vehicle, golf cart or electric cart in any parks or environmental lands. No electric or motorized toy vehicles are allowed on county-owned or managed lands, except in prescribed areas. The prohibitions herein shall not apply to an electric personal assistive mobility device to the extent authorized by state law.

(Ord. No. 10-44, § 1, 9-28-10)

Secs. 90-41—90-49. - Reserved.

Sec. 90-50. - Protection of property, facilities, flora and fauna.

(a)

Buildings and facilities. No person shall engage in any of the following activities on any county-owned or managed land without prior written authorization from the administrator or designee:

(1)

Willfully mark, deface, damage, displace, destroy, remove, or tamper with any buildings, facilities, bridges, piers, tables, benches, railings, paving or paving materials, water lines or other utilities, permanent or temporary signs, placards, or notices, monuments, stakes, posts, gateways, locks, fencing, boundary markers, or other structures, equipment or county property;

(2)

Use any county-owned or managed land or related facility, including but not limited to buildings, bridges, piers, tables, benches, or railings in a manner that precludes regular and customary usage to other patrons, unless such person has obtained the right to exclusive usage from the department;

(3)

Fix, tie, chain, or hitch any hammock, line, sports net, bicycle or banner to any sign pole, boardwalk rail, bench, fence or similar structure within any county-owned or managed land unless otherwise designated for such use;

(4)

Construct or erect any buildings or structures of whatever kind whether permanent or temporary in character, or run or string any public service utility into, upon, or across such lands;

(5)

Use tacks, nails, staples, or other items that penetrate wood on shelters, signs, trees, or other structure;

(6)

Enter, occupy, or use in any manner any lifeguard stand or station, or any lifeguard vessel, surfboard, or other lifesaving equipment at any time; or

(7)

Climb on or over any buildings or facilities, fences, structures, or historic ruins, or boardwalk and bridge railings unless expressly permitted under section 90-80, nor shall any person stand or sit on any structure not intended for such use.

(b)

Plant life. All plant life living or dead terrestrial, aquatic, and epiphytic species, within any county-owned or managed land is either the property of the county or is property managed by the county. No person shall engage in any of the following activities on any county-owned or managed land without prior written authorization from the administrator or designee:

(1)

Cut, carve, nail into, or otherwise damage the bark, or break off limbs or branches or mutilate in any way, or harvest the flowers or seeds of any plant or tree, except by special permit or within designated special use areas;

(2)

Dig in, disturb, or in any other way impair the natural condition of any area; nor shall any person place debris or materials of any kind on or about any tree or plant, or climb, or attach any rope, wire, wooden boards, or ladders thereto, except by special permit or within designated special use areas;

(3)

Transplant, possess, or remove any plant or plant part from any county-owned or managed land, except by special permit, nor shall any person introduce any plant species by willful act, negligence, or for any other reason; or

(4)

Fix, tie, chain, or hitch any animal, vehicle, or bicycle to any tree or other plant life, sign pole, boardwalk rail, bench, fence or similar structure within any county-owned or managed land unless otherwise designated for such use.

(c)

Wildlife. No person shall engage in any of the following activities on any county-owned or managed land without prior written authorization from the administrator or designee:

(1)

Possess, molest, harm, frighten, kill, trap, hunt, chase, capture, shoot, or throw any object at any wildlife within the boundaries of any county-owned or managed land; nor shall any person remove the eggs, nest, or young of any wildlife within the boundaries of any county-owned or managed land; nor shall any person collect, remove, possess, give away, sell or offer to sell, buy or offer to buy, or accept as a gift any specimen, dead or alive of any wildlife from within the boundaries of any county-owned or managed lands, except by special permit granted by the department or in accordance with a valid fishing permit issued by the state. However, this prohibition shall not apply to de minimus collection or removal, such as incidental collection

of shells or bait fish;

(2)

Feed or attempt to pet any wildlife;

(3)

Remove live shells; provided however that dead shell collection is permitted, except at archaeological sites, on a county or state historic site, on a site listed with the National Registry of Historic Places, or other sites as designated by the administrator or designee; or

(4)

Introduce any pet, plant or other wildlife into any county-owned or managed land by willful abandonment, negligence, or for any other reason.

(d)

Historic artifacts. No person shall, without prior written authorization from the administrator or his designee, willfully mark, deface, damage, displace, destroy, excavate, disturb, remove, or tamper with any historic or prehistoric artifact, bone, shell, or geological specimen on any county-owned or managed land, nor shall any person attempt any such activity, except by special permission granted by the department;

(e)

Sand and soil. No person shall, without prior written authorization from the administrator or his designee, on any county-owned or managed land:

(1)

Move or remove any property such as any beach sand, whether submerged or not, or any soil, rock, stones, down timber or other wood or materials; or

(2)

Make any search or excavation by tool, equipment, blasting, or other means or agency.

(Ord. No. 10-44, § 1, 9-28-10)

Secs. 90-51—90-59. - Reserved.
Sec. 90-60. - Activities within county-owned or managed lands.

(a)

Hiking. Walking, running, jogging, and/or hiking is permitted only along trails or pathways or areas specifically designated for such use or uses and during posted hours.

(b)

Public use. The department reserves the right to limit public access to any county-owned or managed land when deemed necessary or when public use is deemed a disturbance to any county-owned or managed land

or wildlife. No person shall loiter in or around any restroom, dressing room, bathhouse, or parking lot in any county-owned or managed land.

(c)

Horseback riding. Horseback riding is permitted only along trails or in areas specifically designated for such use. Horses shall be thoroughly broken, properly restrained, and ridden with due care. Horses shall not be allowed to graze or go unattended and must be on a lead at all times. Horses may only be hitched to hitching posts clearly identified for such use. No horse-drawn carriages, carts or wagons shall be allowed or used within any county-owned or managed land.

(d)

Fires. No person shall ignite or attempt to ignite a fire, except for campfires in areas designated for such use. Campfires or any other open burning, even in approved areas, may be prohibited when deemed necessary by the department or by restrictions mandated by state or federal agencies. No person shall build or light any fire upon the ground, or on any other object in any area except in a grill, stove, fireplace, or designated fire circle, nor use any type of gasoline, kerosene, or diesel fuel as an accelerant to start a fire in a grill, nor shall any person starting a fire leave the area without completely extinguishing the fire, nor use a grill or other device in such a manner as to burn, char, or blemish any bench, table, or other property, nor dispose of hot coals anywhere except in designated areas. No person shall dispose of any burning matches, smoking materials or other flammable materials except in designated receptacles.

(e)

Smoking. Smoking may be prohibited by the department, in its sole discretion, when necessary for fire prevention purposes. No person shall dispose of any burning matches, smoking materials or other flammable materials except in designated receptacles. Smoking is prohibited in environmental lands except in designated areas.

(f)

Camping.

(1)

Camping is strictly prohibited at all times unless specifically permitted by the department as set forth below. When permitted, camping shall be limited to those areas specifically designated for such use. Campers shall obey all rules and regulations.

(2)

Campers must obtain a permit and copies of the rules and regulations from the department prior to camping. Campers must have a valid permit and a valid picture identification card while camping. It shall be unlawful for any person to camp on any county-owned or managed land for a period of time in excess of 14 days in a 30-day period.

(3)

All waste shall be placed in disposal containers where provided. Where no disposal containers are provided,

or where the containers provided are full, all waste shall be carried away by the user of the camping area and properly disposed of outside of the county-owned or managed land.

(4)

Tents shall be stand-alone type and may not be attached to trees or any other vegetation or structure with any guy wire, rope, extension brace, support, fastener or any other device.

(g)

Fishing. Fishing is prohibited except where permitted in those public areas designated for such activity. Persons fishing shall obey all state and federal laws pertaining to fishing as well as any posted rules and regulations. Fishing is prohibited from beaches in any area where bathing and swimming are permitted. No person shall leave the area without disposing of unwanted fish and bait on piers, catwalks, or other areas where fishing is authorized.

(h)

Bathing and swimming. Swimming, bathing or wading is prohibited except in those public areas designated for such activity. Further, no person shall engage in the following activities in any county-owned or managed land:

(1)

Swim or bathe in any waters after dark, or in any beaches or waters closed to the public.

(2)

The use of soap or other cleansers, in any swimming area or any other public waters, including but not limited to beaches, stormwater facilities, lakes or streams.

(3)

The erection of any tent, shelter, or structure on or in any beach, bathing, or wading area in such a manner that a guy wire, rope, extension, brace or support connected or fastened from any such structure to any other structure, stake, rock, or other object is necessary, nor shall any other such structure, tent or shelter lack an unobstructed view of the interior from at least two sides.

(4)

Possess, carry, or transport any glassware, bottles, or any other potentially dangerous or sharp objects into any beach, bathing, wading, or swimming pool areas.

(i)

Picnicking.

(1)

Use of park and environmental lands property, including picnic shelters, tables and benches generally follows the rule of first-come, first-served. However, this practice shall not preclude the department from assigning or

reserving these facilities for the use of particular persons or groups. Picnicking is permitted only in areas specifically designated for such use.

(2)

All refuse, waste, and trash shall be placed in disposal containers where provided in all county-owned and managed lands. Where no disposal containers are provided, or where the containers provided are full, all refuse shall be carried away by the user of the picnic facility and properly disposed of outside of the county-owned or managed land. No person shall dispose of trash or garbage generated outside county-owned or managed lands in any refuse facility within a county-owned or managed land, with the exception of disposing of recyclable materials in recycling containers provided by the county.

(j)

Audio devices. Radios, tape players, electronic musical instruments and all other audio devices are permitted so long as they are played at volume levels that do not disturb, annoy, injure, or endanger the comfort, health, peace, or safety of the wildlife or reasonable persons of ordinary sensibilities or unnecessarily detract from a peaceful atmosphere. Such noise shall not be heard within any county-owned or managed land from a location more than 50 feet from the source of the noise, unless a special permit has been issued for such use.

(k)

Nudity. It shall be unlawful for any person over the age of four years old to appear nude in any county-owned or managed land, including but not limited to, appearing nude to sunbathe, subject to the exemptions listed below:

(1)

In a restroom, locker or shower facility, provided that no person over the age of six shall occupy or enter any restroom, dressing room, bathhouse, or other structures which are reserved or designated by the department for the exclusive use of the opposite sex without adult supervision.

(2)

In a privately owned, fully-enclosed, temporary dwelling used for camping at camp sites.

(3)

When the conduct of being nude cannot constitutionally be prohibited by county ordinance because it is otherwise protected pursuant to the United States Constitution or the Florida Constitution under existing judicial decisions.

(4)

When a mother is breast-feeding her baby, and then only the extent reasonably necessary to allow breast-feeding.

(l)

Commercial activity. No person, or organization other than the department or regularly licensed concessionaries acting by and under the authority of the county shall offer for sale, rent, or trade, any article,

or station or place any stand, cart, or vehicle, for the transportation, sale or display of any article of merchandise within the limits of any county-owned or managed land. No persons shall tell fortunes or foretell futures for compensation in any county-owned or managed land.

(m)

Hunting and weapons. No person shall carry, use or possess weapons of any description, including, but not limited to, air rifles, spring guns, bows and arrows, paint guns, water cannons, slingshots, boomerangs, or any other form of weapon harmful or dangerous to wildlife or dangerous to human safety on or in any county-owned or managed land except at and in accordance with the rules and regulations as a participant in a program approved by the board of county commissioners, unless authorized by law. Firearms as defined in F.S. § 790.001 are exempt from this provision and regulation is pre-empted to state law.

(n)

Toy and replica firearms, fireworks, long bows, cross bows, compound bows, and explosives. No person shall have in his or her possession nor shall any person discharge any toy or replica firearm, air-rifle, air-gun, toy cannon, fireworks, long bow, cross bow, compound bow, explosive, sling shot, or any toy or instrument that discharges projectiles either by air, elastic, explosive substance, or any other force within any county-owned or managed land. Parents or guardians will be held strictly responsible and accountable for the actions of minors with regard to the prohibitions in this and other subsections.

(o)

Alcoholic beverages. Possession or consumption of alcoholic beverages within any county-owned or managed land is prohibited, except that possession is permitted at county boat ramp facilities and possession and consumption are permitted at public marinas. This prohibition may be waived if:

(1)

The county has approved a contract or issued a permit which by its terms allows the sale and/or consumption of alcoholic beverages in a specified area or place;

(2)

The board by resolution has temporarily waived the prohibition of subsection (1) above for a special event or activity in a specified area or place.

(p)

Pets.

(1)

No pets, except horses accessing and utilizing trails designated for horseback riding, are permitted in any environmental land.

(2)

Within parks, department managed facilities, and public marinas, pets, including but not limited to birds, ferrets, pot-bellied pigs, monkeys, and snakes, shall be caged or on an adequate leash not greater than six feet

in length. Pets shall not be left unattended or off of a leash except in designated areas posted by signage. No pets are permitted in any playgrounds, swimming areas, beaches (except for designated dog beaches), boardwalks, bathrooms, showers, any place where food and drinks are sold or consumed, and any other areas as designated by the county administrator or designee.

(3)

No livestock or class I, II, or III exotic wildlife, as defined by Florida Statute, shall be permitted in any county-owned or managed land unless expressly authorized by the administrator or designee.

(4)

The owner or person in charge or in control of the pet shall remove all feces deposited by such animal and dispose of same in a sanitary manner.

(5)

The owner or person in charge or in control of the pet shall be held at all times responsible for its behavior and actions.

(6)

Where permitted, pets must be confined to designated areas or trails. Those persons in possession or control of domestic animals within any county-owned or managed land shall obey all county ordinances including, but not limited to, chapter 14 of this Code, as same may be amended from time to time.

(q)

Gambling. No person shall engage in any form of gambling as prohibited by state law.

(r)

Pollution. Any act resulting in pollution is prohibited, including, but not limited to the use of fountains, ponds, lakes, streams, bays or any other bodies of water adjacent to or within county-owned or managed lands, or the tributaries, storm sewers or drains flowing into them as dumping places for any substance, including fuel, which will or may result in the pollution of said waters.

(s)

Metal detectors. The use of metal detectors is prohibited except in designated areas.

(t)

Aircraft. No person operating, directing, or responsible for any airplane, helicopter, glider, hang glider, hot air balloon, dirigible, parachute or other aerial apparatus will take off from or land in or on any county-owned or managed land or waterway, except when human life is endangered or written permission has been obtained from the director.

(u)

Miscellaneous. No person shall engage in any activity within any county-owned or managed land that is

dangerous to the health, safety or welfare of any person or that would cause damage to the property of other patrons or county-owned or managed lands, including, but not limited to, hitting golf balls, racing or speeding in a dangerous manner, and diving or jumping from bridges or catwalks. Nor shall any person engage in any activity within any county-owned or managed land that interferes with the use and enjoyment of the county-owned or managed land and its facilities by other patrons. No person shall use roller skates, roller blades, in-line skates or skateboards in county-owned or managed lands, except in areas specially designed for such activities by the department. No person shall possess helium-filled balloons in county-owned or managed lands, except in enclosed buildings; provided the helium balloons shall be properly secured when bringing balloons into and out of enclosed buildings.

(v)

No person shall dispose of cremated remains within any county-owned or managed land.

(w)

No person shall change any parts, repair, wash, grease, or perform other maintenance on a vehicle on any park roadway, parkway, driveway, parking lot, or other property, except in emergencies; provided waxing and polishing is permitted if it is in an area open to vehicles and does not interfere with other activities or traffic flow.

(Ord. No. 10-44, § 1, 9-28-10; Ord. No. 11-35, § 2, 9-27-11)

Secs. 90-61—90-69. - Reserved.

Sec. 90-70. - Restrictions on the sale or conveyance of regional park property.

Except as otherwise permitted by subsections (1) and (2) herein, the county shall not sell, convey or transfer any fee simple interest in any county-owned regional park property, or portion thereof, or lease or license any regional park property for a period of longer than ten years, to any other person unless approved by resolution adopted by at least a majority vote plus one of the board of county commissioners at a public hearing advertised in accordance with the requirements of F.S. § 125.66(2)(a); provided that the requirements for a public hearing and a super majority vote shall not apply to:

(a)

The exchange of regional park property for reasonably equivalent regional park property when it is deemed to be in the best interests of the public as determined by board of county commissioners and the requirements of F.S. § 125.37 are satisfied; and

(b)

The sale, transfer, conveyance or dedication of regional park property to another governmental unit for a public purpose in accordance with the requirements of F.S. § 125.38.

(Ord. No. 10-44, § 1, 9-28-10)

Secs. 90-71—90-79. - Reserved.

Sec. 90-80. - Permits.

(a)

Permit required. A parks and conservation resources permit, issued by the department, is required before a person may engage in certain activities, which are listed below, in any parks or environmental lands. Application forms may be obtained from the department. This permit does not relieve the applicant from the permit requirements of section 10-26 et seq. of this Code.

(b)

Activities requiring a permit. Activities for which permit applications must be submitted include, but are not limited to, any of the following:

(1)

Scientific research including, but not limited to, biological assays, species identification or collection, species observation, archaeological survey and hydrological, geological, or chemical studies. This does not include such activities as visual observation of wildlife or vegetation within public areas.

(2)

Group nature activities either prior to or after the posted hours of operation, or that require access to restricted areas not open to the public.

(3)

All commercial photography, television broadcasting, and all private photography involving special settings or structures or the performance of any person. An additional film permit may be required as issued by the St. Petersburg/Clearwater film commission. Permits will not be required for bona fide newspaper, press association, newsreel and/or television news department personnel, identified by press cards, or passes, and assigned their respective editors to make photographs for use of such communications media, will be regarded as persons performing a task involving the freedom of the press as set forth in the constitution of the United States and, accordingly, will not be restricted by this subsection.

(4)

All group activities involving 50 or more persons.

(5)

Any special events as provided by departmental regulations.

(c)

Transferability. Permits are not transferable and may only be utilized by those persons to whom the permit was issued.

(d)

Revocation. Any permit issued pursuant to this section may be revoked for failure to comply with any condition imposed on the permit or for inconsistency with the criteria set forth in subsection (c).

(e)

No entitlement to permit. Because of the proprietary nature of the parks and environmental lands, this section does not create any right or entitlement to a permit.

(Ord. No. 10-44, § 1, 9-28-10)

Secs. 90-81—90-84. - Reserved.
Sec. 90-85. - Advertising, publicity and signs.

(a)

No person shall use county-owned or managed lands for the purpose of advertising or calling attention to any article or service for sale or for hire, nor shall any signs, slogans, loudspeakers or advertising display of any nature whatsoever be used for such purposes. No person shall place or station on any county-owned or managed lands any vehicle whatsoever displaying any such advertising intent of advertising or used for such purposes herein mentioned.

(b)

No person shall display, distribute, post or fix any banner, sign, handbill, pamphlet, circular, placard, or any other printed matter containing commercial advertising on any county-owned or managed land, unless approved by the director.

(c)

Nothing in this section shall be deemed to preclude the county from entering into a sponsorship agreement with commercial or noncommercial entities.

(Ord. No. 10-44, § 1, 9-28-10)

Secs. 90-86—90-89. - Reserved.
Sec. 90-90. - Resident personnel.

It is hereby acknowledged that it may be necessary for certain persons to have their primary residences within boundaries of county-owned or managed lands as authorized by the board or county administrator or to receive temporary permission to reside within the same pursuant to written approval from the department. Such personnel and their families and guests are exempted from the regulations and prohibitions of sections 90-60, 90-80, and 90-85 of this Code while said persons are within the boundaries of the primary residence as defined by the residential lease or residential license agreement between said personnel and the county, or within the temporary residence. At all times, however, resident persons remain subject to all applicable state laws, other county ordinances, and the terms and conditions of the lease, license, or permit while within the residence.

(Ord. No. 10-44, § 1, 9-28-10)

Secs. 90-91—90-99. - Reserved.
Sec. 90-100. - Exemptions.

Any person performing duties authorized by the board or the county administrator or his or her designee, while performing duties pursuant to this article or other law or within his or her official capacity, is hereby exempted from all prohibitions and restrictions of this article. However, all such persons shall comply with

any and all other applicable federal, state or local laws.

(Ord. No. 10-44, § 1, 9-28-10)

Secs. 90-101—90-104. - Reserved.
Sec. 90-105. - Signage.

All temporary and/or permanent signs installed by the county must be obeyed. No person shall engage in activities other than those prescribed in certain areas set aside and posted for such purposes. For example, in areas set aside for boating, swimming is prohibited; in areas set aside for swimming, boating and personal (motorized) watercraft are prohibited.

(Ord. No. 10-44, § 1, 9-28-10)

Secs. 90-106—90-109. - Reserved.
Sec. 90-110. - Enforcement and penalties.

(a)

It shall be a violation of this article for any person to fail to comply with any prohibition, mandate, restriction or other declaration set forth herein.

(b)

All provisions of this article may be enforced by all authorized law enforcement officers, and all personnel authorized by the county administrator or his or her designee.

(c)

Except as otherwise provided by law or ordinance, a person convicted of a violation of this article shall be punished by a fine not to exceed $500.00. With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense.

(d)

In addition to the penalties provided in subsection (b) of this section, any person or persons convicted of violating any provisions of this article may be liable for civil penalties or damages to the county in accordance with the county environmental enforcement act.

(e)

All damages and civil penalties collected as a result of any violation of this article shall be deposited in the environmental lands trust fund as created by the board.

(Ord. No. 10-44, § 1, 9-28-10)

Sec. 90-111. - Reserved.
Sec. 90-112. - Identification of county-owned environmental lands subject to Charter restrictions.

County-owned environmental lands in the following preserves and management areas are hereby designated as environmental lands subject to the provisions of Section 2.08, Pinellas County Charter, as further

described in the maps appended to Ordinance No. 08-46 and as Appendix C to this Code:

(1)

Allen's Creek Management Area.

(2)

Alligator Lake Management Area.

(3)

Anclote Islands Management Area.

(4)

Brooker Creek Preserve.

(5)

Cabbage Key Management Area.

(6)

Cow Branch Management Area.

(7)

East Lake Management Area.

(8)

Joe's Creek Management Area.

(9)

King Islands Management Area.

(10)

Lake Seminole Management Area.

(11)

Lake Tarpon Management Area.

(12)

Lake Tarpon West Management Area.

(13)

Long Branch Management Area.

(14)

Mariner's Point Management Area.

(15)

Mobbly Bayou Preserve.

(16)

Ozona Management Area.

(17)

Shell Key Preserve.

(18)

Travatine Island Management Area.

(19)

Weedon Island Preserve.

(Ord. No. 10-44, § 1, 9-28-10)

Sec. 90-113. - Group gatherings, performances and speeches.

The board of county commissioners shall have the authority to designate certain county-owned or managed land or portion of county-owned or managed lands which will be available for any public demonstrations, gatherings, performances and speeches which, due to the size of the group, will interfere with the use of the county-owned or managed land by the general public. Such group shall give notice to the county in advance of their intended use of the county-owned or managed land.

(Ord. No. 10-44, § 1, 9-28-10)

Sec. 90-114. - Boating, docks and launching ramps.

(a)

No person shall bring into or operate any vessel or other watercraft on any county-owned or managed water, lakes, canals, rivers, or ponds other than those so designated for such use or purpose by the county administrator or applicable state law.

(b)

All persons navigating or operating a motor equipped vessel or other watercraft in county-owned or managed waters shall comply with all established speed regulations, U.S. Coast Guard navigation regulations, environmental regulations, and any other applicable county ordinance.

(c)

No motor equipped vessel shall operate nor shall any person engage in water skiing in county-owned or managed waters within 200 feet of areas where bathers and swimmers are present.

(d)

No person other than a concessionaire contracted by the board of county commissioners to operate county-owned or managed property shall be permitted to rent, hire, or operate for charge, any kind of vessel or watercraft, whether powered or not, on any county-owned or managed waters.

(e)

The department may regulate the operational activities of combustion engines and noncombustion engines as to motor size and type of vessels within county-owned or managed waters, streams, and canals.

(f)

The following standards shall apply to the use of docks, launching ramps, and boat and vessel use in county-owned or managed waters, streams and canals:

(1)

Docks and ramps must be kept clear of all equipment or gear.

(2)

No refuse, trash, oil or bilge water shall be thrown or pumped overboard within county-owned or managed waters.

(3)

Sanitary facilities on vessels which discharge overboard must not be used while vessels are within the county-owned or managed waters.

(4)

Overnight dwelling on vessels docked or moored to park property or within park waters is prohibited except in areas so designated.

(5)

No person shall moor a watercraft within any area designated as a county-owned or managed land for a period of time in excess of 14 days in any 30-day period.

(6)

Boats operating in park waters must obey with the provisions in this section and in the United States Coast Guard navigation rules and any other applicable county ordinances.

(7)

Any defacement or damage of piers or of dock property must be repaired or corrected at the expense of the person or persons responsible for such defacement or damage.

(8)

Docking and mooring facilities shall not be used for commercial purposes. No person shall use or occupy any docking or mooring space for an unreasonable amount of time, not to exceed 30 minutes, to the exclusion of other park patrons.

(9)

Fuel containers shall only be used while refueling boats or vessels, and no fuel containers of any type shall be left unattended.

(10)

Boats shall not be operated in such a manner as to molest or harm wildlife or to cause damage to aquatic life, substrate or county property.

(g)

All persons must use the designated boat ramp areas and must abide by such regulations of the department.

(Ord. No. 10-44, § 1, 9-28-10)

Sec. 90-115. - Reserved.
Sec. 90-116. - Fees; regulations.

(a)

The department is authorized and directed to charge fees, including parking, entrance, user, or other fees, for activities on, or use of, county-owned or managed land as established by resolution of the board.

(b)

The department shall have the authority to adopt regulations relating to the use of county-owned or managed lands.

(Ord. No. 10-44, § 1, 9-28-10)

ARTICLE II. - RESERVED[3]

Footnotes:
--- (**3**) ---

Editor's note—Ord. No. 10-44, § 2, adopted Sept. 28, 2010, repealed Art. II, §§ 90-101—90-112, which pertained to environmental lands. See the Code Comparative Table for full derivation.

Secs. 90-117—90-140. - Reserved.
ARTICLE III. - COMMUNITY CULTURAL PROGRAMS[4]

Footnotes:
--- (**4**) ---

Editor's note—Ord. No. 11-20, § 1, adopted June 14, 2011, repealed the former Art. III, §§ 90-141—90-147, and enacted a new Art. III as set out herein. The former Art. III pertained to similar subject matter and derived from Ord. No. 06-70, § 2, adopted Sept. 7, 2006.

Sec. 90-141. - Purpose.

Pinellas County ("county") recognizes that arts, cultural, and heritage programs enhance the county's economic development and the quality of life for residents and visitors to the county. Designating and supporting a local arts agency, as defined in F.S. § 265.283, will stimulate governmental and public awareness and appreciation of the importance of cultural development within the county, will encourage and facilitate greater and more efficient use of governmental and private resources to maximize opportunities for the development and support of the arts, encourage and facilitate opportunities for county residents to participate in cultural activities, provide an informational resource for artists, cultural organizations and the public, and promote cultural activities, events or organizations. Further, subject to annual funding, retaining a public art and design program as provided herein will enhance the aesthetic quality of public and private buildings and spaces.

(Ord. No. 11-20, § 1, 6-14-11)

Sec. 90-142. - Definitions.

For the purpose of this article, the definitions contained in this section shall apply unless otherwise specifically stated. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in singular number include the plural.

Annual public art and design program shall mean an itemized and prioritized list of anticipated art projects including the objectives, design approach, budgets and scheduling for the upcoming year. The annual public art and design program shall be developed by the public art and design committee in consultation with county agencies and the local arts agency and shall be presented to the board of county commissioners for approval.

Arts and cultural programs include, but are not limited to, music, dance, theater, creative writing, literature, architecture, painting, sculpture, folk arts, photography, crafts, media arts, visual arts, programs of museums, and other such allied, major art forms.

Artwork shall mean works in a variety of media produced by professional visual artists, encompassing a broad range of expression, media and materials. Works may be permanent, temporary, or functional.

Capital improvement project shall mean any facility or system funded for construction or renovation wholly or in part by the county, including buildings, parks, roads, bridges, or other above-ground project, but does not include major drainage, solid waste, emergency medical services, water or wastewater projects.

Committee shall mean the public arts and design committee.

County means Pinellas County, a political subdivision of the State of Florida.

Cultural grant programs shall mean grant programs established and/or administered by the local arts agency to enhance the stability and development of both well-established and emerging tax exempt arts and cultural organizations operating in the county; support professional development for and special projects and/or recognition of arts teachers and artists; and provide such other grants programs as established by the local arts

agency.

Eligible construction costs shall mean the total capital project appropriation, including engineering and design, but excluding costs of incidental equipment, real property acquisition, and environmental remediation.

Local arts agency means the public or private nonprofit organization in Pinellas County operating on a permanent basis for the primary purpose of strengthening, supporting, and stabilizing the activities of one or more county art and cultural constituencies, as designated by the board of county commissioners as provided in this article.

Public places shall mean all spaces owned by the county, indoor or outdoor, that are accessible and visible to the general public and located where residents and visitors live or congregate.

(Ord. No. 11-20, § 1, 6-14-11)

Sec. 90-143. - Local arts agency.

(a)

Designation; appointment; qualification.

(1)

Designation/appointment. Creative Pinellas, Inc., a Florida nonprofit corporation, is designated and shall serve as the local arts agency in Pinellas County, as defined in F.S. § 265.283, and shall perform the duties as defined in subsection (b) herein. Creative Pinellas, Inc. shall serve as the local arts agency until another public or private nonprofit organization is designated to serve in that capacity by resolution of the board of county commissioners. The number, term, appointment, officers and replacement of directors or members of the Creative Pinellas, Inc., any other nonprofit organization, or the public organization designated as the local arts agency shall be as defined in the bylaws of the nonprofit organization, or the resolution, ordinance or statute establishing the public organization. The local arts agency shall adopt rules of procedure.

(2)

Qualification. Each member of the local arts agency shall have the background, education and experience that qualifies said member to carry out the duties and responsibilities vested in the local arts agency. Members shall be charged with the responsibility of serving the best interests of the arts and cultural programs in the county on a community-wide basis, and no member or director shall represent the interests of any particular geographic area of the county, interest group, arts institution, community organization, or audience.

(b)

Duties. The duties of the local arts agency shall include:

(1)

Serving as the designated local arts agency for the county, as defined by the state division of cultural affairs.

(2)

Establishing, awarding and administering cultural programs and financial and technical assistance programs for artists, cultural institutions, and arts teachers.

(3)

Administering the public art and design program as provided by agreement with the county.

(4)

Reviewing, periodically, the Pinellas County Community Cultural Plan ("cultural plan"), including amendments thereto, and making recommendations to the board of county commissioners for consideration, adoption and incorporation into the county's comprehensive plan.

(5)

Collecting, arranging, recording, preserving and disseminating aesthetic and cultural material and data.

(6)

Reviewing and recommending legislation to the board of county commissioners in relation to cultural matters.

(7)

Marketing or advertising arts and cultural programs and facilities.

(8)

Promoting an aesthetic and cultural environment in the community.

(9)

Encouraging and facilitating greater and more efficient use of governmental and private resources for the development and support of the arts and cultural programs.

(10)

Encouraging and facilitating opportunities for county residents to participate in cultural activities.

(11)

Promoting the development of county artists, cultural institutions, community organizations sponsoring cultural activities, and audiences.

(12)

Surveying and assessing the needs of the arts, artists, cultural institutions, community organizations sponsoring cultural activities, and people of the county relating to the arts.

(13)

Supporting and facilitating the preservation and growth of Pinellas County's cultural resources.

(14)

Otherwise serving the citizens of the county and state in the realm of the cultural matters.

(c)

Transition provisions. In support of the program transition from the county, Creative Pinellas, Inc. is hereby deemed to be the successor in interest to the county for the purposes of any grants or other arts or cultural program funding sources, as may be further specified in an agreement between the county and local arts agency.

(Ord. No. 11-20, § 1, 6-14-11)

Sec. 90-144. - Cultural programs.

Subject to available annual funding, the local arts agency shall establish and/or administer cultural programs to accomplish the duties provided herein, and to implement the goals of the cultural plan, as it determines to be necessary and appropriate:

(1)

The local arts agency shall adopt rules to determine eligibility, the application process, and award criteria, which shall be subject to approval by the board of county commissioners for any cultural grant programs funded by the county.

(2)

The local arts agency shall provide such notification of the availability of cultural grants in newspapers, trade journals, posting, and the departmental website, as determined by the local arts agency, which is designed to reach the widest audience of potential applicants for the available grants.

(3)

The grant award decisions of the local arts agency for grants funded by the county or the state shall be subject to approval by the board of county commissioners. All other grant award decisions of the local arts agency shall be final.

(4)

The cultural grants programs, including grant contracts as may be required by, and approved pursuant to, applicable local arts agency procedures, shall be administered by the local arts agency.

(Ord. No. 11-20, § 1, 6-14-11)

Sec. 90-145. - Public art and design.

(a)

Public art and design funding. Subject to the availability of annual funding, a public art and design account or accounts shall be established by the county for monies appropriated by this article as well as gifts and grants of a monetary nature from other sources. All appropriations pursuant to this article shall inure to the use and

benefit of the county, and said proceeds, together with the interest thereon, shall only be expended in accordance with the provisions of this article.

(1)

Public art and design funds shall be expended in accordance with the county-approved public art and design program. An annual program may be presented to the board of county commissioners outlining the projected art projects and associated costs for the upcoming year. The committee shall provide recommendations to the board of county commissioners for disbursement.

(2)

Funds may be used for artists' design services, the development of design concepts and models, for the selection, acquisition, installation, and exhibition of artworks.

(3)

At the time of approval of the initial budget or budget amendments for capital improvement projects, the board may appropriate from the one percent local option infrastructure sales tax proceeds an amount up to one percent of the total eligible costs of the project or projects.

(4)

Funds appropriated from the budget for one capital improvement project, but not deemed necessary or appropriate for that project, may be pooled with funds attributed to budgets for other projects and may be used for any art and design project in the county, subject to the art and design plan.

(5)

Funds not expended on encumbered and approved projects that are not completed by the close of any fiscal year shall be carried over to subsequent fiscal years until the project is completed.

(b)

Public art and design committee. The committee shall be appointed by the board of county commissioners to act in the public interest on all matters relating to this article, including, selection, operation, maintenance, administration, planning, education and curatorship of the public art and design program.

(1)

Membership. The committee shall be composed of the following seven members provided that, as the need arises, the committee may appoint others to provide expertise or otherwise represent a particular interest unique to a location or characteristic of an artwork.

(i)

One member selected by the board of county commissioners.

(ii)

One member from the local arts agency.

(iii)

Two members who are private citizens of the county with knowledge and appreciation for visual art.

(iv)

Three members who are arts professionals.

(2)

Compensation. Members of the committee shall serve without compensation.

(c)

Terms.

(1)

Members shall serve four-year terms in staggered terms to retain experience among the committee members.

(2)

No member shall serve for more than two full terms, plus the remaining portion of the prior member's term if the member has been appointed to fill the unexpired term of a prior member.

(3)

Any member who consistently fails to attend meetings without prior approval of the chair shall be removed and a new member shall be appointed to complete the term.

(d)

Responsibilities.

(1)

Subject to the availability of annual funding, the committee shall prepare and present a public art and design program to the board of county commissioners for the purpose of establishing an itemized and prioritized list of anticipated art projects. The committee shall also prepare and present recommendations to the board of county commissioners, whenever appropriate, in any matter relating to the public art and design program.

(2)

The committee shall prepare implementation guidelines, selection procedures and organizational policies to facilitate this article, and to govern the manner and method of submission of proposed artworks to the committee, subject to approval by the board of county commissioners.

(3)

The committee may act as a liaison with private developers to encourage and facilitate private contributions, and private art installations within corporate construction and alternation projects.

(4)

The committee may advise and inform the board of acquisitions, installations, and temporary displays of artworks and other public art activities.

(5)

The committee may identify appropriate projects or spaces to locate or display artworks. Funds appropriated against a particular project may be used to locate art at the same project or may be pooled for use elsewhere, if permitted by the funding source.

(6)

The committee may coordinate, investigate and recommend other means by which artworks may be obtained, including donations to the trust fund, gifts and loans of artwork to the county, creation of additional nonprofit organizations, and grant applications.

(7)

The committee may educate and stimulate the participation of all citizens in a joint public and private effort to promote the public art and design program.

(8)

The committee shall work closely with the local arts agency to assure an overall consistency in the public art and design program.

(9)

The committee shall receive recommendations from county staff as to appropriate locations for artworks and shall consult with the architect or the project manager of the county project for which an artwork is proposed.

(e)

Organization; selection of chair.

(1)

Immediately after the appointment of the first committee members, the committee shall organize by electing one of its members as chair. The chair's terms shall be decided by the committee. In the event the chair's position becomes vacant, a new chair shall be elected by the committee immediately after such vacancy is filled.

(2)

The presence of four members shall constitute a quorum.

(f)

Procedures.

(1)

The committee shall meet as necessary to fulfill its duties herein, and may adopt rules for governing the conduct of its affairs.

(2)

All meetings shall be open to the public and minutes kept including the vote of each committee member.

(g)

Selection process.

(1)

The committee shall select and acquire works of art of the highest quality and which are consistent with the public art and design program work plan as approved by the board of county commissioners.

(2)

The committee shall select and acquire artworks that are appropriate in scale, material, form and content for the general, social and physical environment with which they are to relate.

(Ord. No. 11-20, § 1, 6-14-11)

Sec. 90-146. - Ownership and maintenance.

(a)

Ownership. Ownership of all artworks acquired by the county shall be vested in the county, and the county shall hold title to each, unless the board of county commissioners waives this requirement.

(b)

Maintenance.

(1)

All artworks shall be required to be accompanied by detailed instructions for maintenance and ongoing care, including annual maintenance cost projections.

(2)

Funds for ongoing maintenance shall be designated annually by the board of county commissioners in accordance with the annual public art and design program.

(Ord. No. 11-20, § 1, 6-14-11)

Secs. 90-147—90-159. - Reserved.

ARTICLE IV. - RESERVED[5]

Footnotes:

--- (**5**) ---

Editor's note—Ord. No. 10-44, § 2, adopted Sept. 28, 2010, repealed Art. IV, §§ 90-160—90-178, which pertained to Pinewood Cultural Park. See the Code Comparative Table for full derivation.

Secs. 90-160—90-178. - Reserved.

Chapter 94 - PERSONNEL[1]

Footnotes:

--- (**1**) ---

Cross reference— Administration, ch. 2; officers and employees, § 2-51 et seq.; employee benefits, § 2-101 et seq.

ARTICLE I. - IN GENERAL

Secs. 94-1—94-30. - Reserved.

ARTICLE II. - PERSONNEL SYSTEM[2]

Footnotes:

--- (**2**) ---

Editor's note—The act contained in this article retains its status as a special act. See charter § 5.02. The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Sec. 94-31. - Classified service.

(a)

The classified service shall be a permanent service to which this article shall apply and shall comprise all tenured positions under board of county commissioners, clerk of the circuit court, property appraiser and supervisor of elections, now existing or hereafter established, except those exempt positions listed in appendix A, attached to Laws of Fla. ch. 77-642 and made a part hereof. The personnel board may establish new exempt positions or abolish existing exempt positions upon recommendations of the appropriate appointing authority. Persons serving in the classified service shall be hired, promoted, demoted, suspended or dismissed by the appropriate appointing authorities in accordance with the provisions of this article and the rules and regulations adopted pursuant hereto.

(b)

Those persons serving in exempt positions shall be hired, promoted, demoted, suspended or dismissed at the pleasure of the appointing authority, and they shall have no right to the exercise of the grievance procedure. Employees who may be promoted from the classified service to an exempt position may return to the classified service at a position and pay grade comparable to that which such employee had attained prior to promotion to an exempt position. Any such return to the classified system shall require the approval of the appointing authority and the personnel board. Compensation for employees in exempt positions shall be determined by the appropriate appointing authority. Exempt employees as hereinafter provided shall be subject to all other provisions of the personnel policies, rules and regulations as established by the personnel board or by this article with the restrictions defined in this section.

(Laws of Fla. ch. 77-642, § 1)

Sec. 94-32. - Personnel board.

(a)

Appointment, size, term and removal. The Pinellas County personnel board shall consist of seven members appointed as follows: Two members shall be appointed by the board of county commissioners; two members shall be appointed by the clerk of the circuit court, property appraiser and supervisor of elections as a body; and two members shall be appointed by the employee advisory council. These six members shall appoint the seventh member. Board members shall serve overlapping two-year terms. In the case of a person selected to fill a vacancy existing prior to the expiration of a term, selection shall be made in the same manner as for his predecessor and shall be for the remainder of the unexpired term. In the event any vacancy is not appointed as herein provided, then the remaining board members may fill such vacancy on an interim basis after due notice to the clerk of the circuit court, property appraiser, supervisor of elections, the board of county commissioners and the employee advisory council, with such action taken at a public meeting. Board members may be removed by unanimous vote of the remaining members of the board for cause, which shall be defined in the board's rules.

(b)

Qualifications of board members. All members of the personnel board shall be at least 18 years of age; of good moral character; of good reputation in the community; a citizen of the United States; permanent resident of Florida; permanent resident of Pinellas County for at least two years prior to the date of his appointment. No member may be an employee of any entity of county government in Pinellas County or a member of any national, state or county committee of a political party, or may hold or be a candidate for any paid public office. No member may serve who is the spouse, parent or grandparent, child or grandchild, brother or sister, aunt or uncle, niece or nephew, by consanguinity or affinity or [of] a member of the classified service or of any officer who elects that his employees shall come under the provisions of the act establishing this personnel system. No member may have a conflict of interest in terms of his related business, duties or responsibilities in connection with the board.

(c)

Compensation of board members. Board members shall be compensated at a rate determined by the board of county commissioners, upon the recommendation of the county administrator, clerk of the circuit court, property appraiser and supervisor of elections as a body, to defray expenses connected with serving on the personnel board.

(d)

Duties of the personnel board. It shall be the duty of the personnel board to:

(1)

Adopt and amend rules and regulations for the administration of this article, which rules shall provide:

a.

For the preparation, maintenance and revision of a position classification for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for the same schedule of pay [and] may be equitably applied to all positions in the same class. An employee affected by the allocation or reallocation of a position to a class shall, after filing with the director of personnel a written request for consideration thereof in such a manner and form as the director may prescribe, be given a reasonable opportunity to be heard thereon.

b.

For the establishment of a plan for resolving employee grievances and complaints.

c.

For the establishment of disciplinary measures such as suspension, demotion in rank or grade or discharge. Such measures shall provide for presentation of charges, hearing rights and appeals for all permanent employees in the classified service.

d.

For the certification to the appointing authority of the names of persons who are categorized as qualified to fill a vacancy. The appointing authority shall have the right of selection from among persons certified as qualified.

e.

For the establishment and maintenance of lists of eligibles for appointment and promotion, upon which lists shall be placed the names of successful candidates.

f.

For promotions by the appointing authorities, which shall give appropriate consideration to the applicant's qualifications, record of performance and ability.

g.

For, upon appointment or promotion by the appointing authorities, a period of employee probation prior to permanent appointment, not to exceed one year.

h.

For temporary employment by the appointing authorities for not more than six months; such temporary

employment may be continued for an additional six months with the approval of the personnel board.

i.

For provisional employment by the appointing authorities without competitive examination where there is no appropriate eligible register available. No such provisional employment shall continue longer than six months.

j.

For the establishment of programs, including trainee programs, designed to attract and utilize persons with minimal qualifications, but with potential for development in order to provide career development opportunities among members of disadvantaged persons, handicapped persons, and returning veterans. Such programs may provide for permanent appointment by the appointing authorities upon the satisfactory completion of the training period without further examination.

k.

For keeping records of performance of all employees in the classified service, which performance records shall be considered by the appointing authorities in determining salary increments or increased for meritorious services; as a factor in promotions; as a factor in determining the order of layoffs because of lack of funds or work and in reinstatements; and as a factor in demotions, discharges and transfers.

l.

For layoffs by the appointing authorities by reason of lack of funds or work, or abolition of a position, or material change in duties or organization and for reemployment of employees so laid off.

(2)

Make investigations concerning the enforcement effect of this article and to require observance of its provisions and the rules and regulations made thereunder.

(3)

Hear and determine appeals and complaints respecting administration of this article.

(e)

Authority of the personnel board. The personnel board shall be the final authority in all matters relating to personnel policy and personnel actions for offices, agencies and employees subject to the provisions of this article. The findings of the board shall be binding on all parties concerned and the board at its election may apply to the circuit court of Pinellas County for injunctive relief to enforce the terms of its decisions.

(f)

Personnel board actions. An affirmative vote of five members of the personnel board shall be required to abolish or establish a personnel rule or regulation.

(g)

Election of the chairman and vice-chairman. At its first meeting, and annually thereafter at its first regular meeting in January, the personnel board shall elect one of its members to serve as chairman and one of its members to serve as vice-chairman.

(Laws of Fla. ch. 77-642, § 2)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 94-33. - Personnel department established.

There is hereby established a personnel department.

(Laws of Fla. ch. 77-642, § 3)

Sec. 94-34. - Director of personnel.

(a)

Appointment and removal. The director of personnel shall be appointed by the personnel board from among applicants recommended by a screening process jointly established by the county administrator, clerk of the circuit court, property appraiser and supervisor of elections. He shall serve at the pleasure of the personnel board.

(b)

Qualifications. The director of personnel shall be a person experienced in management and personnel administration.

(c)

Duties of the director of personnel. The director of personnel shall be the executive head of the personnel department and shall direct all of its administrative and technical activities and appoint its employees. The director shall foster and develop programs for the improvement of employee effectiveness including training, communications, insurance, safety, health, counseling and welfare. Such programs shall be implemented only upon the approval of the personnel board.

(Laws of Fla. ch. 77-642, § 4)

Sec. 94-35. - Job descriptions, job classification schedule and pay plan.

The job description, job classifications schedule and pay plan in effect at the time this article is adopted are hereby confirmed and ratified, and shall remain in effect until amended by the personnel board in accordance with this article and the rules and regulations of the personnel board.

(Laws of Fla. ch. 77-642, § 5)

Sec. 94-36. - Department rules and regulations.

The appointing authorities covered under the provisions of this article shall continue to possess the authority to establish departmental rules and regulations concerning the conduct of their employees in addition to any such rules and regulations established by the personnel board. Rules promulgated by the appointing

authorities shall be approved by the personnel board and when approved shall control in case of inconsistency with the rules and regulations of the personnel board.

(Laws of Fla. ch. 77-642, § 6)

Sec. 94-37. - Employees advisory council.

There shall be an employees advisory council which shall serve in an advisory capacity to the Pinellas County personnel board concerning personnel matters, policies, rules and regulations affecting Pinellas County employees. The size and departmental representation of the employees advisory council shall be determined by rule of the personnel board. All members of the employees advisory council shall be members of the classified service and shall be elected to serve by their fellow employees. Members of the employees advisory council shall serve a two-year term of office. In case of a vacancy, a new member shall be selected in the same manner as his predecessor and serve out the unexpired term.

(Laws of Fla. ch. 77-642, § 7)

Sec. 94-38. - Status of previous employees.

(a)

Employees holding positions in the classified service for one year or more immediately prior to the adoption of this article shall be continued in their respective positions without further examination, until separated from their positions as provided by law. Those holding their positions less than one year immediately prior to the adoption of this law shall serve the remainder of the probationary period in effect at the time he was appointed.

(b)

Employees who have accrued any rights or benefits under previous Pinellas County merit system or civil service system acts or rules or under any established rules or other constitutional officers shall retain all such rights and benefits; however, no increase in said rights or benefits shall accrue beyond what the employee is currently eligible to receive except in accordance with the provisions of this article and the policies, rules and regulations adopted pursuant thereto.

(Laws of Fla. ch. 77-642, § 8)

Sec. 94-39. - Political activities prohibited.

(a)

No person holding a position in the classified service shall hold, or be a candidate for, public or political office while in the employment of the county, or take any active part in a political campaign while on duty or within any period of time during which such employee is expected to perform services for which compensation is received from the county.

(b)

Nothing contained in this section shall be deemed to prohibit any classified service employee from expressing his opinion on any candidate or issue, or from participating in any political campaign during his off-duty hours, so long as such activities are not in conflict with the provisions of F.S. § 104.31. Any person

violating the provisions of this section shall be dismissed from the classified service.

(Laws of Fla. ch. 77-642, § 9)

Sec. 94-40. - Hearings and investigations of the personnel board.

(a)

The practice and procedure of the personnel board with respect to any investigation by the board authorized by this article shall be in accordance with the rules and regulations to be established by the board which shall provide for a reasonable notice to all persons affected by order to be made by the board after such investigation, with the opportunity to be heard either in person, by counsel, or by a layman and to introduce testimony in his behalf at public hearing to be held for that purpose.

(b)

The [personnel] board, when conducting any investigations or hearings authorized by this article, shall have the power to appoint hearing examiners, administer oaths, take depositions, issue subpoenas to compel the attendance of witnesses and the production of books, accounts, papers, records, documents, and testimony. In case of the disobedience of any person to comply with a subpoena issued pursuant to board action or any of its members, or on the refusal of a witness to testify on any matter on which he may be lawfully interrogated, the judge of the circuit court of the county, on application of the board, shall compel obedience by proceedings as for contempt. The service of subpoenas shall be made in the manner provided by the Florida Rules of Civil Procedure. Each witness subpoenaed by the board shall receive for his attendance, fees and mileage as provided for witnesses in civil cases and paid in the same manner as all other expenses are authorized and paid upon the presentation of proper vouchers approved by the board.

(Laws of Fla. ch. 77-642, § 10; Laws of Fla. ch. 89-414, § 1)

Sec. 94-41. - Funding.

The board of county commissioners shall provide sufficient funds to carry out the provisions of this article.

(Laws of Fla. ch. 77-642, § 11)

Sec. 94-42. - Continuation of membership, rules and regulations, and actions of the personnel board; ratification of prior actions.

(a)

Each individual who, at the time this article is adopted, is serving as a member of the Pinellas County personnel board created by Laws of Fla. ch. 75-488, shall continue as a member of the personnel board created by this article until his term of office expires.

(b)

Rules and regulations adopted in accordance with the provisions of Laws of Fla. ch. 75-488, are hereby confirmed and ratified, and shall remain in effect until amended or repealed in accordance with this article.

(c)

All hearings, investigations, petitions or other matters pending before the personnel board created by Laws of Fla. ch. 75-488, shall remain in full force and effect. All such hearings, investigations, petitions or other matters shall be completed by the personnel board under this article.

(d)

All actions taken pursuant to Laws of Fla. ch. 75-488, are hereby ratified.

(Laws of Fla. ch. 77-642, § 12)

Sec. 94-43. - Construction of article, right to amend.

The article shall not be held nor construed to create any property rights or any vested interests in any position in the classified service and the right is hereby reserved to repeal, alter or amend this article, or any provisions thereof, at any time.

(Laws of Fla. ch. 77-642, § 15)

Secs. 94-44—94-70. - Reserved.

ARTICLE III. - AFFIRMATIVE ACTION PLAN[3]

Footnotes:
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Cross reference— Employment discrimination, § 70-51 et seq.

State Law reference— Discrimination prohibited in public employment, F.S. § 112.042 et seq.

Sec. 94-71. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Committee means the county affirmative action committee.

Office means the county affirmative action office.

(Ord. No. 77-23, § 2, 10-6-77)

Cross reference— Definitions generally, § 1-2.

Sec. 94-72. - Purpose.

The county government exists to serve equally all people of Pinellas County. The purpose of this article is to express formally the policy of county government to provide equal employment opportunities to all citizens of the county and to ensure that all employment practices of the county government are free from discrimination based upon race, color, religion, national origin, sex, age or handicap.

(Ord. No. 77-23, § 1, 10-6-77)

Sec. 94-73. - Affirmative action committee—Created; composition; organization; records.

(a)

There is hereby created the county affirmative action committee.

(b)

The affirmative action committee shall be composed of the following persons in county government:

(1)

A member of the board of county commissioners;

(2)

Clerk of the circuit court;

(3)

Property appraiser;

(4)

Sheriff;

(5)

Supervisor of elections;

(6)

Tax collector;

(7)

County administrator;

(8)

Chairperson of the unified personnel board;

(9)

Director of personnel of the unified personnel system;

(10)

Chairperson of the employee advisory council; and

(11)

Director of data processing.

(c)

Each member of the affirmative action committee is hereby authorized to appoint an individual to serve as an alternate member of the committee in the absence of the person by whom he was appointed. The designation of each alternate member shall be made in writing signed by the member making the appointment and shall be recorded in the minutes of the committee. An alternate member shall have full authority to act in the absence of the member who appointed him, including but not limited to voting on any issue which may come before the committee; provided, however, a member of the committee shall be bound fully by action taken in his absence. An alternate member shall be appointed for a temporary duration only and shall not be recognized as a permanent member of the committee.

(d)

The affirmative action committee shall elect a chairperson and a vice-chairperson from its membership, whose terms shall coincide with the calendar year. The committee shall meet on a regular basis. Special meetings may be called by the chairperson or by any two members of the committee. A quorum shall consist of six members.

(e)

The affirmative action committee may make such reasonable rules and regulations as it may deem necessary to establish its own procedures or to implement the provisions of this article, provided such rules and regulations shall not be inconsistent with this article.

(f)

Minutes of each meeting of the affirmative action committee shall be taken and such minutes shall be preserved with the official records of the board of county commissioners.

(Ord. No. 77-23, § 3, 10-6-77; Ord. No. 79-33, § 1, 10-16-79)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 94-74. - Same—Powers and duties.

The affirmative action committee shall have the following powers and duties:

(1)

To develop and implement an affirmative action plan for all facets of county government.

(2)

To direct the day-to-day operation and implementation of the affirmative action plan.

(3)

To receive complaints and to be the final authority for review of questions involving any alleged discrimination.

(4)

To conduct investigations concerning employment practices which may have an adverse impact on protected classes.

(5)

To hire an affirmative action officer who shall serve at the pleasure of the committee.

(6)

To recommend to the board of county commissioners a proposed budget for the funding of the county affirmative action office.

(7)

To oversee and to review the actions of the affirmative action office.

(8)

To establish monitoring systems as may be necessary for implementation of the affirmative action plan.

(Ord. No. 77-23, § 4, 10-6-77)

Sec. 94-75. - Contents of plan.

The affirmative action plan shall comply with all federal requirements and shall provide for good faith efforts to:

(1)

Determine the extent to which minorities and women are underutilized in major categories.

(2)

Identify and eliminate the specific causes of such underutilization.

(3)

Identify and eliminate any employment practices which are not clearly related to job performance and which may have an adverse impact on protected classes.

(4)

Rely exclusively upon employment practices which are based upon merit and other valid job related criteria.

(5)

Develop, through special recruitment efforts, substantial applicant pools of qualified women and members of minority groups.

(6)

Develop, through special recruitment efforts, applicant pools in which handicapped persons are represented

equitably.

(7)

Project goals and timetables which shall include estimates of the representation of minorities and women likely to result from the operation of the affirmative action plan.

(Ord. No. 77-23, § 5, 10-6-77)

Sec. 94-76. - Affirmative action office.

(a)

There is hereby established the county affirmative action office, which shall be under the direction of the affirmative action committee.

(b)

The affirmative action office shall be headed by the affirmative action officer, who shall be appointed by and answerable directly to the affirmative action committee.

(c)

The affirmative action office shall be responsible for the day-to-day implementation of the affirmative action plan, including preparing reports, making recommendations, and conducting investigations, subject to direction from the affirmative action committee.

(Ord. No. 77-23, § 6, 10-6-77)

Secs. 94-77—94-110. - Reserved.

ARTICLE IV. - COLLECTIVE BARGAINING[4]

Footnotes:

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State Law reference— Collective bargaining for public employees, F.S. § 447.201 et seq.; authority to adopt substantially equivalent provisions, F.S. § 447.603.

Sec. 94-111. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bargaining agent means the employee organization which has been certified by the public employees relations commission as representing the employees in the bargaining unit as provided in section 94-119, or its representative.

Bargaining unit means either that unit determined by the public employees relations commission or that unit determined by the public employer and the public employee organization and approved by the commission to be appropriate for the purposes of collective bargaining. However, no bargaining unit shall be defined as

appropriate which includes employees of two employers that are not departments or divisions of a public employer as defined in this section.

Chief executive officer for a constitutional officer means the constitutional officer himself.

Chief executive officer for a special district means the elected or appointed official or officials responsible for conducting the affairs of such district.

Chief executive officer for the board of county commissioners means the county administrator.

Civil service means any career, civil merit or unified personnel system used by any public employer.

Collective bargaining means the performance of the mutual obligations of the public employer and the bargaining agent of the employee organization to meet at reasonable times, to negotiate in good faith and to execute a written contract with respect to agreements reached concerning the terms and conditions of employment, except that neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this article.

Commission means the public employees relations commission created by section 94-113 of this article.

Confidential employees means persons who act in a confidential capacity to assist or aid managerial employees as defined in this section.

Constitutional officers means the clerk of the circuit court, the property appraiser, the sheriff, the supervisor of elections, and the county tax collector, or any of them.

Employee organization or organization means any labor organization, union, association, fraternal order, occupational or professional society, or group, however organized or constituted, which represents or seeks to represent any public employee or group of public employees concerning any matters relating to their employment relationship with a public employer.

Good faith bargaining means, but is not limited to, the willingness of both parties to meet at reasonable times and places, as mutually agreed upon, in order to discuss issues which are proper subjects of bargaining, with the intent of reaching a common accord. Such term shall include an obligation for both parties to actively participate in the negotiations with an open mind and a sincere desire, as well as making a sincere effort to resolve differences and come to an agreement. In determining whether a party failed to bargain in good faith, the commission shall consider the total conduct of the parties during negotiations as well as the specific incidents of alleged bad faith. Incidents indicative of bad faith shall include, but not be limited to, the following occurrences:

(1)

Failure to meet at reasonable times and places with representatives of the other party for purpose of negotiations.

(2)

Placing unreasonable restrictions on the other party as a prerequisite to meeting.

(3)

Failure to discuss bargainable issues.

(4)

Refusing, upon reasonable written request, to provide public information, excluding work products as defined in section 94-136(c).

(5)

Refusing to negotiate because of an unwanted person on the opposing negotiating team.

(6)

Negotiating directly with employees rather than with their certified bargaining agent.

(7)

Refusing to reduce a total agreement to writing.

Legislative body means the board of county commissioners unless the commission determines that a unit or subdivision of an employer, as defined herein, having authority to appropriate funds and/or establish policy governing the terms and conditions of employment, is the appropriate legislative body for the bargaining unit.

Managerial employees means those employees who:

(1)

Perform jobs that are not of a routine, clerical or ministerial nature and require the exercise of independent judgment in the performance of such jobs, and to whom one or more of the following applies:

a.

Formulate or assist in formulating policies which are applicable to bargaining unit employees;

b.

May reasonably be required on behalf of the employer to assist in the preparation for and conduct of collective bargaining negotiations;

c.

Have a role in the administration of agreements resulting from collective bargaining negotiations;

d.

Have a significant role in personnel administration;

e.

Have a significant role in employee relations;

f.

Are included in the definition of administrative personnel contained in F.S. § 228.041(10);

g.

Have a significant role in the preparation or administration of budgets for any public agency or institution or subdivision thereof.

(2)

Serve as police chiefs, fire chiefs, or directors of public safety of any police, fire, or public safety department. Other police officers, as defined in F.S. § 943.10(1), and firefighters, as defined in F.S. § 633.30(1), may be determined by the commission to be managerial employees of such departments. In making such determinations, the commission shall consider, in addition to the criteria established in subsection (1) of this definition, the paramilitary organizational structure of the department involved.

Provided, however, that in determining whether an individual is a managerial employee pursuant to either subsection (1) or (2) of this definition, the commission may consider historic relationships of the employee to the public employer and to coemployees.

Membership dues deduction means the practice of a public employer of deducting dues and uniform assessments from the salary or wages of a public employee. Such term also means the practice of a public employer of transmitting the sums so deducted to such employee organization.

Professional employee means:

(1)

Any employee engaged in work in any two or more of the following categories:

a.

Work predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work;

b.

Work involving the consistent exercise of discretion and judgment in its performance;

c.

Work of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

d.

Work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education, an apprenticeship or training in the performance of routine mental or physical processes; or

(2)

Any employee who:

a.

Has completed the course of specialized intellectual instruction and study described in subsection (1)d of this definition; and

b.

Is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in subsection (1) of this definition.

Public employee means any person employed by the board of county commissioners, the constitutional officers or a special district or any subdivision or agency thereof except:

(1)

Those persons appointed by the governor or elected by the people, agency heads, and members of boards and commissions;

(2)

Those persons holding positions by appointment or employment in the organized militia;

(3)

Individuals acting as negotiating representatives for employer authorities;

(4)

Persons who are designated by the commission as managerial or confidential employers pursuant to the criteria contained in this article;

(5)

Individuals holding positions of employment with the state legislature;

(6)

Those persons who have been convicted of a crime and are inmates confined to institutions within the state;

(7)

Those persons appointed to inspection positions in federal or state fruit and vegetable inspection service whose conditions of appointment are affected by federal license requirement, federal autonomy regarding investigation and discipline of appointees, or frequent transfers due to harvesting conditions; and

(8)

Those persons employed by the state public employees relations commission or the county public employees relations commission.

Public employer or employer means the board of county commissioners, the constitutional officers, or a special district of the county or any subdivision or agency thereof which the commission determines has sufficient legal distinctiveness to properly carry out the functions of a public employer.

Special district means any public employer, other than a municipality or town, that is located entirely within the boundaries of this county and is not already included under this article as an agency of the board of county commissioners or one of the constitutional officers. This definition shall include, but is not limited to, the county industry council, the license board for children's centers and family day care centers, the county planning council, Central Pinellas Transit Authority, and special fire, lighting, taxing or other districts as defined in the state statutes.

Strike means the concerted failure of employees to report for duty; the concerted absence of employees from their positions; the concerted stoppage of work by employees; the concerted submission of resignations; the concerted abstinence in whole or in part by any group of employees from the full and faithful performance of the duties of employment with a public employer for the purpose of inducing, influencing, condoning, or coercing a change in the terms and conditions of employment or the rights, privileges, or obligations of public employment, or participating in a deliberate and concerted course of conduct which adversely affects the services of the public employer; the concerted failure of employees to report for work after the expiration of a collective bargaining agreement; and picketing in furtherance of a work stoppage. The term "strike" shall also mean any overt preparation, including but not limited to the establishment of strike funds, with regard to the above-listed activities.

Strike funds are any appropriations by an employee organization which are established to directly or indirectly aid any employee or employee organization to participate in a strike in the state.

(Ord. No. 76-20, § 1.002, 9-28-76; Ord. No. 80-9, § 2, 3-18-80; Ord. No. 80-25, § 1, 7-8-80; Ord. No. 89-20, § 1, 5-9-89)

Cross reference— Definitions generally, § 1-2.

State Law reference— Similar provisions, F.S. § 447.203.

Sec. 94-112. - Statement of policy.

It is declared that the public policy of the county and the purpose of this article is to provide implementation of Fla. Const. art. I, § 6, with respect to public employees, and to promote harmonious and cooperative relationships between government and its employees, both collectively and individually, and to protect the public by assuring, at all times, the orderly and uninterrupted operations and functions of government. It is the intent of the board of county commissioners that nothing in this article shall be construed to either encourage or discourage organization of public employees. These policies are best effectuated by:

(1)

Granting to public employees the right of organization and representation;

(2)

Requiring the public employer to negotiate with bargaining agents duly certified to represent public employees;

(3)

Requiring the constitutional officers and special districts, or the duly authorized designees of any of them, to negotiate with bargaining agents duly certified to represent public employees, pursuant to the provisions of this article;

(4)

Creating a public employees relations commission to assist in resolving disputes between public employees and public employers; and

(5)

Recognizing the constitutional prohibition against strikes by public employees and providing remedies for violations of such prohibition.

(Ord. No. 76-20, § 1.001, 9-28-76; Ord. No. 80-9, § 1, 3-18-80)

State Law reference— Similar provisions, F.S. § 447.201.

Sec. 94-113. - Public employees relations commission—Created; composition; organization; authority.

(a)

There is hereby created the public employees relations commission, referred to in this article as the "commission." The commission shall be composed of a chairman and two full-time members, and one part-time alternate member, to be appointed by the county administrator subject to confirmation by the board of county commissioners, from persons representative of the public, known for their objective and independent judgment, who shall not be employed by or hold any commission with any governmental unit in the state or any employee organization, as defined in this article, while in such office. Notwithstanding any provision of F.S. § 447.205 to the contrary, members of the local commission shall be appointed so that the composition of the local commission is as follows: One appointee who is a person who, on account of previous vocation, employment, or affiliation, is or has been classified as a representative of employers; one appointee who is a person who, on account of previous vocation, employment, or affiliation, is, or has been, classified as a representative of employees or employee organizations; and all other appointees, including alternates, shall be persons who, on account of previous vocation, employment, or affiliation, are not, or have not been, classified as a representative of employers or of employees or employee organizations. The commissioners shall devote such time as is necessary to the performance of their commission duties and shall not engage in any other business, vocation, or employment while in such office which will interfere with their duties under this article. The term of office shall be four years, except that initially one member shall be appointed for a term of one year, one member for two years, one member for three years, and the alternate member for four years. In the event of a vacancy prior to the expiration of a term of office, an appointment shall be made for the unexpired term of that office. The chairman shall be responsible for the administrative functions of the commission and shall have the authority to employ such personnel as may be necessary to carry out the provisions of this article. Once appointed, the chairman shall serve as chairman for the duration of his term. Nothing contained in this section shall prohibit a chairman or commissioner from serving multiple terms. The chairman shall also have the authority to call the alternate commissioner to serve during such times as the alternate commissioner's presence is necessary to complete a quorum for the conduct of commission business. The presence of three members shall constitute a quorum for the conduct of commission business.

(b)

The chairman and the remaining members of the commission shall be paid an honorarium in an amount to be established by the board of county commissioners for each day they are engaged in the work of the commission. The chairman and other members shall be reimbursed for reasonable expenses under this article, as provided for in F.S. § 112.061.

(c)

The commission, in the performance of its powers and duties under this article, shall not be subject to control, supervision, or direction by the county administrator or board of county commissioners.

(d)

The property, personnel and appropriations related to the commission's specified authority, powers, duties, and responsibilities shall be provided to the commission by the board of county commissioners.

(e)

The commission shall make such expenditures, including expenditures for personal services and rent, for law books, books of reference, periodicals, furniture, equipment, and supplies, and for printing and binding, as may be necessary in exercising its authority and powers and carrying out its duties and responsibilities. All such expenditures of the commission shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the chairman and upon authorization of the board of county commissioners.

(f)

The commission may charge, in its discretion, for publications, subscriptions and copies of records and documents. Such funds shall be deposited in a trust fund to be established by the commission and shall be used to help defray the cost of providing such publications, subscriptions and copies of records and documents.

(g)

The commission shall maintain and keep open during reasonable business hours an office in the county for the transaction of its business, at which office its official records and papers shall be kept. The commission may hold sessions and conduct hearings at any place within the county.

(h)

The commission is expressly authorized to provide by rule for, and to destroy, obsolete records of the commission.

(i)

The deliberations of the commission in any proceeding before it shall be exempt from the provisions of F.S. ch. 286. Provided, however, that any hearing held or oral argument held by the commission pursuant to F.S. ch. 120 or this article shall be open to the public. All draft orders developed in preparation for, or preliminary to, the issuance of a final written order shall be exempt from the provisions of F.S. ch. 119.

(Ord. No. 76-20, § 1.003, 9-28-76; Ord. No. 80-9, § 3, 3-18-80; Ord. No. 80-25, § 2, 7-8-80; Ord. No. 80-48,

§ 1, 11-25-80)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

State Law reference— Local public relations commissions, F.S. § 447.603.

Sec. 94-114. - Same—Powers and duties.

(a)

The commission shall, in accordance with F.S. ch. 120, adopt, promulgate, amend or rescind such rules and regulations as it deems necessary and administratively feasible to carry out the provisions of this article.

(b)

To accomplish the objectives and carry out the duties prescribed by this article, the commission may preserve and enforce order during any proceeding; issue subpoenas for, administer oaths or affirmations to, and compel the attendance and testimony of witnesses; or issue subpoenas for and compel the production of books, papers, records, documents, and other evidence. However, in the absence of extraordinary circumstances, no subpoena shall issue which commands the attendance or testimony of any commissioner or any commission employee at a commission proceeding with respect to the performance of official or assigned duties, or the production of books, papers, records, or documents of the commission which have been prepared during the performance of such duties.

(c)

If any person misbehaves during a proceeding or so near the place thereof as to obstruct such proceeding, or neglects to produce, after having been ordered to do so, any pertinent book, paper, record, or document, or refuses or fails to appear after having been subpoenaed, or, upon appearing, refuses to take oath or affirmation as a witness, or after having taken the oath, refuses to be examined according to law, the commission shall certify the facts to the circuit court having jurisdiction in the county where the proceeding is taking place, which shall thereupon in a summary manner hear the evidence as to the acts complained of and, if the evidence so warrants, punish such person in the same manner and to the same extent as for a contempt committed before the court or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process or order of, or in the presence of, the court.

(d)

Any subpoena, notice of hearing, or other process or notice of the commission issued under the provisions of this article shall be served personally or by certified mail. A return made and verified by the individual making such service and setting forth the manner of such service is proof of service, and a returned post office receipt, when certified mail is used, is proof of service. All process of any court to which application may be made under the provisions of this article shall be served in the county wherein the persons required to be served reside or may be found.

(e)

The commission shall adopt rules as to the qualifications of persons who may serve as mediators and special masters, and shall maintain lists of such qualified persons who are not employees of the commission. The commission may initiate dispute resolution procedures by special masters, pursuant to the provisions of this

article.

(f)

Pursuant to its established procedures, the commission shall resolve questions and controversies concerning claims for recognition as the bargaining agent for a bargaining unit, determine or approve units appropriate for purposes of collective bargaining, expeditiously process charges of unfair labor practices and violations of section 94-131 by public employees, and resolve such other questions and controversies as it may be authorized in this article to undertake. The petitioner, charging party, respondent, and any intervenors shall be the adversary parties before the commission in any adjudicatory proceedings conducted pursuant to this article. Any commission statement of general applicability that implements, interprets, or prescribes law or policy, made in the course of adjudicating a case pursuant to section 94-119 or section 94-128 shall not constitute a rule within the meaning of F.S. § 120.52(16).

(g)

The commission shall provide by rule a procedure for the filing and prompt disposition of petitions for a declaratory statement as to the applicability of any statutory provision or any rule or order of the commission. Such rule or rules shall provide for, but not be limited to, an expeditious disposition of petitions posing questions relating to potential unfair labor practices. Commission disposition of petitions shall be final agency action and shall not constitute a rule as defined in F.S. § 120.52(16).

(Ord. No. 76-20, § 1.004, 9-28-76; Ord. No. 80-9, § 4, 3-18-80; Ord. No. 80-25, § 3, 7-8-80; Ord. No. 89-20, § 2, 5-9-89)

State Law reference— Similar provisions, F.S. § 447.207.

Sec. 94-115. - Public employer's rights.

It is the right of the public employer to determine unilaterally the purpose of each of its constituent agencies, set standards of services to be offered to the public, and exercise control and discretion over its organization and operations. It is also the right of the public employer to direct its employees, take disciplinary action for proper cause, and relieve its employees from duty because of lack of work or for other legitimate reasons; provided, however, that the exercise of such rights shall not preclude employees or their representatives from raising grievances, should decisions on the above matters have the practical consequences of violating the terms and conditions of any collective bargaining agreement in force, or civil or career service regulation.

(Ord. No. 76-20, § 1.005, 9-28-76)

Sec. 94-116. - Public employees' rights; organization and representation.

(a)

Public employees shall have the right to form, join, and participate in, or to refrain from forming, joining, or participating in, any employee organization of their own choosing.

(b)

Public employees shall have the right to be represented by any employee organization of their own choosing, to negotiate collectively through a certified bargaining agent with their public employer in the determination

of the terms and conditions of their employment.

(c)

Public employees shall have the right to engage in concerted activities not prohibited by law, for the purpose of collective bargaining or other mutual aid or protection. Public employees shall also have the right to refrain from engaging in such activities.

(d)

Nothing in this article shall be construed to prevent any public employee from presenting, at any time, his own grievances, in person or by legal counsel, to his public employer, and having such grievances adjusted without the intervention of the bargaining agent, if the adjustment is not inconsistent with the terms of the collective bargaining agreement then in effect and if the bargaining agent has been given reasonable opportunity to be present at any meeting called for the resolution of such grievances.

(Ord. No. 76-20, § 1.006, 9-28-76; Ord. No. 80-9, § 5, 3-18-80; Ord. No. 89-20, § 3, 5-9-89)

Sec. 94-117. - Dues for employee organization; deduction and collection.

Any employee organization which has been certified as a bargaining agent shall have the right to have its dues and uniform assessments deducted and collected by the employer from the salaries of those employees who authorize the deduction of such dues and uniform assessments. However, such authorization is revocable at the employee's request upon 30 days' written notice to the employer and employee organization. Such deductions shall commence upon the bargaining agent's written request to the employer. Reasonable costs to the employer of such deductions shall be a proper subject of collective bargaining. Such right to deduction, unless revoked pursuant to section 94-132 of this article (or as otherwise provided by law), shall be in force for so long as the employee organization remains the certified bargaining agent for the employees in the unit. The public employer is expressly prohibited from any involvement in the collection of fines, penalties, or special assessments.

(Ord. No. 76-20, § 1.007, 9-28-76; Ord. No. 80-9, § 6, 3-18-80)

State Law reference— Similar provisions, F.S. § 447.209.

Sec. 94-118. - Registration of employee organization.

(a)

Every employee organization seeking to become a certified bargaining agent for public employees shall register with the commission pursuant to the procedures set forth in F.S. § 120.60 prior to requesting recognition by a public employer for purposes of collective bargaining and prior to submitting a petition to the commission requesting certification as an exclusive bargaining agent. Further, if such employee organization is not registered, it may not participate in a representation hearing, participate in a representation election, or be certified as an exclusive bargaining agent. The application for registration required by this section shall be under oath and in such form as the commission may prescribe and shall include:

(1)

The name and address of the organization and of any parent organization or organization with which it is

affiliated.

(2)

The names and addresses of the principal officers and all representatives of the organization.

(3)

The amount of the initiation fee and of the monthly dues which members must pay.

(4)

The current annual financial statement of the organization.

(5)

The name of the organization's business agent, if any; and if different from the business agent, the name of its local agent for service of process; and the addresses where such person can be reached.

(6)

A pledge, in a form prescribed by the commission, that the employee organization will conform to the laws of the county and state and that it will accept members without regard to age, race, sex, religion, or national origin.

(7)

A copy of the current constitution and bylaws of the employee organization.

(8)

A copy of the current constitution and bylaws of the state and national groups with which the employee organization is affiliated or associated. In lieu of this provision, and upon adoption of a rule by the commission, a state or national affiliate or parent organization of any registering labor organization may annually submit a copy of its current constitution and bylaws.

(b)

A registration granted to an employee organization pursuant to the provisions of this section shall run for one year from the date of issuance. A registration shall be renewed annually by filing application for renewal under oath with the commission, which application shall reflect any changes in the information provided to the commission in conjunction with the employee organization's preceding application for registration or previous renewal, whichever is applicable. Each application for renewal of registration shall include a current annual financial report, signed by its president and treasurer or corresponding principal officers, containing the following information in such detail as may be necessary to accurately disclose its financial condition and operations for its preceding fiscal year and in such categories as the commission may prescribe:

(1)

Assets and liabilities at the beginning and end of the fiscal year;

(2)

Receipts of any kind and the sources thereof;

(3)

Salary, allowances, and other direct or indirect disbursements, including reimbursed expenses, to each officer and also to each employee who, during such fiscal year, received more than $10,000.00 in the aggregate from such employee organization and any other employee organization affiliated with it or with which it is affiliated, or which is affiliated with the same national or international employee organization;

(4)

Direct and indirect loans made to any officer, employee, or member, which aggregated more than $250.00 during the fiscal year, together with a statement of the purpose, security, if any, and arrangements for repayment; and

(5)

Direct and indirect loans to any business enterprise, together with a statement of the purpose, security, if any, and arrangements for repayment.

(c)

A registration fee shall accompany each application filed with the commission. The amount charged for an application for registration or renewal of registration shall not exceed $15.00. All such money collected by the commission shall be deposited in the general revenue fund.

(d)

Notification of registrations and renewals of registration shall be furnished at regular intervals by the commission to the board of county commissioners and the division of labor of the department of labor and employment security.

(e)

Every employee organization shall keep accurate accounts of its income and expenses, which accounts shall be open for inspection at all reasonable times by any member of the organization or by the commission.

(f)

An employee organization which has filed a petition seeking to be certified as a representative of employees of the county as of December 1, 1976, which has registered with the Florida Public Employees Relations Commission (Florida PERC) may, at its option, file with the commission a certified copy of a certification from Florida PERC which shall be sufficient proof of current registration in lieu of the initial registration requirements of subsections (a), (b) and (c) of this section. If an employee organization chooses this form of registration, it must also submit proof of filing annual financial reports in order to retain its registered status with a reasonable period of time, not to exceed 30 days, after filing such reports with Florida PERC. An employee organization exercising this privilege shall file a certified copy of all registration papers filed with Florida PERC and keep its registration current by filing amendments with the commission as required by this section.

(Ord. No. 76-20, § 1.008, 9-28-76; Ord. No. 80-9, § 7, 3-18-80; Ord. No. 80-25, § 4, 7-8-80)

State Law reference— Similar provisions, F.S. § 447.305.

Sec. 94-119. - Certification of employee organization.

(a)

Any employee organization which is designated or selected by a majority of public employees in an appropriate unit as their representative for purposes of collective bargaining shall request recognition by the public employer. The public employer shall, if satisfied as to the majority status of the employee organization and the appropriateness of the proposed unit, recognize the employee organization as the collective bargaining representative of employees in the designated unit. Upon recognition by a public employer, the employee organization shall immediately petition the commission for certification. The commission shall review only the appropriateness of the unit proposed by the employee organization. If the unit is appropriate according to the criteria used in this article, the commission shall immediately certify the employee organization as the exclusive representative of all employees in the unit. If the unit is inappropriate according to the criteria used in this article, the commission may dismiss the petition.

Whenever a public employer recognizes an employee organization on the basis of majority status and on the basis of appropriateness in accordance with subsection (d)(6)e of this section, the commission shall, in the absence of inclusion of a prohibited category of employees or violation of section 94-127 of this article, certify the proposed unit.

(b)

If the public employer refuses to recognize the employee organization, the employee organization may file a petition with the commission for certification as the bargaining agent for a proposed bargaining unit. The petition shall be accompanied by dated statements signed by at least 30 percent of the employees in the proposed unit, indicating that such employees desire to be represented for purposes of collective bargaining by the petitioning employee organization. Once a petition for certification has been filed by an employee organization, any registered employee organization desiring placement on the ballot in any election to be conducted pursuant to this section may be permitted by the commission to intervene in the proceeding upon motion accompanied by dated statements signed by at least ten percent of the employees in the proposed unit, indicating that such employees desire to be represented for the purposes of collective bargaining by the moving employee organization. Any employee, employer or employee organization having sufficient reason to believe any of the employee signatures were obtained by collusion, coercion, intimidation, or misrepresentation, or are otherwise invalid, shall be given a reasonable opportunity to verify and challenge the signatures appearing on the petition.

(c)

Investigation of petition, election procedure, and filing of a petition for election shall be as follows:

(1)

The commission or one of its designated agents shall investigate the petition to determine its sufficiency; if it has reasonable cause to believe the petition is sufficient, the commission shall provide for an appropriate hearing upon due notice. Such a hearing may be conducted by an agent of the commission. If the commission finds the petition to be insufficient, it may dismiss the petition. If the commission finds upon the record of the

hearing that the petition is sufficient, it shall immediately:

a.

Define the proposed bargaining unit and determine which public employees shall be qualified and entitled to vote at any election held by the commission.

b.

Identify the public employer or employers for purposes of collective bargaining with the bargaining agent.

c.

Order an election by secret ballot, the cost of such election and any required runoff election to be borne equally by the parties, except as the commission may provide by rule. The commission's order assessing costs of an election may be enforced pursuant to the provisions of this article.

(2)

Where an employee organization is selected by a majority of the employees voting in an election, the commission shall certify the employee organization as the exclusive collective bargaining representative of all employees in the unit.

(3)

In any election in which none of the choices on the ballot receives the vote of a majority of the employees voting, a runoff election shall be held according to rules promulgated by the commission.

(4)

No petition may be filed seeking an election in any appropriate bargaining unit to determine the exclusive bargaining agent if a representation election has been conducted within the preceding 12-month period. Furthermore, if a valid collective bargaining agreement covering any of the employees in a proposed unit is in effect, a petition for certification may be filed with the commission only during the period extending from 150 days to 90 days immediately preceding the expiration date of such agreement, or at any time subsequent to its expiration date but prior to the effective date of any new agreement. The effective date of a collective bargaining agreement means the date of ratification by both parties, if the agreement becomes effective immediately or retroactively, or its actual effective date, if the agreement becomes effective after its ratification date.

(d)

In defining a proposed bargaining unit, the commission shall take into consideration:

(1)

The principles of efficient administration of government.

(2)

The number of employee organizations with which the employer might have to negotiate.

(3)

The compatibility of the unit with the joint responsibilities of the public employer and public employees to represent the public.

(4)

The power of the officials of government at the level of the unit to agree, or make effective recommendations to other administrative authority or to a legislative body, with respect to matters of employment upon which the employee desires to negotiate.

(5)

The organizational structure of the public employer.

(6)

Community of interest among the employees to be included in the unit, considering:

a.

The manner in which wages and other terms of employment are determined.

b.

The method by which jobs and salary classifications are determined.

c.

The interdependence of jobs and interchange of employees.

d.

The desires of the employees.

e.

The history of employee relations within the organization of the public employer concerning organization and negotiation, and the interest of the employees and the employer in the continuation of a traditional, workable and accepted negotiation relationship.

(7)

The statutory authority of the public employer to administer a classification and pay plan.

(8)

Such other factors and policies as the commission may deem appropriate.

However, no unit shall be established or approved for purposes of collective bargaining which includes both professional and nonprofessional employees unless a majority of each group votes for inclusion in such unit.

(Ord. No. 76-20, § 1.009, 9-28-76; Ord. No. 80-9, § 8, 3-18-80; Ord. No. 80-25, § 5, 7-8-80)

State Law reference— Similar provisions, F.S. § 447.307.

Sec. 94-120. - Revocation of certificate of employee organization.

(a)

Any employee or group of employees which no longer desires to be represented by the certified bargaining agent may file with the commission a petition to revoke certification. The petition shall be accompanied by dated statements signed by at least 30 percent of the employees in the unit, indicating that such employees no longer desire to be represented for purposes of collective bargaining by the certified bargaining agent. The time of filing such petition shall be governed by the provisions of section 94-119(c)(4) relating to petitions for certification. Any employee or employee organization having sufficient reason to believe any of the employee signatures were obtained by collusion, coercion, intimidation, or misrepresentation or are otherwise invalid shall be given a reasonable opportunity to verify and challenge the signatures appearing on the petition. The commission or one of its designated agents shall investigate the petition to determine its sufficiency. If the commission finds the petition to be insufficient, it may dismiss the petition. If the commission finds that the petition is sufficient, it shall immediately:

(1)

Identify the bargaining unit and determine which public employees shall be qualified and entitled to vote in the election held by the commission.

(2)

Identify the public employer or employers.

(3)

Order an election by secret ballot, the cost of such election to be borne equally by the parties, except as the commission may provide by rule. The commission's order assessing costs of an election may be enforced pursuant to the provisions of this article.

(b)

If a majority of the employees voting in an election under subsection (a)(3) of this section vote against the continuation of representation by the certified bargaining agent, the certification of the employee organization as the exclusive bargaining agent for the employees in the bargaining unit shall be revoked.

(c)

If a majority of the employees voting in an election under subsection (a)(3) of this section do not vote against the continuation of representation by the certified bargaining agent, the certification of the employee organization as the exclusive bargaining agent for the employees in the unit shall be retained by the organization.

(Ord. No. 80-25, § 6, 7-8-80)

State Law reference— Similar provisions, F.S. § 447.308.

Sec. 94-121. - Collective bargaining agreement; approval or rejection.

(a)

After an employee organization has been certified pursuant to the provisions of this article, the bargaining agent for the organization and the chief executive officer of the appropriate public employer or employers jointly shall bargain collectively in the determination of the wages, hours and terms and conditions of employment of the public employees within the bargaining unit. The chief executive officer, or his representative, and the bargaining agent, or its representative, shall meet at reasonable times and bargain in good faith. In conducting negotiations with the bargaining agent, the chief executive officer or his representative shall consult with, and attempt to represent the views of, the legislative body of the public employer. Any collective bargaining agreement reached by the negotiators shall be reduced to writing, and such agreement shall be signed by the chief executive officer and the bargaining agent. Any agreement signed by the chief executive officer and the bargaining agent shall not be binding on the public employer until such agreement has been ratified by the public employer and by public employees who are members of the bargaining unit, subject to the provisions of subsections (b) and (c) of this section.

(b)

Upon execution of the collective bargaining agreement, the chief executive shall, in his annual budget request or by other appropriate means, request the legislative body to appropriate such amounts as shall be sufficient to fund the provisions of the collective bargaining agreement. If less than the requested amount is appropriated, the collective bargaining agreement shall be administered by the chief executive officer on the basis of the amounts appropriated by the legislative body. The failure of the legislative body to appropriate funds sufficient to fund the collective bargaining agreement shall not constitute nor be evidence of an unfair labor practice.

(c)

If any provision of a collective bargaining agreement is in conflict with any law, ordinance, rule or regulation over which the chief executive officer has no amendatory power, the chief executive officer shall submit to the appropriate governmental body having amendatory power a proposed amendment to such law, ordinance, rule or regulation. Unless and until such amendment is enacted or adopted and becomes effective, the conflicting provision of the collective bargaining agreement shall not become effective.

(d)

If the collective bargaining agreement is not ratified by the public employer or is not approved by a majority vote of employees voting in the unit, in accordance with procedures adopted by the commission, the agreement shall be returned to the chief executive officer and the employee organization for further negotiations.

(e)

Any collective bargaining agreement shall not provide for a term of existence of more than three years, and shall contain all of the terms and conditions of employment of the employees in the bargaining unit during such term.

(Ord. No. 76-20, § 1.010, 9-28-76; Ord. No. 80-9, § 9, 3-18-80; Ord. No. 89-20, § 4, 5-9-89)

State Law reference— Similar provisions, F.S. § 447.309.

Sec. 94-122. - Grievance procedures.

Each public employer and bargaining agent shall negotiate a grievance procedure to be used for the settlement of disputes between employer and employee or group of employees, involving the interpretation or application of a collective bargaining agreement. Such grievance procedure shall have as its terminal step a final and binding disposition by an impartial neutral, mutually selected by the parties. However, an arbitrator or other neutral shall not have the power to add to, subtract from, modify or alter the terms of a collective bargaining agreement. If an employee organization is certified as the bargaining agent of a unit, the grievance procedure then in existence may be the subject of collective bargaining; and any agreement which is reached shall supersede the previously existing procedure. All public employees shall have the right to a fair and equitable grievance procedure, administered without regard to membership or nonmembership in any organization; except that certified employee organizations shall not be required to process grievances for employees who are not members of the organization. A career service employee shall have the option of utilizing the civil service appeal procedure or a grievance procedure established under this section, but such employee cannot use both a civil service appeal and a grievance procedure.

(Ord. No. 76-20, § 1.011, 9-28-76; Ord. No. 80-9, § 10, 3-18-80)

State Law reference— Similar provisions, F.S. § 447.401.

Sec. 94-123. - Resolution of impasses.

(a)

If, after a reasonable period of negotiation concerning the terms and conditions of employment to be incorporated in a collective bargaining agreement, a dispute exists between a public employer and a bargaining agent, an impasse shall be deemed to have occurred when one of the parties so declares in writing to the other party and to the commission. When an impasse occurs, the public employer or the bargaining agent, or both parties acting jointly, may appoint, or secure the appointment of, a mediator to assist in the resolution of the impasse.

(b)

If no mediator is appointed, or upon the request of either party, the commission shall appoint, and submit all unresolved issues to, a special master acceptable to both parties. If the parties are unable to agree on the appointment of a special master, the commission shall appoint, in its discretion, a qualified special master. However, if the parties agree in writing to waive the appointment of a special master, the parties may proceed directly to resolution of the impasse by the legislative body pursuant to subsection (d)(4) of this section. Nothing in this section shall preclude the parties from using the services of a mediator at any time during the conduct of collective bargaining.

(c)

The special master shall hold hearings in order to define the area of dispute, to determine facts relating to the dispute, and to render a decision on any and all unresolved contract issues. The hearings shall be held at times, dates, and places to be established by the special master in accordance with rules promulgated by the commission. The special master shall be empowered to administer oaths and issue subpoenas on behalf of the parties to the dispute or on his own behalf. Within 15 calendar days after the close of the final hearing, the

special master shall transmit his recommended decision to the commission and to the representatives of both parties, by registered mail, return receipt requested. Such recommended decision shall be discussed by the parties, and each special master recommendation shall be deemed approved by both parties unless specifically rejected by either party by written notice filed with the commission within 20 calendar days after the date the party received the special master's recommended decision. The written notice shall include a statement of the cause for each rejection and shall be served upon the other party.

(d)

In the event that either the public employer or the employee organization does not accept, in whole or in part, the recommended decision of the special master:

(1)

The chief executive officer of the governmental entity involved shall, within ten days after rejection of a recommendation of the special master, submit to the legislative body of the governmental entity involved a copy of the findings of fact and recommended decision of the special master, together with the chief executive officer's recommendations for settling the disputed impasse issues; the chief executive officer shall also transmit his recommendations to the employee organization;

(2)

The employee organization shall submit its recommendations for settling the disputed impasse issues to such legislative body and to the chief executive officer;

(3)

The legislative body or a duly authorized committee thereof shall forthwith conduct a public hearing at which the parties shall be required to explain their positions with respect to the rejected recommendations of the special master;

(4)

Thereafter, the legislative body shall take such action as it deems to be in the public interest, including the interest of the public employees involved, to resolve all disputed impasse issues; and

(5)

Following the resolution of the disputed impasse issues by the legislative body, the parties shall reduce to writing an agreement which includes those issues agreed to by the parties and those disputed impasse issues resolved by the legislative body action taken pursuant to subsection (d)(4), above. The agreement shall be signed by the chief executive officer and the bargaining agent and shall be submitted to the public employer and to the public employees who are members of the bargaining unit for ratification. If such agreement is not ratified by all parties, pursuant to the provisions of section 94-121, the legislative body action taken pursuant to the provisions of subsection (d) shall take effect as of the date of such legislative body action for the remainder of the first fiscal year which was the subject of negotiations; however, the legislative body action shall not take effect with respect to those disputed impasse issues which establish the language of contractual provisions which could have no effect in the absence of a ratified agreement, including, but not limited to, preambles, recognition clauses, and duration clauses.

(Ord. No. 76-20, § 1.012, 9-28-76; Ord. No. 80-9, § 11, 3-18-80; Ord. No. 80-48, § 2, 11-25-80; Ord. No. 89-20, § 5, 5-9-89)

State Law reference— Similar provisions, F.S. § 447.403.

Sec. 94-124. - Factors to be considered by special master.

The special master shall conduct the hearings and render his recommended decision with the objective of achieving a prompt, peaceful and just settlement of disputes between the public employee organizations and the public employer. The factors, among others, to be given weight by the special master in arriving at a recommended decision shall include:

(1)

Comparison of the annual income of employment of the public employees in question with the annual income of employment maintained for the same or similar work of employees exhibiting like or similar skills under the same or similar working conditions in the local operating area involved.

(2)

Comparison of the annual income of employment of the public employees in question with the annual income of employment of public employees in similar public employee governmental bodies of comparable size within the state.

(3)

Interest and welfare of the public.

(4)

Comparison of peculiarities of employment in regard to other trades or professions, specifically with respect to:

a.

Hazards of employment;

b.

Physical qualifications;

c.

Educational qualifications;

d.

Intellectual qualifications;

e.

Job training and skills;

f.

Retirement plans;

g.

Sick leave;

h.

Job security.

(5)

Availability of funds.

(Ord. No. 76-20, § 1.013, 9-28-76; Ord. No. 80-9, § 12, 3-18-80)

State Law reference— Similar provisions, F.S. § 447.405.

Sec. 94-125. - Compensation of mediator and special master; expenses.

The compensation of the mediator and special master and all stenographic and other expenses under this article shall be borne equally by the parties.

(Ord. No. 76-20, § 1.014, 9-28-76; Ord. No. 80-9, § 13, 3-18-80)

State Law reference— Similar provisions, F.S. § 447.407.

Sec. 94-126. - Records.

All records which are relevant to, or have a bearing upon, any issue or issues raised by the proceedings conducted by the special master shall be made available to the special master by the request in writing to any of the parties to the impasse proceedings. Notice of such request shall be furnished to all parties. Any such records which are made available to the special master shall also be made available to any other party to the impasse proceedings upon written request.

(Ord. No. 76-20, § 1.015, 9-28-76; Ord. No. 80-9, § 14, 3-18-80)

State Law reference— Similar provisions, F.S. § 447.409.

Sec. 94-127. - Unfair labor practices.

(a)

Public employers or their agents or representatives are prohibited from:

(1)

Interfering with, restraining, or coercing public employees in the exercise of any rights guaranteed them under this article, or under F.S. § 447.03 or F.S. ch. 447, pt. II (F.S. § 447.201 et seq.).

(2)

Encouraging or discouraging membership in any employee organization by discrimination in regard to hiring, tenure, or other conditions of employment.

(3)

Refusing to bargain collectively or failing to bargain collectively in good faith, or refusing to sign a final agreement agreed upon with the certified bargaining agent for the public employees in the bargaining unit.

(4)

Discharging or discriminating against a public employee because he has filed charges or given testimony under this article.

(5)

Dominating, interfering with, or assisting in the formation, existence, or administration of any employee organization, or contributing financial support to such an organization.

(6)

Refusing to discuss grievances in good faith, pursuant to the terms of the collective bargaining agreement, with either the certified bargaining agent for the public employee or employees involved.

(b)

A public employee organization or anyone acting in its behalf, its officers, representatives, agents or members are prohibited from:

(1)

Interfering with, restraining, or coercing public employees in the exercise of any rights guaranteed them under this article, or under F.S. § 447.03 or F.S. ch. 447, pt. II (F.S. § 447.201 et seq.); or from interfering with, restraining or coercing managerial employees by reason of their performance of job duties or other activities undertaken in the interest of the public employer.

(2)

Causing or attempting to cause a public employer to discriminate against an employee because of the employee's membership or nonmembership in an employee organization or to attempt to cause the public employer to violate any of the provisions of this article.

(3)

Refusing to bargain collectively or failing to bargain collectively in good faith with a public employer.

(4)

Discriminating against an employee because he has signed or filed an affidavit, charge, petition, or complaint, or given any information or testimony in any proceedings provided for in this article.

(5)

Participating in a strike against the public employer by instigating or supporting, in any positive manner, a strike. Any violation of this section shall subject the violator to the penalties provided in this article.

(6)

Instigating or advocating support, in any positive manner, for an employee organization's activities from high school or grade school students, or institutions of higher learning.

(c)

Notwithstanding the provisions of subsections (a) and (b) of this section, the parties' rights of free speech shall not be infringed upon and the expression of any arguments or opinions shall not constitute or be evidence of an unfair employment practice or of any other violation of this article, if such expression contains no promise of benefits, nor threat of reprisal or force.

(Ord. No. 76-20, § 1.016, 9-28-76)

State Law reference— Similar provisions, F.S. § 447.501.

Sec. 94-128. - Charges of unfair labor practices.

It is the intent of the board of county commissioners that the commission act as expeditiously as possible to settle disputes regarding alleged unfair labor practices. To this end, violations of the provisions of section 94-127 shall be remedied by the commission in accordance with the following procedures and in accordance with F.S. ch. 120; however, to the extent that F.S. ch. 120 is inconsistent with the provisions of this section, the procedures contained in this section shall govern:

(1)

A proceeding to remedy a violation of the provisions of section 94-127 shall be initiated by the filing of a charge with the commission by an employer, employee, or employee organization, or any combination thereof. Such a charge shall contain a clear and concise statement of facts constituting the unfair labor practice, including the names of all individuals involved in the alleged unfair labor practice, specific reference to the provisions of section 94-127 alleged to have been violated, and such other relevant information as the commission may by rule require or allow. Service of the charge shall be made upon each named respondent at the time of filing with the commission. The charge must be accompanied by sworn statements and documentary evidence sufficient to establish a prima facie violation of the applicable unfair labor practice provision. Such supporting evidence is not to be attached to the charge and is to be furnished only to the commission.

(2)

The commission, or any agent designated by it for such purpose, shall thereupon review the charge to determine its sufficiency as follows:

a.

If upon review it is determined that the charge is insufficient, the commission or its designated agent may issue a summary dismissal of the charge. A charging party whose charge is dismissed by a designated agent

may appeal the dismissal to the commission within 20 days after the date of issuance of the dismissal. If the commission finds the charge to be sufficient, it shall reinstate the charge.

b.

If upon review it is determined that the charge is sufficient, the commission shall notify the parties. Each respondent so charged shall thereupon file an answer to the charge with the commission, and serve a copy upon the charging party, no more than 20 days after service of notification of the sufficiency of the charge, unless otherwise allowed by the commission. The commission, in its discretion, may allow a charge or answer to be amended at any time. The commission may also, in its discretion, allow other interested parties to intervene in the proceeding.

c.

Upon completion of the review, the evidence filed with the commission in support of the charge shall be made available upon request in accordance with the provisions of F.S. ch. 119.

(3)

Whenever a charging party alleges that a respondent has engaged in unfair labor practices and that the charging party will suffer substantial and irreparable injury if he is not granted temporary relief, the commission may petition the circuit court for appropriate injunctive relief pending the final adjudication by the commission with respect to such matter. Upon the filing of any such petition, the court shall cause notice thereof to be served upon the parties and, thereupon, shall have jurisdiction to grant such temporary relief or restraining order as it deems just and proper.

(4)

The commission may issue prehearing orders requiring the parties to provide written statements of relevant issues of fact and law and such other information as the commission may require to expedite the resolution of the case. Such orders may further direct the parties to identify witnesses, exchange intended exhibits and documentary evidence, and appear at a conference before the commission or a member thereof, or a designated hearing officer, for the purpose of handling such matters as will aid the commission in expeditiously resolving the case before it.

(5)

Whenever the proceeding involves a disputed issue of material fact and an evidentiary hearing is to be conducted:

a.

The commission shall issue and serve upon all parties a notice of hearing before an assigned hearing officer at a time and place specified therein. Such notice shall be issued at least 14 days prior to the scheduled hearing.

b.

The evidentiary hearing shall be conducted by a hearing officer designated by the commission. Such hearing officer may be the commission itself, a member of the commission, or an agent designated by the

commission for such purpose, provided that such agent shall be an employee of the commission and a member of the Florida Bar.

c.

Not later than 45 days after the close of the evidentiary hearing, unless extended by the commission with the consent of all parties, the hearing officer shall submit to the commission and to all parties a recommended order which shall include findings of fact and recommended rulings on procedural matters. The recommended order may also include recommended conclusions of law if requested by the commission.

d.

If the hearing was held before the commission or a member of the commission, the commission may elect to issue a final order which is in compliance with F.S. § 120.58(1)(e) and F.S. § 120.59.

(6)

e.
If, upon consideration of the record in the case, the commission finds that an unfair labor practice has been committed, it shall issue and cause to be served an order requiring the appropriate party to cease and desist from the unfair labor practice and take such positive action, including reinstatement of employees with or without back pay, as will best implement the general policies expressed in this article. However, no order of the commission shall require the reinstatement of any individual as an employee who has been suspended or discharged, or the payment to him of any back pay, if the individual was suspended or discharged for cause. The order may further require the party to make periodic reports showing the extent to which it has complied with the order. If, upon consideration of the record in the case, the commission finds that an unfair labor practice has not been or is not being committed, it shall issue an order dismissing the case.

f.

If the commission determines that the alleged unfair labor practice occurred more than six months prior to the filing of the charge, the commission shall issue an order dismissing the case, unless the person filing the charge was prevented from doing so by reason of service in the armed forces, in which case the six-month period shall run from the date of the person's discharge.

g.

The commission may award to the prevailing party all or part of the costs of litigation, reasonable attorney's fees, and expert witness fees whenever the commission determines that such an award is appropriate.

h.

Final orders of the commission issued pursuant to this section shall be enforced pursuant to the provisions of section 94-129 and shall be reviewed pursuant to the provisions of section 94-130.

(Ord. No. 76-20, § 1.017, 9-28-76; Ord. No. 80-9, § 15, 3-18-80; Ord. No. 80-25, § 7, 7-8-80; Ord. No. 89-20, § 6, 5-9-89)

State Law reference— Similar provisions, F.S. § 447.503.

Sec. 94-129. - Enforcement of commission orders.

In case of any failure by any employer, employee, or employee organization to comply with any order of the commission, upon application of the commission or, notwithstanding the provisions of F.S. § 120.69(1)(b)1, upon application of any person who is a resident of the state and who is substantially interested in such order, any circuit court of this state shall have jurisdiction to enforce the order pursuant to the provisions of F.S. § 120.69. However, if one or more petitions for enforcement and a notice of appeal involving the same agency action are pending at the same time, the district court of appeal considering the notice of appeal shall order all such actions transferred to and consolidated in the district court of appeal. If a petition for enforcement is filed after the time for filing notice of appeal has expired, the respondent may assert as a defense only that the agency action was not intended to apply to the respondent or that the respondent has complied with the agency action. Petitions for enforcement filed under this article shall be heard expeditiously by the circuit court to which presented and shall take precedence over all other civil matters except prior matters of the same character.

(Ord. No. 80-25, § 8, 7-8-80)

State Law reference— Similar provisions, F.S. § 447.5035.

Sec. 94-130. - Judicial review of commission orders.

(a)

The district courts of appeal are empowered, upon the filing of appropriate notices of appeal, to review final orders of the commission pursuant to F.S. § 120.68. A copy of the notice of appeal shall be filed with the commission. The record in the proceeding, certified by the commission, shall be filed with the court in accordance with the Florida Appellate Rules.

(b)

Upon the filing of a notice of appeal, the appropriate district court of appeal shall thereupon have jurisdiction of the proceeding and may grant such temporary or permanent relief or restraining order as it deems just and proper, and may enforce, modify, affirm, or set aside, in whole or in part, the order of the commission. The findings of the commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

(c)

The court may award to the prevailing party all or part of the costs of litigation and reasonable attorney's fees and expert witness fees, whenever the court determines that such an award is appropriate; however, no such costs or fees shall be assessed against the commission in any appeal from an order issued by the commission in an adjudicatory proceeding between adversary parties conducted pursuant to this article.

(d)

The commencement of proceedings under this section shall not, unless specifically ordered by the district court of appeal, operate as a stay of the commission's order.

(e)

Appeals filed under this article shall be heard expeditiously by the district court of appeal to which presented, and shall take precedence over all other civil matters except prior matters of the same character.

(f)

Notice of the Florida PERC shall be provided by any party seeking judicial review of any order of the commission.

(Ord. No. 80-9, § 16, 3-18-80; Ord. No. 80-25, § 9, 7-8-80; Ord. No. 80-48, § 3, 11-25-80)

State Law reference— Similar provisions, F.S. § 447.504.

Sec. 94-131. - Strikes prohibited.

No public employee or employee organization may participate in a strike against a public employer by instigating or supporting, in any manner, a strike. Any violation of this section shall subject the violator to the penalties provided for in this article and under state law.

(Ord. No. 76-20, § 1.018, 9-28-76)

State Law reference— Similar provisions, F.S. § 447.505.

Sec. 94-132. - Violation of strike prohibition; penalties.

(a)

Circuit courts having jurisdiction of the parties are vested with the authority to hear and determine all actions alleging violations of section 94-131. Suits to enjoin violations of section 94-131 will have priority over all matters on the court's docket except other emergency matters.

(b)

If a public employee, a group of employees, an employee organization, or any officer, agent, or representative of any employee organization, engages in a strike in violation of section 94-131, either the commission or any public employer whose employees are involved or whose employees may be affected by the strike, may file suit to enjoin the strike in the circuit court having proper jurisdiction and proper venue of such actions under the Florida Rules of Civil Procedure and the state statutes. The circuit court shall conduct a hearing, with the notice to the commission and to all interested parties, at the earliest practicable time. If the plaintiff makes a prima facie showing that a violation of section 94-131 is in progress or that there is a clear, real and present danger that such a strike is about to commence, the circuit court shall issue a temporary injunction enjoining the strike. Upon final hearing, the circuit court shall either make the injunction permanent or dissolve it.

(c)

If an injunction issued pursuant to this section to enjoin a strike is not promptly complied with, on the application of the plaintiff the circuit court shall immediately initiate contempt proceedings against those who appear to be in violation. An employee organization found to be in contempt of court for violating an injunction against a strike shall be fined an amount deemed appropriate by the court. In determining the appropriate fine, the court shall objectively consider the extent of lost services and the particular nature and position of the employee group in violation. In no event shall the fine exceed $5,000.00. Each officer, agent or representative of an employee organization found to be in contempt of court for violating an injunction against a strike shall be fined not less than $50.00 nor more than $100.00 for each calendar day that the

violation is in progress.

(d)

An employee organization shall be liable for any damages which might be suffered by a public employer as a result of a violation of section 94-131 by the employee organization or its representatives, officers, or agents. The circuit court having jurisdiction over such actions is empowered to enforce judgments against employee organizations, as defined in this article, by attachment or garnishment of union initiation fees or dues which are to be deducted or checked off by public employers. No action shall be maintained pursuant to this subsection until all proceedings which were pending before the commission at the time of the strike or which were initiated within 30 days of the strike have been finally adjudicated or otherwise disposed of. In determining the amount of damages, if any, to be awarded to the public employer, the trier of fact shall take into consideration any action or inaction by the public employer or its agents that provoked or tended to provoke the strike by the public employees. The trier of fact shall also take into consideration any damages that might have been recovered by the public employer under subsection (f)(4) of this section.

(e)

If the commission after a hearing on notice conducted according to rules promulgated by the commission determines an employee has violated section 94-131, it may order the termination of his employment by the public employer. Notwithstanding any other provision of law, a person knowingly violating the provision of such section may subsequent to such violation be appointed or reappointed, employed or reemployed, as a public employee, but only upon the following conditions:

(1)

Such person shall be on probation for a period of six months following his appointment or reappointment, employment or reemployment, during which period he shall serve without tenure. During this period, the person may be discharged only upon a showing of just cause.

(2)

His compensation may in no event exceed that received by him immediately prior to the time of the violation.

(3)

The compensation of the person may not be increased until after the expiration of one year from such appointment or reappointment, employment or reemployment.

(f)

If the commission determines that an employee organization has violated section 94-131, it may:

(1)

Issue cease and desist orders as necessary to ensure compliance with its order.

(2)

Suspend or revoke the certification of the employee organization as the bargaining agent of such employee unit.

(3)

Revoke the right of dues deduction and collection previously granted to the employee organization pursuant to the provisions of this article.

(4)

Fine the organization up to $20,000.00 for each calendar day of such violation or determine the approximate cost to the public due to each calendar day of the strike and fine the organization an amount equal to such cost, notwithstanding the fact that the fine may exceed $20,000.00 for each such calendar day. The fines so collected shall immediately accrue to the public employer and shall be used by it to replace those services denied the public as a result of the strike. In determining the amount of damages, if any, to be awarded to the public employer, the commission shall take into consideration any action or inaction by the public employer or its agents that provoked, or tended to provoke, the strike by the public employees.

An organization determined to be in violation of section 94-131 shall not be certified until one year from the date of final payment of any fine against it.

(Ord. No. 76-20, § 1.019, 9-28-76; Ord. No. 80-9, § 17, 3-18-80; Ord. No. 80-25, § 10, 7-8-80)

State Law reference— Similar provisions, F.S. § 447.507.

Sec. 94-133. - Acts prohibited.

(a)

Employee organizations, their members, agents, representatives, or any persons acting on their behalf are hereby prohibited from:

(1)

Soliciting public employees during working hours of any employee who is involved in the solicitation;

(2)

Distributing literature during working hours in areas where the actual work of public employees is performed, such as offices, warehouses, schools, police stations, fire stations and any similar public installations. This section shall not be construed to prohibit the distribution of literature during the employee's lunch hour or in such areas not specifically devoted to the performance of the employee's official duties;

(3)

Instigating or advocating support, in any positive manner, for an employee organization's activities from high school or grade school students during classroom time.

(b)

No employee organization shall, directly or indirectly, pay any fines or penalties assessed against individuals pursuant to the provisions of this article.

(c)

Pursuant to F.S. ch. 447, pt. II (F.S. § 447.201 et seq.), the circuit courts of this state shall have jurisdiction to enforce the provisions of this section by injunction and contempt proceedings, if necessary. A public employee who is convicted of a violation of any provision of this section may be discharged or otherwise disciplined by his public employer, notwithstanding further provisions of law, and notwithstanding the provisions of any collective bargaining agreement.

(Ord. No. 76-20, § 1.020, 9-28-76)

State Law reference— Similar provisions, F.S. § 447.509.

Sec. 94-134. - Merit or civil service system; applicability.

The provisions of this article shall not be construed to repeal, amend, or modify the provisions of any law or ordinance establishing a merit or civil service system for public employees or the rules and regulations adopted pursuant thereto or to prohibit or hinder the establishment of other such personnel systems unless the provisions of such merit or civil service system laws, ordinances or rules and regulations adopted pursuant thereto are in conflict with the provisions of this article, in which event such laws, ordinances, or rules and regulations shall not apply, except as provided in section 94-114(d).

(Ord. No. 76-20, § 1.021, 9-28-76; Ord. No. 80-25, § 11, 7-8-80)

State Law reference— Similar provisions, F.S. § 447.601.

Sec. 94-135. - Existing agreements.

All public employee agreements now in existence shall remain in effect until their expiration.

(Ord. No. 76-20, § 1.023, 9-28-76)

Sec. 94-136. - Government in the sunshine.

(a)

All discussions between the chief executive officer of the public employer, or his representative, and the legislative body or the public employer relative to collective bargaining shall be exempt from F.S. § 286.011.

(b)

The collective bargaining negotiations between a chief executive officer, or his representative, and a bargaining agent shall be in compliance with F.S. § 286.011.

(c)

All work products developed by the public employer in preparation for negotiations, and during negotiations, shall be exempt from F.S. ch. 119.

(Ord. No. 76-20, § 1.024, 9-28-76; Ord. No. 80-9, § 18, 3-18-80)

State Law reference— Similar provisions, F.S. § 447.605.

Sec. 94-137. - Violations not grounds for commission recall.

Any violation of this article shall not subject any person to recall as a county commissioner and shall not be considered as grounds for recall of a county commissioner.

(Ord. No. 89-20, § 9, 5-9-89)

State Law reference— Violations not a ground for municipal recall, F.S. § 447.51.

Sec. 94-138. - Review of commission rules.

No amendment, revision or rescission of the rules of the county public employees relations commission shall become effective without the prior approval of the state public employees relations commission.

(Ord. No. 76-20, § 1.026, 9-28-76; Ord. No. 89-20, § 8, 5-9-89)

State Law reference— State review, F.S. § 447.603(3).

Sec. 94-139. - Pending Florida PERC cases.

All cases of any nature pending before the Florida PERC on September 28, 1976, will be accepted by the county public employees relations commission in their existing status and will be handled to their conclusion in an expeditious manner. Any certification of an employee organization granted by the Florida PERC will be honored by the commission for a period of not less than one year after the date the Florida PERC certification issued, provided that the certified employee organization files proof of its current registration status with the Florida PERC with the commission within a reasonable period of time, not to exceed 30 days, as provided in section 94-118(f) of this article.

(Ord. No. 76-20, § 1.027, 9-28-76)

Sec. 94-140. - Representation in proceedings.

Any full-time employee or officer of any public employer or employee organization may represent his employer or any member of a bargaining unit in any proceeding authorized in this article, excluding the representation of any person or public employer in a court of law by a person who is not a licensed attorney.

(Ord. No. 80-9, § 19, 3-18-80)

State Law reference— Similar provisions, F.S. § 447.609.

Sec. 94-141. - Applicability of F.S. ch. 120.

The provisions of F.S. ch. 120 shall apply to the commission to the same extent that they apply to the Florida PERC, except that for purposes of F.S. § 120.545, the committee shall be the legislative body.

(Ord. No. 80-48, § 4, 11-25-80)

Sec. 94-142. - Financial urgency.

In the event of a financial urgency requiring modification of an agreement, the chief executive officer or his representative and the bargaining agent or its representative shall meet as soon as possible to negotiate the impact of the financial urgency. If after a reasonable period of negotiation which shall not exceed 14 days, a dispute exists between the public employer and the bargaining agent, an impasse shall be deemed to have

occurred and one of the parties shall so declare in writing to the other party and to the commission. The parties shall then proceed pursuant to the provisions of section 94-123. An unfair labor practice charge shall not be filed during the 14 days during which negotiations are occurring pursuant to this section.

(Ord. No. 96-15, § 1, 1-23-96)

Chapter 98 - ROADS AND BRIDGES[1]

Footnotes:
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Charter reference— Power relative to roads, § 2.04(h).

Cross reference— Building numbering, § 22-121 et seq.; roadside markets, § 26-151 et seq.; hurricane evacuation plan for recreational vehicle parks and transient accomodations, § 34-61 et seq.; special assessments for street improvements, § 110-31 et seq.; traffic and vehicles, ch. 122; utility work in right-of-way, § 170-266 et seq.; access management system for arterial and collector roads, § 170-191 et seq.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g); general power relative to roads, F.S. § 125.01(1)(m); county road system, F.S. ch. 336.

Sec. 98-1. - Distribution of materials or goods, solicitation of contributions from occupants of vehicles.

(a)

Purpose. It is the purpose of this section to protect the health, safety and general welfare of the citizens of the county; to assure the free, orderly, undisrupted movement of motorized vehicles on county roads; to promote traffic safety; and to provide for safety in the interest of both occupants of motorized vehicles located on county roads and distributors and solicitors.

(b)

Definitions.

(1)

Arterial roads shall mean those streets and highways intended to serve moderate to large traffic volumes traveling relatively long distances. The speed limits and level of service are higher than on other roads. Arterials are well controlled and, in general, limited to collector streets and highways. Arterials are used to surround neighborhoods and connect widely separated rural and suburban communities. The arterial system forms a continuous network designed for a free flow of through traffic.

(2)

Collector roads shall mean roadways that are intended to serve as the connecting link for local streets and highways and to provide intra neighborhood transportation. The traffic characteristics generally consist of relatively short trip lengths, moderate speeds and volumes. The collector system is discontinuous and unevenly distributed throughout the planning area. It is primarily a residentially oriented system which filters traffic from local streets before their capacity is exceeded and conducts it to arterial facilities or local

generators such as shopping centers, schools or community centers.

(3)

Operating motorized vehicle shall mean a vehicle which is in operation with its motor running, but shall not include any legally parked vehicle or vehicle parked illegally in a legal parking zone.

(4)

Road shall mean any street, roadbed, or median, and all ways open to travel by operators of motorized vehicles on state, municipal and county highway systems within the county.

(5)

Solicitation shall mean any charitable or business solicitation, which shall further be defined as follows:

a.

Charitable solicitation shall include any solicitation or attempted solicitation of money, donations of money, property, financial assistance, service or any other thing of value on the plea or representation that such money, property, financial assistance, service or other thing of value or portion thereof will be used for a charitable, patriotic, public, philanthropic, or political purpose;

b.

Business solicitation shall include any solicitation for the purpose of employment or occupation in which a person is engaged to procure a living or realize a profit; or

(c)

Prohibitions.

(1)

No person shall be upon or go upon any road for the purpose of solicitation to or from the occupant of any operating motorized vehicle located within the county.

(2)

No person shall be upon or go upon any road for the purpose of distributing literature to or from the occupant of any operating motorized vehicle located within the county.

(3)

No person shall be within four feet of the edge of arterial roads or collector roads for the purpose of solicitation or distribution of literature to or from the occupant of any operating motorized vehicle located within the county.

(d)

Territory embraced. All public state, county and municipal roads within the legal boundaries of the county shall be embraced by the provisions of this section.

(e)

Periodic review. The county shall periodically review all roads for designation and may make additions or deletions to those designations based on changes in traffic volume, rights-of-way, designs, accident rates, or other appropriate criteria.

(f)

Notice. The county periodic review and designation of roadways are public records and shall be made available to the public upon request pursuant to 1997 F.S. § 119.07(1)(a).

(g)

Penalty. Violations of this section are punishable as provided in section 1-8.

(Ord. No. 90-74, §§ 1—6, 9-11-90; Ord. No. 99-30, § 1, 3-23-99)

Cross reference— Businesses, ch. 26; roadside markets, § 26-151 et seq.; peddlers and solicitors, § 42-201 et seq.; charitable solicitations, § 42-266 et seq.

Sec. 98-2. - Changing county roads; notice, hearing.

The board of county commissioners is hereby granted full and complete power to change any county road, within the exercise of its sound discretion, after due notice thereof has been given to the owners of all lands abutting such county road or highway. For all intents and purposes, such notice shall be deemed sufficient if the notice has been published in a newspaper of general circulation published in the county, once each week for two consecutive weeks, stating in substance that at a specified time, date not less than 14 days from the date of first publication, and place, the board of county commissioners intend to change such county road or highway, naming or describing it, and calling on all persons to show cause why the proposed action should not be taken by such board. At the hearing thereof, the board shall give due consideration to any objections that are proposed and shall determine the matter affirmatively or to the contrary.

(Laws of Fla. ch. 26155(1949), § 4)

Editor's note— The act contained in the above section assumed ordinance status pursuant to charter § 5.02.

State Law reference— Road closings, abandonment, etc., F.S. § 336.08 et seq.

Sec. 98-3. - Public correction of dangerous conditions on private roads, etc.

(a)

Definitions. As used in this section, the following words and terms shall have the meanings respectively established below:

Dangerous right-of-way condition shall mean a condition on or adjacent to right-of-way, which creates a substantial risk of injury to the health, safety, and welfare of the residents of Pinellas County. A dangerous right-of-way condition shall include, but not be limited to, the following: potholes, hanging tree branches, obstructions, or conditions on or adjacent to private rights-of-way, rendering use of the right-of-way dangerous to members of the general public.

Department shall mean the county department of public works, its employees, and agents.

Owner shall mean a person, corporation, partnership, company, trust, estate or any combination or other business or legal entity, singular, or plural, which is the record owner or owners of private right-of-way and/or real property adjacent thereto, as recorded on the tax roll of the county.

Person shall mean any and all persons, natural or artificial, including any individual, firm, or association; any municipal or private corporation organized or existing under the laws of Florida or any other state and any governmental agency of this state or the federal government.

Private shall mean not having any affiliation with any municipality, county, state, or federal government.

Right-of-way shall mean land or roadway, owned by a private person, which is used by the public at large for access.

Periods of time under this section shall be made in accordance with the provisions of the Rules of Civil Procedure.

(b)

Prohibition. No person shall permit a dangerous right-of-way condition to exist on a private road right-of-way or real property adjacent thereto, or a dangerous private road right-of-way condition obstructing the view of traffic at any intersection.

(c)

Designation of investigating and enforcing authority; authority of the director of public works. The director of public works or his designee is hereby designated and vested with authority by the board of county commissioners as the investigating and enforcing authority pursuant to the provisions of this section. The director of public works is hereby authorized to receive a complaint of a violation of this section; to gather all relevant information concerning such complaint; to direct the conduct of field investigations and inspections; to authorize entry upon real property in the conduct of official business pursuant to this section, and to determine the existence of dangerous right-of-way conditions. The director of public works, or his designee, shall also be responsible for providing notice to all affected right-of-way owner(s) required by this section and to take action, as reasonably necessary, to accomplish the purpose of this section.

(d)

Notice of dangerous condition and opportunity to cure.

(1)

Upon receipt of a complaint, completion of a field investigation and determination by the director of public works that a dangerous right-of-way condition exists, and failing voluntary compliance by the owner(s) with the provisions of this section, the director of public works shall issue a written demand for correction, by certified mail, return receipt requested, directed to the right-of-way and/or adjacent real property owner(s), as shown on the tax roll of the county, for immediate compliance with the provisions of this section, to repair, clear, or remove such dangerous condition which demand shall provide an opportunity for the owner(s) to cure the dangerous condition by clearing, removal, or repair, within 45 days from the date of receipt of the demand, or to request a hearing before the director of public works to contest the demand for correction

within 15 days from the date of receipt of the demand.

(2)

The written demand referenced in subsection (d)(1) shall include a notice that in the event compliance with the provisions of this section is not achieved within 45 days from the date of receipt of the written demand, and a hearing not having been requested by the owner, the director of public works will authorize correction of the dangerous condition by, or at the direction of, the county. The notice shall include an estimate of administrative fixed cost plus actual cost incurred by the county to achieve compliance with the provisions of this section.

(e)

Hearing before the director of public works. The director of public works shall provide to each owner receiving notice of a dangerous condition under this ordinance and requesting a hearing a reasonable opportunity to be heard by him/her and to present evidence or testimony that the subject right-of-way or real property is not in a dangerous condition. The hearing may not be set sooner than 15 days from receipt of the request for hearing. The director of public works may place reasonable limits on the duration of the hearing, the procedure to be followed, the relevance of matters sought to be considered, the standing of attendees to be heard, the admission of persons to the hearing room, and all other matters normally under the control of a civil tribunal. Each owner(s) will have the right to be represented by counsel. Upon hearing testimony and evidence the director of public works shall determine whether the owner(s) violated the provisions of this section and shall provide a written determination to the owner(s) within 15 days after the hearing.

(f)

Powers of director of public works. Upon conclusion of the hearing the director of public works shall have the power to find that the owner is or is not in violation of this section. With respect to owners found to be in violation of this section, the director of public works shall have the following powers:

(1)

To authorize inspection, clearance, or repair of the road right-of-way or adjacent real property by the county or its independent contractors.

(2)

To demand payment by the owner(s) of costs, as hereinafter set forth, of investigation, inspection, and expenses incurred to provide the notices required herein, and cost of repair or clearing. Said costs may only be imposed against each owner who received the demand, and was determined to have violated the ordinance, and who failed to clear or repair said road right-of-way or adjacent real property within the 45-day notice period.

(3)

To grant an extension of time to any owner(s) within which said road right-of-way or adjacent real property will be cleared or repaired. An extension of 45 days may be granted after a decision on appeal is received by the owner.

(g)

Appeal to county administrator. The county administrator, or his designee, is hereby designated, and vested with authority, as the reviewing authority for the director of public works' determinations under this section. His decisions shall be final. The owner may appeal from the director of public works' decision to the county administrator or his designee within five days from the director's determination, by written request to the director of public works. The county administrator shall review the record, may confirm, modify, or reverse the director of public works' determination, and shall refer the matter back to the director of public works for further action within 15 days of receipt of the appeal.

(h)

Establishment of lien. The director of public works is hereby authorized to assess against any real property of owners, which is cleared or repaired by the county or its agents pursuant to this section all costs to the county of clearing or repair, of said real property. The actual cost plus an administrative fixed cost of $500.00 shall constitute a lien against the real property. Notice of lien in such form as the director of public works shall determine will be filed in the office of the clerk of the circuit court of the county and recorded as other liens are recorded. The same, upon recording, shall be constructive notice of lien, which may be foreclosed by the county in the manner in which mortgages are foreclosed pursuant to general law in the circuit court of the county.

(i)

Interest on liens. The principal amount of any lien shall bear interest at the rate of six percent per annum and fraction thereof from the first day of October of the year in which the lien was assessed and interest as herein provided shall also constitute a lien against the real property assessed of equal dignity.

(j)

Grace period prior to establishment of liens. Prior to assessment of liens, the director of public works shall provide the property owner(s) with written notice of the cost to clear or repair their property together with an administrative fixed cost, which total would be assessed against the real property and an invoice issued for payment thereof. Not less than 30 days after receipt of the notice by the property owner(s), the department shall provide a second notice of said costs, informing the owner(s) that unless payment is received by the county within 15 days of receipt of second notice, that the amount shall be assessed by the director of public works against the property and shall constitute a lien against the property. If payment is not received within the period by the county, the director of public works will assess the amount against the property. No lien will be assessed against any property prior to the period set forth in this subsection.

(k)

Satisfaction of lien. Authority of the director of public works to execute. Upon payment to the county of the total amount of the lien established pursuant to this section, plus interest accrued thereon, plus the recording fee necessary to record a satisfaction of lien, the director of public works is hereby authorized to execute a satisfaction of lien which shall be recorded by the department in the official records of Pinellas County. A satisfaction of lien shall be recorded in accordance with the requirements of general law pertaining to satisfaction of liens against real property.

(l)

Fees. Fees to be assessed against property found to be in violation of this section shall be as follows:

(1)

Repair and clearance costs.

(2)

Administrative fixed cost. An administrative fixed fee of $500.00 for the cost to the county for field investigations, reports, inspections, notices, invoicing and recording.

(m)

Territory embraced. This section shall apply to the unincorporated area of the county.

(Ord. No. 03-65, § 1, 8-10-03)

Sec. 98-4. - Industry standards for approval of official traffic regulations.

The county administrator or his/her designee are hereby authorized to approve official traffic regulations with the exception of traffic signal installations in accordance with engineering industry standards including, but not limited to, the following standards:

(1)

AASHTO Standards.

(2)

FDOT Roadway and Traffic Design Standards.

(3)

FDOT Manual on Uniform Minimum Standards for Design, Construction, and Maintenance.

(4)

FDOT Bicycle Facilities Planning and Design Handbook.

(5)

Manual on Uniform Traffic Control Devices, Millennium Edition.

(6)

Pinellas County Code, Volumes I and II.

(7)

ITE Traffic Engineering Handbook, 5th Edition.

(Ord. No. 02-43, § 1, 5-21-02)

Chapter 102 - SOCIAL SERVICES[1]

Footnotes:
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Charter reference— Power to develop public welfare programs, § 2.04(e).

Cross reference— Juvenile welfare board, § 2-236 et seq.; housing finance authority, § 2-386 et seq.; community development, ch. 38; additional court costs imposed upon persons found guilty of misdemeanor involving illegal use of alcohol or drugs, § 46-26.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g); authority to provide welfare programs, F.S. § 125.01(1)(e); social welfare generally, F.S. chs. 409—523.

ARTICLE I. - IN GENERAL

Sec. 102-1. - Authority to administer housing assistance program.

The provisions of F.S. § 421.27(3) notwithstanding, the county housing authority may administer and operate the Section 8, Housing Assistance Payments Program as set forth in the 1974 United States Housing and Community Development Act, and its successors, within the corporate limits of any city within the county, regardless of the population of the city, and without the requirements of such city first creating a city housing authority, by the adoption of a resolution and agreement jointly approved by the governing body of such city and the county housing authority; and further provided that the county housing authority may enter into such agreement with such city that has a city housing authority in existence which is not operating the Section 8, Housing Assistance Payments Program within the corporate limits of such city.

(Laws of Fla. ch. 77-638, § 1)

Editor's note— The act contained in the above section assumed ordinance status pursuant to charter § 5.02.

Secs. 102-2—102-25. - Reserved.
ARTICLE II. - WELFARE FUNDS[2]

Footnotes:
--- (**2**) ---

Editor's note—The act contained in this article assumed ordinance status pursuant to charter § 5.02.

Sec. 102-26. - Administration of; qualifications of recipients; rules and regulations.

The board of county commissioners is hereby authorized and empowered to make rules and regulations for the administration of welfare funds, establishing reasonable requirements to be met by persons applying for welfare benefits before they are entitled to receive such benefits.

(Laws of Fla. ch. 63-1787, § 3)

Sec. 102-27. - Collection of welfare funds from recipient or his estate—Settlement of claims.

The board of county commissioners is hereby authorized and empowered to enforce, reduce to judgment,

satisfy, compromise, settle, subordinate, release, or otherwise dispose of any debt or lien imposed under this article upon a recipient of welfare funds or his property.

(Laws of Fla. ch. 63-1787, § 5)

Sec. 102-28. - Same—Enforcement of lien; conditions.

No lien obtained under the provisions of this article shall be foreclosed against the welfare recipient's property until such recipient conveys the property or is deceased.

(Laws of Fla. ch. 63-1787, § 6)

Secs. 102-29—102-45. - Reserved.

Chapter 106 - SOLID WASTE[1]

Footnotes:

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Charter reference— Powers relative to solid waste, § 2.04(b).

Cross reference— Environment, ch. 58; litter and weeds, § 58-301 et seq.; lot clearing, § 58-326 et seq.; health and sanitation, ch. 66; utilities, ch. 126.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g); authority to provide for waste collection and disposal, F.S. § 125.01(1)(k); Florida Litter Law, F.S. § 403.413; resource recovery and management, F.S. § 403.702 et seq.; local government solid waste responsibilities, F.S. § 403.706.

ARTICLE I. - IN GENERAL

Sec. 106-1. - Unauthorized collection of recyclable material.

(a)

Authority. This section is enacted pursuant to article VIII, section 1, Florida Constitution; F.S. ch. 125; and the Pinellas County Charter.

(b)

Definitions. As used in this section, unless the context otherwise requires:

Artificial reef program means the county recycling program pursuant to which concrete culvert pipe is separated from the solid waste stream and used to build artificial reefs in the Gulf of Mexico.

Authorized recycling agent means a person that the county authorizes and/or contracts with to collect recyclable material.

City recycling plan means a written plan for recycling submitted by a city to the department.

Collection center means, in the case of a collection center program, a place to which a person may bring designated recyclable material; and, in the case of a curbside collection program, a designated place at

curbside, at which the generator of designated recyclable material may deposit such material.

Collection center program means that part of the county recycling program or a city recycling plan which utilizes collection centers to which a person may bring designated recyclable material.

Costs, as used in connection with the removal of nonrecyclable material from a collection center, means and includes, but is not limited to, the costs of operating and maintaining equipment associated with the cleanup; the cost of materials used in the cleanup; the costs of contract labor and material; and legal and professional costs.

County recycling program means the recyclable materials recycling program of the county consisting of the reclaimed metals program, the recycled aggregate program, the artificial reefs program, the government office paper recycling program, and any county collection center program and county curbside collection program established by the county in the unincorporated area of the county.

Curbside collection program means that part of the county recycling program or a city recycling plan whereby designated recyclable material is deposited by the generator of such material at a designated place at curbside for collection.

Department means the department of solid waste management of the county.

Designated recyclable material means recyclable material, such as newspaper, glass or plastics, which has been designated by the department as appropriate for collection in a collection center program or curbside collection program.

Government office paper recycling program means that part of the county recycling program whereby paper in county government offices which is capable of being recycled and which would otherwise be processed or disposed of as solid waste is removed from the solid waste stream for sale, use or reuse, by separation, collection or processing.

Person means any individual, firm, partnership, corporation, joint venture, municipality, or other public or private entity.

Reclaimed metals program means that part of the county recycling program whereby ferrous and nonferrous materials are recovered from the residue of solid waste resulting from the combustion process at the county's resource recovery facility.

Recovered material means those materials which have known recycling potential, can be feasibly recycled, and have been diverted or separated from the solid waste stream for sale, use, or reuse, by separation, collection, or processing.

Recyclable material means those materials which are capable of being recycled and which would otherwise be processed or disposed of as solid waste.

Recycled aggregate program means that part of the county recycling program whereby the residue of solid waste resulting from the combustion process at the county's resource is used as a soil substitute at the county's Bridgeway Acres Landfill.

(c)

Violations; penalties; abatement and cleanup.

(1)

It shall be unlawful for any person, other than an authorized recycling agent, to remove recovered material from a collection center container or a curbside collection program container or vehicle.

(2)

It shall be unlawful for any person to discard any solid waste, other than designated recyclable material, in a collection center container or vehicle or on the site at which a collection center is located.

(3)

Any person who violates subsection (c)(1) or (c)(2) of this section shall be subject to prosecution in the manner provided by general law for violations of county ordinances.

(4)

The department is authorized to clean up, or cause to be cleaned up, solid waste which is not designated recyclable material and which has been deposited at a collection center. The county may institute suit in a court of competent jurisdiction to recover the costs for the cleanup. All sums recovered by the county pursuant to this subsection (c)(4) shall be deposited into the fund or funds from which such sums were expended.

(5)

Nothing in this section shall be construed to prohibit or limit the right of any generator or recovered material to donate, sell, or otherwise dispose of his recovered material.

(d)

Applicability of section. This section shall be effective in the incorporated as well as the unincorporated areas of the county; however, to the extent that this section conflicts with a city ordinance, the city ordinance shall prevail.

(Ord. No. 89-22, §§ 1—4, 5-16-89; Ord. No. 91-43, §§ 1, 2, 10-11-91; Ord. No. 92-53, §§ 1, 2, 9-29-92)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Secs. 106-2—106-30. - Reserved.
ARTICLE II. - SOLID WASTE DISPOSAL AND RESOURCE RECOVERY
DIVISION 1. - GENERALLY

Secs. 106-31—106-50. - Reserved.
DIVISION 2. - ENABLING LEGISLATION[2]

Footnotes:
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Editor's note—The act contained in this division assumed ordinance status pursuant to charter § 5.02 and the

provisions codified as section 106-70.

Sec. 106-51. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building rubble means the wastes and debris from brick, concrete block, roofing shingle or file plants, debris and wastes accumulated from land clearing, excavating, building, rebuilding and altering of buildings, structures, roads, streets, sidewalks or parkways.

Garbage means every refuse accumulation of animal, fruit or vegetable matter that attends the preparation, use, cooking and dealing in, or storage of, edibles and any other matter of any nature whatsoever which is subject to decay, putrefaction and the generation of noxious or offensive gases or odors, or which, during or after decay, may serve as breeding or feeding material for flies or other germ-carrying insects.

Garden trash means all accumulations of leaves, grass or shrubbery cuttings, and other refuse attending the care of lawns, shrubbery, vines and trees.

Governing body means the board of county commissioners or any board or body which may hereafter be charged with the governing of the county.

Industrial wastes means the waste products of canneries, slaughterhouses or packing plants, condemned food products, agricultural waste products, and any waste materials which, because of their volume or nature, do not lend themselves to collection and incineration commingled with ordinary garbage and trash, or which, because of the nature of surrounding circumstances, should be, for reasons of safety or health, disposed of oftener than the county collection service schedule provided for in this division.

Noncombustible refuse means refuse materials that are unburnable at ordinary incinerator temperatures (800 degrees Fahrenheit to 1,800 degrees Fahrenheit), such as metals, mineral matter, large quantities of glass or crockery, metal furniture, auto bodies or parts, and other similar material or refuse not usual to housekeeping or to operation of stores or offices.

Political subdivision means a county, city, town, village or other municipality, but shall not include special tax districts or other public bodies or agencies which do not have general governmental powers.

Solid waste disposal and resource recovery system means all the facilities of the county for the disposal of garbage and other waste matter, including but not limited to incinerators, composting plants, landfills, shredders or other disposal means, transfer stations and resource recovery systems constructed, acquired or contracted for pursuant to the provisions of this division, or which may be acquired, constructed or contracted for by the county from any source whatsoever.

Unincorporated area shall not include any area of Pinellas County which has been annexed by a municipality as of the effective date of this division or which shall be annexed at any time thereafter.

Waste means and includes garbage, rubbish, garden trash, noncombustible refuse and industrial wastes as defined in this section.

(Laws of Fla. ch. 75-487, § 2; Laws of Fla. ch. 80-589, § 1)

Cross reference— Definitions generally, § 1-2.

Sec. 106-52. - Declaration of policy.

The powers and purposes enumerated in section 106-53 constitute proper county purposes for the benefit and welfare of the inhabitants of the county and it is hereby found and declared that in the construction, acquisition, improvement, maintenance and operation of the county solid waste disposal and resource recovery system, the county will be exercising essential and proper governmental functions. It is further found and declared that the construction, acquisition, improvement and operation of the solid waste disposal and resource recovery system is for the benefit, health and welfare of the citizens of the county in that inefficient and improper methods of managing solid wastes create hazards to public health, cause pollution of air and water resources, constitute a waste of natural resources, have an adverse effect on land values and create public nuisances.

(Laws of Fla. ch. 75-487, § 3; Laws of Fla. ch. 78-604, § 1)

Sec. 106-53. - Powers of the county.

In addition to powers which it may now have, the county shall have the power under this division to:

(1)

Construct, acquire, improve, maintain and operate or contract with persons for the construction, operation and maintenance of a solid waste disposal and resource recovery system within the territorial boundaries of the county, and territory adjacent thereto, and to acquire by gift, purchase or the exercise of the right of eminent domain, lands or rights in lands, and any other property, real or personal, tangible or intangible, necessary, desirable or convenient, for such purposes.

(2)

Operate and maintain or contract for the operation and maintenance of such solid waste disposal and resource recovery system for its own use and for the use and benefit of its inhabitants, persons, firms, corporations, municipalities, political subdivisions, or other public agencies or bodies located within the territorial boundaries of the county or territory adjacent thereto, who shall use the facilities and services of such solid waste disposal and resource recovery system, and to enter into contracts or agreements for the disposal of garbage and other waste matter with any such persons, firms, corporations, municipalities, political subdivisions or other public agencies or bodies.

(3)

Compel the inhabitants, persons, firms, corporations, municipalities, political subdivisions or other public agencies or bodies located within the territorial boundaries of the county to use such system for solid waste disposal.

(4)

Prohibit the operation or maintenance of solid waste disposal systems or facilities by any person, firm, corporation, municipality, political subdivision, state agency, or public or private body within the territorial boundaries of the county, except as operated or maintained by agreement with the county or by license or permit from the county in a manner authorized by this division.

(5)

Finance, in whole or in part, as authorized by the state constitution, the cost of the construction, acquisition or improvement of such solid waste disposal and resource recovery system, including the construction, acquisition and operation of electrical energy generating facilities, by any means and subject to such limitations as may be provided by law, including but not limited to the issuance of bonds, revenue certificates and other obligations of indebtedness. The issuance of such bonds, revenue certificates, or other obligations of indebtedness by the county may bear interest at such rate, without limitation, as may be established by the board of county commissioners.

(6)

Employ and enter into agreements or contracts with consultants, advisors, engineers, attorneys or fiscal, financial or other experts for the planning, preparation, supervision and financing of the solid waste disposal and resource recovery system or any part thereof upon such terms and conditions as to compensation and otherwise as the board of county commissioners shall deem desirable and proper.

(7)

Prescribe, fix, establish and collect fees, rentals or other charges (sometimes referred to in this division as "revenues") for the facilities and services furnished by the solid waste disposal and resource recovery system, or any part thereof, either heretofore or hereafter constructed or acquired on a self-supporting, cost recovery basis; provided, however, that such fees, rentals or other charges, or any revision thereof, shall be fixed and established by resolution of the board of county commissioners only after notice of a public hearing shall have been published at least twice, with the first publication at least 20 days prior to such public hearing, in a newspaper of general circulation published in the county.

(8)

Enter into contracts for the sale of resources and energy recovered in the operation of the solid waste disposal and resource recovery system and to apply the revenues derived therefrom to the expenses of operating and maintaining such solid waste disposal and resource recovery system, including all debt service and other related system costs.

(9)

Use any right-of-way, easement, lands underwater or other similar property rights necessary, convenient or desirable in connection with the construction, acquisition or improvement or operation or maintenance of such solid waste disposal and resource recovery system held by the state or any political subdivision thereof, and the state hereby consents to such use whenever necessary to carry out the purposes of this division.

(10)

Grant exclusive or nonexclusive franchises to persons for the operation of solid waste disposal and resource recovery system for terms not to exceed the amortization period for the major investment and, in any event, not in excess of 30 years; to provide for the issuance of licenses or permits to persons for the collection of solid waste in the unincorporated area of the county; to impose such conditions to such franchises as shall include but not be limited to standards of service, rate regulation, area of population, and franchise fee for the privilege of operating under the franchise; to provide that the franchise shall have no value as to the unexpired term of the franchise in the event of condemnation; to provide in such franchise the right of

acquisition by condemnation and to provide such other conditions of such franchise as shall be reasonable and necessary.

(11)

Require all persons, lands (including municipalities and other political subdivisions), buildings and premises in the county to use the facilities and services of the solid waste disposal and resource recovery system in all cases deemed necessary or desirable by the board of county commissioners for the public health and safety of the county and the inhabitants thereof.

(12)

Require that any existing solid waste disposal facility be restricted to disposal of specified types or amounts of solid waste when such restriction is deemed by the board to be necessary to guarantee the amount of solid waste to be processed by the solid waste disposal and resource recovery system in the following instances:

a.

To meet the design capacity of the system.

b.

To meet contractual obligations of the county entered into pursuant to Laws of Fla. ch. 75-487, and this division.

Nothing in this section shall be construed to prohibit or limit private waste collectors from extracting from the waste they collect any materials that may have value to such collectors for purposes of recycling, reuse, or resale.

(Laws of Fla. ch. 75-487, § 4; Laws of Fla. ch. 78-604, § 2; Laws of Fla. ch. 80-589, §§ 2, 3)

Sec. 106-54. - Technical management committee.

There shall be created a technical management committee consisting of 13 members, serving and selected as provided in this section.

(1)

Two members shall be appointed by the board of county commissioners; two members shall be appointed by the city commission of St. Petersburg; one member shall be appointed by and for each of the respective city commissions for Clearwater, Dunedin, Largo, Pinellas Park, St. Petersburg Beach, and Tarpon Springs. Each of the above members shall serve at the pleasure of the appointing body.

Further, one member shall be appointed by the combined city commissions of Belleair, Belleair Bluffs, Oldsmar and Safety Harbor; one member shall be appointed by the combined city commissions of Seminole, Kenneth City, Gulfport, and South Pasadena; and one member shall be appointed by the combined city commissions of Indian Rocks Beach, Indian Shores, Belleair Beach, Belleair Shores, North Redington Beach, Redington Beach, Redington Shores, Treasure Island, and Madeira Beach. Each appointed member serving for the combined municipalities shall hold office for a term of two years and until a successor has been appointed and qualified. A vacancy occurring during a term of any such member shall be filled only for the balance of the unexpired term.

A selection to fill a vacancy or select a successor shall be made within 60 days after the occurrence of the vacancy or before expiration of the term, whichever is applicable. If any selection is not made by a municipality or by the combined city commissions of the municipalities as provided herein, the county commission shall appoint an eligible person from the area to be represented with like effect as if the selection were made by the municipality or municipalities. Any member of the committee shall be eligible for reappointment.

(2)

Each appointed member of the committee shall be a qualified professional person having experience in the field of solid waste collection and disposal, utility management, health, public administration, engineering, accounting, economics, auditing, or environmental resources; however, the committee shall be so composed that no field of specialization shall have more than three members on the committee. The committee may determine, and such determination shall be final, as to the fields of specialization that are available to fill any vacancy.

(3)

The committee shall elect one of its members as chairman and one as a vice-chairman to serve for one year in that capacity or until their successors are elected. Seven members of the committee shall constitute a quorum for purposes of the conduct of any of its responsibilities under this division. Should any member fail to attend a meeting of the committee for three consecutive meetings, then such position shall be deemed vacant and the vacancy shall be filled as herein provided.

(4)

The committee shall meet periodically to review and make recommendations to the governing body concerning rates, formation, implementation and revision of policies and programs; location and establishment of solid waste disposal and resource recovery system facilities; introduction and integration of new technologies, major equipment acquisition; selection of consultants; approval and submission of grant applications; and any other management or operational policies. The committee shall, within 30 days from receipt of the annual certified audit, recommend to the governing body a schedule of rates, fees, and charges for users of the facilities and services furnished by the solid waste disposal and resource recovery system. The committee shall submit its recommendations in writing to the governing body through the county administrator.

(5)

The governing body shall have ultimate decision-making authority; however, in the event that it elects not to adopt a recommendation of the committee, the county administrator shall so advise the committee, specifying the reasons therefor. Thereafter, the committee shall, within 90 days from the date of the administrator's notification, either respond in writing as to the reasons why the original recommendation was made or provide an alternate recommendation of the committee after the expiration of the 90-day waiting period. Upon request by the committee, the governing body shall establish a public hearing date for the purpose of taking testimony and the receipt of evidence as to determination of an appropriate decision; provided, however, that if the committee states in any recommendation to the governing body that time is of the essence, and that such recommendation should be considered by the governing body as soon as possible, the governing body may establish a public hearing date prior to expiration of the 90-day waiting period. At any such public hearing, the public, including the municipalities listed in this section, shall be afforded an

opportunity to present witnesses in evidence and the recommendation made by the committee may be submitted in evidence at such hearing. In those matters relating to the rate structures, the governing body shall present the rate structure it proposes to adopt and evidence in support of such rate structure. Following any such hearing, the governing body shall make whatever decision it deems appropriate in the matter based upon competent and substantial evidence presented at the hearing.

(Laws of Fla. ch. 75-487, § 5; Laws of Fla. ch. 80-589, § 4)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 106-55. - Rates, fees and charges.

The solid waste disposal and resource recovery system shall be operated on a self-supporting cost recovery basis. Revenues generated from fees, rentals or other charges for the services and facilities of such system, including the sale of resources recovered from the operation of the system, shall be used only for the expenses set forth in this section, required to be sufficiently provided for from the schedule of rates and charges for the utilization of the system. No such revenues shall be paid into, directly or indirectly, the general fund of the governing body or shall be used to pay salaries, expenses or benefits of any kind to any person other than employees of the system; provided, however, that the governing body may be reimbursed for any expenditure of funds paid by the governing body to or for the system or for direct costs reasonably allocated or incurred by the governing body in support of the system. All revenues generated by the system in excess of those required for the operation and maintenance or necessary expansion of the system, and remaining after the payment of all obligations called for under existing bond resolution covenants, shall be used to reduce the schedule of rates or charges for use of the system. The governing body shall prescribe and collect a schedule of rates, fees or other charges for the utilization of the services and facilities of such solid waste disposal and resource recovery system and may, whenever necessary, revise such schedule. The schedule of rates, fees or other charges prescribed shall be sufficient to produce revenues that, when taken together with other revenue sources and pledged funds, will be adequate to provide for all expenses of land acquisition, construction, operation, maintenance and renewal, and necessary expansion of such solid waste disposal and resource recovery system, including reasonable reserves therefor; pay when due all obligations and interest thereon for the payment of which such revenues are, or shall have been, pledged or encumbered, including reserves therefor; and provide for any other funds which may be required under any resolution or resolutions authorizing the issuance of bonds to accomplish the purposes of this division.

(Laws of Fla. ch. 75-487, § 6; Laws of Fla. ch. 78-604, § 3; Laws of Fla. ch. 80-589, § 5)

Sec. 106-56. - Annual audit.

The governing body shall secure an annual external audit of the solid waste disposal and resource recovery system by a qualified certified public accountant with copies of the audit report being made available to all municipal and private entities utilizing the system. To this end, separate accounts and records shall be maintained by the solid waste disposal and resource recovery system, and its funds shall not be commingled with the general funds of the county.

(Laws of Fla. ch. 75-487, § 7)

Sec. 106-57. - Collection of charges.

In the event that the fees, rentals or other charges for the services and facilities of the solid waste disposal and resource recovery system shall not be paid when due, the county may discontinue and shut off such services

and facilities and may refuse restoration of such services and facilities until such fees, rentals or other charges are fully paid. Such delinquent fees, rentals or other charges, together with interest, penalties and charges for the shutting off and discontinuance of the restoration of such services or facilities, and reasonable attorneys' fees and other expenses, may be recovered by the county by suit in a court of competent jurisdiction. The county may also enforce payments of such delinquent fees, rentals or other charges by any other lawful method of enforcement.

(Laws of Fla. ch. 75-487, § 8)

Sec. 106-58. - Services rendered to county.

Charges shall be made for any facilities or services rendered by the solid waste disposal and resource recovery system to the county, or any other political subdivision or public body or agency, or to any department or works thereof, at the rates applicable to other customers or users taking facilities or services under similar conditions. Revenues derived from such facilities or services furnished the county shall be treated as all other revenues.

(Laws of Fla. ch. 75-487, § 9)

Sec. 106-59. - Contracts, grants, loans and contributions.

The county shall have power to contract with any person, private or public corporation, the state, or any agency, instrumentality or county, municipality or political subdivision thereof, or the United States of America or any agency, instrumentality or corporation of or created by the United States of America, with respect to the solid waste disposal and resource recovery system, or any part thereof, and shall also have power to accept and receive grants, loans or contributions from the same, and in connection with any such contract, grant, loan or contribution to stipulate and agree to such covenants, terms and conditions as the governing body of the county shall deem appropriate.

(Laws of Fla. ch. 75-487, § 10)

Sec. 106-60. - Lease of facilities.

The county shall have power to lease the solid waste disposal and resource recovery system, or any part or parts thereof, to any person, firm, corporation, association or body, public or private, upon such terms and conditions and for such period of time as shall be determined by the governing body. The county shall also, whenever desirable, have power to grant permits or franchise licenses in connection with any of the facilities of such solid waste disposal and resource recovery system and shall have full and complete power to do all things necessary and desirable for the proper and efficient administration and operation of the solid waste disposal and resource recovery system and all parts thereof. The county shall also have power whenever deemed necessary or desirable to lease from any person, firm, corporation, association or body, any facilities of any nature for the solid waste disposal and resource recovery system.

(Laws of Fla. ch. 75-487, § 11)

Sec. 106-61. - Establishment of transfer stations.

Where economically feasible or advantageous, the governing body may, with the recommendation of the technical management committee, construct a transfer station in a designated district within the county for the purpose of receiving solid waste collected municipally or privately so that it may be transported from the

transfer station to the disposal site more efficiently. Such special districts shall be on a self-supporting, cost recovery basis in the same manner as is provided for in section 106-55.

(Laws of Fla. ch. 75-487, § 12; Laws of Fla. ch. 80-589, § 6)

Sec. 106-62. - Phaseout of existing facilities.

The use of the Toytown Landfill, bounded by I-275 on the west, I-275 and Roosevelt Boulevard on the north, Ninth Street on the east and 102nd Avenue North on the south, and other existing disposal areas may be utilized so as to accommodate proper phaseout, if desired, in accordance with applicable health and sanitary standards. The county shall continue the utilization of Toytown until no longer feasible and shall complete final development of the land bounded by I-275 on the west, I-275 and Roosevelt Boulevard on the north, Ninth Street on the east, and 102nd Avenue North on the south, in accordance with applicable federal, state and local laws.

(Laws of Fla. ch. 75-487, § 13; Ord. No. 82-21, § 1, 7-27-82)

Sec. 106-63. - Authorization for emergency disposal by individual political subdivisions.

Should the county, due to the existence of an emergency situation, be unable to provide for the disposal of solid waste and resource recovery in accordance with the provisions of this division, then it shall give written notice to the individual political subdivisions affected. Upon receipt of such notice from the county, the individual political subdivisions affected may arrange to provide other temporary means of disposal for the period of such inability.

(Laws of Fla. ch. 75-487, § 14)

Sec. 106-64. - Conflicting powers.

Any inconsistent or conflicting power granted any municipality or other body within the county in its charter or under any general or special act is hereby repealed to the extent of such conflict.

(Laws of Fla. ch. 75-487, § 15)

Sec. 106-65. - Enforcement of division.

The board of county commissioners is authorized to institute legal action in a court of competent jurisdiction for injunctive or other relief to enforce the provisions of this division.

(Laws of Fla. ch. 75-487, § 16; Laws of Fla. ch. 78-604, § 4)

Sec. 106-66. - Prohibiting annexation by municipalities; prohibiting franchise and other fees by municipalities.

It is the intent of this division to create a countywide system for disposal of solid waste, and in furtherance of this intent, no municipality shall annex any real property upon which is located the entire county solid waste disposal and resource recovery system. Provided, however, that such real property shall not be deemed to prohibit annexation of other real property due to a lack of continuity or compactness as defined by F.S. § 171.031(11) and (12). Further, no municipality shall impose or collect any franchise, or any similar fee, on real property upon which the county solid waste disposal and resource recovery system is located. All fees and charges which may be required by a municipality in order to provide water, sewer or other utility

services, as authorized by F.S. § 180.06, to such system are not prohibited by this section when such fees and charges are based upon established rates commensurate with the cost of providing such services.

(Laws of Fla. ch. 75-487, § 17; Laws of Fla. ch. 78-604, § 4)

Sec. 106-67. - Exemption from regulation by public service commission.

A solid waste disposal and resource recovery system which is owned or operated by the county pursuant to this division, and which produces electricity or a manufactured gas similar to natural gas shall be exempt from regulation by the state public service commission, as set forth in F.S. ch. 366.

(Laws of Fla. ch. 75-487, § 18; Laws of Fla. ch. 78-604, § 4)

Sec. 106-68. - Conformance with county, state and federal standards.

Any solid waste disposal and resource recovery system as defined in this division shall be operated and maintained in conformity with all county, state and federal standards that have local application for the protection of the quality of air and water resources and for the prevention of contamination or degradation of soil and land areas and for the enhancement and protection of the environment of Pinellas County.

(Laws of Fla. ch. 75-487, § 19; Laws of Fla. ch. 78-604, § 4)

Sec. 106-69. - Effect of state general laws.

The provisions of this division and the powers conferred herein shall not be taken as exclusive but shall be in addition and supplemental to all existing powers vested in the county by virtue of the general laws of the state.

(Laws of Fla. ch. 75-487, § 20; Laws of Fla. ch. 78-604, § 4)

Sec. 106-70. - Effect of adoption of charter.

In the event a charter is adopted by the voters for the county, this division shall become an ordinance of the county.

(Laws of Fla. ch. 75-487, § 22; Laws of Fla. ch. 78-604, § 4)

Secs. 106-71—106-90. - Reserved.

DIVISION 3. - OPERATION AND MAINTENANCE

Sec. 106-91. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Person means any individual, firm, partnership, corporation, joint venture, municipality, or other public or private entity.

Solid waste includes nonhazardous materials, and means and includes but is not limited to garbage, refuse, yard trash, clean debris, trash, construction and demolition debris, international food refuse, dead animals, pharmaceutical drugs, controlled substances, asbestos, grit, grease, fish, beverage disposal, septic tank

pumping, white goods, ashes, or other discarded material, including solid or semisolid, resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. Such solid waste shall not include that portion separated at the point of generation or after collection and intended to be held for purposes of recycling pursuant to requirements of state law; however, such solid waste shall be subject to applicable state and local public health and safety laws.

Solid waste disposal and resource recovery system or system means all the facilities operated and maintained by or for the county, the principal facility of which is located at 3001-110th Avenue North, St. Petersburg, Florida, for the disposal of garbage and other waste matter, including incinerators or other disposal means, transfer stations and resource recovery systems, constructed, acquired, or contracted for by the county.

Technical management committee means the committee formed pursuant to section 106-54.

Unincorporated area means any area within the county except any area which has been annexed by a municipality as of the effective date of this division or which shall be annexed at any time thereafter.

(Ord. No. 88-26, § 2, 8-23-88)

Cross reference— Definitions generally, § 1-2.

Sec. 106-92. - Penalty for violation of division.

Violations of this division are punishable as provided in section 1-8.

(Ord. No. 88-26, § 6, 8-23-88)

Sec. 106-93. - Findings.

The board of county commissioners hereby makes the following findings:

(1)

The declaration of policy set forth in section 106-52 has been examined and determined to be a correct statement of policy of the county on August 23, 1988.

(2)

The county, the most densely populated Florida county, whose population generates in excess of 1,100,000 tons of solid waste per year, finding its only available landfill for solid waste disposal being rapidly depleted, and because additional landfill is not available in the county, with the consequent threat to the health and welfare of its residents and environment, pursuant to division 2 of this article, has acquired and constructed and now operates and maintains a solid waste disposal and resource recovery system (the "system").

(3)

Construction of the system has been financed by the issuance by the county of its solid waste and electric revenue bonds, series 1980 (resource recovery system) and its solid waste and electric revenue bonds, series 1983 (resource recovery system) (the 1980 and 1983 bonds are collectively referred to in this section as the "bonds"). Pledged revenues as described in the official statements for the bonds have been pledged as security for the payment of the principal of, and interest on, amortization installments referenced in the official statements relating to and redemption premiums, if any, with respect to the bonds. The pledged

revenues include net operating revenues as described in the official statements.

(4)

The county has agreed in connection with the issuance of the bonds to establish and collect fees, rates and other charges for services provided by the system to assure that sufficient net operating revenues are generated to meet the requirements described in the official statements.

(5)

To assure that sufficient net operating revenues are generated as stated in this section, it is necessary that solid waste generated within the county is disposed of in the system, that no other solid waste disposal system or facility is operated or maintained within the county except pursuant to agreement with or license or permit from the county, and that all persons located within the county use the system for solid waste disposal.

(6)

To assure that the system receives an adequate quantity of solid waste generated within the county, it is necessary to require all persons within the county to use exclusively the system or a solid waste disposal system or facility operated or maintained by agreement with the county or by license or permit with the county for the disposal of all waste generated within the county, and to provide for a surcharge for use of the system's facilities and services to dispose of solid waste generated outside the county.

(7)

In addition to empowering the county to acquire, construct, maintain and operate the system, division 2 of this article grants to the county, among others, the following powers:

a.

To compel persons located within the territorial boundaries of the county to use the system for solid waste disposal.

b.

To prohibit the operation or maintenance of solid waste disposal systems or facilities by any person within the territorial boundaries of the county, except as operated or maintained by the county or by agreement with the county or by license or permit from the county.

c.

To establish and collect fees, rates or other charges for use of the facilities and services of the system.

d.

To provide for the issuance of licenses or permits for the collection of solid waste in the unincorporated area of the county.

(8)

The provisions of Charter section 2.04(b) grant to the board of county commissioners the power to develop

and operate solid waste disposal facilities and to furnish services of such facilities within municipalities located in the county. Section 2.04 of the Charter also provides that, when directly concerned with the furnishing of the services described in such section, county ordinances shall prevail over municipal ordinances when they are in conflict.

(9)

The provisions of F.S. § 403.713 authorize any local government that undertakes resource recovery of solid waste pursuant to general law or special act, to control the collection and disposal of solid waste which is generated within its boundaries and to institute a flow control ordinance for the purpose of ensuring that its resource recovery facility receives an adequate quantity of solid waste generated within its jurisdiction.

(10)

The county is currently capable of disposing of all solid waste generated and/or collected within the county.

(11)

This division is adopted pursuant to the authority and power granted to the board of county commissioners by division 2 of this article, by Charter section 2.04, by F.S. § 403.713, and by other applicable law.

(Ord. No. 88-26, § 1, 8-23-88)

Sec. 106-94. - Purpose.

The purpose of this division is to assure that the system receives an adequate quantity of solid waste generated within the county by requiring all persons within the county to use exclusively the system or a solid waste disposal system or facility operated or maintained by agreement with the county or by license or permit with the county for the disposal of all waste generated within the county and to provide for a surcharge for the use of the system's facilities and services to dispose of solid waste generated outside the county.

(Ord. No. 88-26, § 3, 8-23-88)

Sec. 106-95. - Areas embraced.

This division shall apply countywide.

(Ord. No. 88-26, § 9, 8-23-88)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 106-96. - Transport of solid waste.

Nothing in this division shall be construed to prohibit solid waste generated outside the county from being brought into and transported through the county.

(Ord. No. 88-26, § 8, 8-23-88)

Sec. 106-97. - Use of system; operation of other disposal facilities prohibited.

(a)

All solid waste generated within the territorial boundaries of the county shall be disposed of exclusively in the system, or a solid waste disposal system or facility operated or maintained by agreement with the county or by license or permit by the county. All persons located within the territorial boundaries of the county shall use exclusively the system for the disposal of solid waste generated within the territorial boundaries of the county, or a solid waste disposal system or facility operated or maintained by agreement with the county or by license or permit from the county. Any person delivering solid waste to the system for disposal shall, if any portion of the solid waste contained in the disposal vehicle was generated outside the county, pay to the county at that time the surcharge established for the disposal of all solid waste contained in the disposal vehicle, which shall be in addition to any other fee, rate, or charge applicable for facilities or services provided by the system. Solid waste collected within or outside the territorial boundaries of the county shall be presumed to have been generated within or outside the county, respectively, in the absence of a preponderance of evidence to the contrary. Such evidence shall include information discernible from visual inspection of the solid waste or obtained from any person having possession or control of the solid waste at any time.

(b)

No person shall operate or maintain any solid waste disposal system or facility, other than the system, within the county, except pursuant to written agreement with or license or permit from the county.

(Ord. No. 88-26, § 4, 8-23-88)

Sec. 106-98. - Fees, rates and charges.

Fees, rates and charges for facilities and services of the system are determined by the board of county commissioners after it receives recommendations from the technical management committee, in accordance with section 106-54. In order to extend the useful life of the incineration system, and in order to cover the cost of such extension to make up for the results of acceptance of solid waste generated outside of the county, a surcharge shall be collected for all solid waste generated outside the territorial boundaries of the county that is received and disposed of by the system. The amount of such surcharge shall be established in the same manner as fees, rates and charges for facilities and services of the system are established pursuant to section 106-54.

(Ord. No. 88-26, § 5, 8-23-88)

Sec. 106-99. - Extraction of valuable material.

Nothing in this division shall be construed to prohibit or limit any person incidental to the process of collection, from extracting from any solid waste collected by such person, of any material having special or unique value for reuse, recycling or sale. For purposes of this section material does not have such special or unique value merely because it provides a recoverable energy resource when subjected to a process designed to recover energy for commercial or public use. No person, whether in connection with extracting from solid waste of any valuable material or for any other purpose, may establish any facilities:

(1)

For the accumulation of and sorting of substantial volumes of solid waste; or

(2)

Contrary to the prohibition of section 106-97.

(Ord. No. 88-26, § 7, 8-23-88)

Secs. 106-100—106-130. - Reserved.

ARTICLE III. - SOLID WASTE MANAGEMENT FACILITIES[3]

Footnotes:

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Cross reference— Businesses, ch. 26.

DIVISION 1. - GENERALLY

Sec. 106-131. - Definitions.

Unless the context otherwise requires, terms used in this article shall have the same meanings ascribed to them as in chapter 62-701, Florida Administrative Code, as amended, and as ascribed to them in this section.

Applicant means the person operating and maintaining, or desiring to operate and maintain, a solid waste management facility, and includes the owner of the property on which such facility is located.

Clean debris means any solid waste which is virtually inert, which is not a pollution threat to groundwater or surface water, is not a fire hazard, and is likely to retain its physical and chemical structure under expected conditions of disposal or use.

County administrator means the county administrator for the county or his designee.

County solid waste management facilities means those solid waste management facilities which are constructed, maintained, or operated by the county or pursuant to contract with the county. "County solid waste management facilities" shall not include facilities maintained or operated pursuant to a permit issued by the county.

Department means the state department of environmental protection, or any successor agency of the state performing the same or similar function as the department of environmental protection.

Disposal means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or upon any land or water so that such solid waste or any constituent thereof may enter other lands or be emitted into the air or discharged into any waters, including groundwaters, or otherwise enter the environment.

Enclosed facility means a solid waste management facility with a roof and having the entire area under the roof totally enclosed by opaque walls with no more than 20 percent of the total wall surface area having openings and no more than 50 percent of any one side wall surface area having openings.

Landfill means a solid waste disposal facility, which is an area of land or an excavation where wastes are or have been placed for disposal, for which a permit, other than a general permit, is required by state statute. This term shall not include:

(1)

A land spreading site;

(2)

A surface impoundment; or

(3)

An injection well as defined by rules of the department.

Permittee means a person holding a permit issued pursuant to the provisions of this article.

Person means any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation organized or existing under the Laws of Florida or any other state or the federal government.

Processing means any technique designed to separate or change the physical, chemical, or biological character or composition of any solid waste so as to render it safe for transport, amenable to recovery, storage or recycling, or reduced in volume or concentration.

Recovered materials means those materials which have known recycling potential, can be feasibly recycled, and have been diverted or removed from the solid waste stream for sale, use or reuse, by separation, collection or processing.

Recycling means any process by which solid waste, or materials which would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

Resource recovery means the process of recovering materials or energy from solid waste, excluding those materials or solid waste under control of the Nuclear Regulatory Commission.

Solid waste means garbage, refuse, yard trash, construction and demolition debris, white goods, special waste, ashes, sludge, or other discarded material, including solid, liquid, semisolid, or contained gaseous materials resulting from domestic, industrial, commercial, mining, agricultural or governmental operations.

Solid waste disposal facility means any solid waste management facility which is the final resting place for solid waste, including landfills, incineration facilities that produce ash from the process of incinerating municipal solid waste, or any alternate technology designed to treat such waste to render it inert.

Solid waste management means the process by which solid waste is collected, transported, stored, separated, processed, or disposed of in any way, according to an orderly, purposeful, and planned program.

Solid waste management facility or facility means any solid waste disposal facility, volume reduction plant, materials recovery or recycling facility, transfer station or other facility, the purpose of which is the resource recovery or disposal, recycling, processing or storage of solid waste. Such term does not include facilities which use or ship recovered materials unless such facilities are generating solid waste as part of the recovery process.

Transfer station means a site the primary purpose of which is to store or hold solid waste for transport to a processing or disposal facility.

Unenclosed facility means a solid waste management facility not meeting the definition of an "enclosed

facility."

Volume reduction plant means a pulverizer, grinder, compactor, shredding and baling plant, composting plant, or other plant which accepts and processes solid waste for recycling or disposal.

(Ord. No. 93-93, § 2, 10-19-93; Ord. No. 06-53, § 1, 6-20-06)

Cross reference— Definitions generally, § 1-2.

Sec. 106-132. - Authority.

This article is adopted pursuant to article VIII, section 1, Florida Constitution; article II, division 2 of this chapter; F.S. § 403.713; and the county Charter.

(Ord. No. 93-93, § 1, 10-19-93)

Sec. 106-133. - Penalty for violation of article.

Violations of this article are punishable as provided in section 1-8.

(Ord. No. 93-93, § 11, 10-19-93)

Sec. 106-134. - Area embraced.

This article shall apply countywide.

(Ord. No. 93-93, § 14, 10-19-93)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 106-135. - Exemptions from article.

The following are exempt from the provisions of this article:

(1)

The management, storage or disposal, at other than a county-permitted landfill, of clean debris; provided, however, that the management, storage or disposal of such materials are in compliance with applicable county zoning provisions or have received appropriate approval of the municipality in whose jurisdiction the site for disposal of such materials is located.

(2)

County solid waste management facilities.

(3)

Disposal by persons of solid waste resulting from their own activities, on their own property, provided such waste is from their residential property and is clean debris, rocks, soil, trees, tree remains, and other vegetative matter which normally results from land development operations.

(4)

Storage of solid waste in containers on property which is owned, rented, or leased by the persons who generated the waste from their own activities which occurred on their property, if the solid waste in such containers is collected on a regular basis.

(Ord. No. 93-93, § 4, 10-19-93)

Secs. 106-136—106-155. - Reserved.

DIVISION 2. - PERMIT

Sec. 106-156. - Required.

It shall be unlawful for any person to construct, expand, modify, maintain or operate a solid waste disposal facility within the county without an appropriate and currently valid permit issued by or at the direction of the board of county commissioners or the county administrator, as provided in this article, and unless such facility is in conformance with such permit.

(Ord. No. 93-93, § 3, 10-19-93; Ord. No. 06-53, § 2, 6-20-06)

Sec. 106-157. - Application.

(a)

Generally. An application for a permit under this article shall be submitted in such form as the board of county commissioners may prescribe and shall be accompanied by an application fee.

(b)

Review and evaluation. The county administrator is hereby delegated the authority and responsibility for the review and evaluation of all permit applications submitted pursuant to this article to determine whether or not such application meets the applicable criteria set forth in section 106-158. Review and evaluation of an application shall not commence until the application is deemed complete by the county. When the application has been deemed complete, the county shall so notify the applicant, in writing.

(c)

Solid waste disposal facilities. After review and evaluation by the county administrator pursuant to subsection (b) of this section, applications for permits for solid waste disposal facilities shall be presented to the board for approval or denial. The county administrator shall make a recommendation to the board of county commissioners based on the criteria set forth in section 106-158. If the county administrator finds that the facility applied for has not obtained all applicable federal, state or municipal permits for the operation of such facility, the county administrator shall deny the applied for permit. If approval of the application is recommended, the county administrator shall also recommend conditions, if any, as appropriate for such approval pursuant to the provisions of section 106-159. In the event the county administrator recommends that the application should be denied, the reasons for such denial shall be clearly set forth in such recommendation.

(Ord. No. 93-93, § 5, 10-19-93; Ord. No. 97-87, § 1, 10-28-97; Ord. No. 06-53, § 3, 6-20-06)

Sec. 106-158. - Grant or denial; criteria for determination.

(a)

The board of county commissioners shall review the recommendations of the county administrator for approval or denial of a permit for a solid waste disposal facility and shall determine, based upon the criteria set forth in this article, whether the permit shall be approved or denied. The board may hold a public hearing to receive testimony and evidence prior to determining whether the permit should be approved or denied. Notice of such public hearing shall be placed in a newspaper of general circulation in the county at least 15 days prior to such public hearing, and individual property owners within 500 feet of the proposed location referenced in the application shall be notified in writing of such public hearing at least 15 days before such hearing.

(b)

The board of county commissioners shall consider each of the following minimum criteria in determining whether an application for a permit pursuant to this article shall be approved or denied:

(1)

Whether the facility under consideration is sufficient in terms of the physical size and location of the facility and area of the population of the county to be served.

(2)

Whether or not the design and operational plans and procedures are complete and sufficient.

(3)

Whether the applicant has provided reasonable assurances, financial or otherwise, that applicable permit conditions will be met. In determining whether such reasonable assurances have been provided, the board of county commissioners may consider, among other factors, consent orders or any violations of applicable statutes, rules, orders, permit conditions by the applicant relating to the operation of a solid waste disposal facility in the state for which the applicant is or was responsible.

(4)

Whether or not the applicant's facility is sufficiently and safely accessible by collection vehicles, automobiles, and, where applicable, transfer vehicles.

(5)

Whether or not the applicant has provided for sufficient safeguards against air and water pollution and land blight.

(6)

Whether or not the applicant has provided for sufficient odor, dust, litter, and fire control.

(7)

Whether or not the proposed location of the facility is compatible with existing zoning classifications and land use designations of property in the vicinity of the proposed location.

(8)

Whether or not the facility sufficiently conserves and protects the natural resources in the general vicinity of the proposed location of the facility.

(9)

Whether or not the proposed location and use of the property as a site for a solid waste disposal facility would unreasonably interfere with or jeopardize the public's right to undisturbed health, safety and welfare.

(10)

Whether or not the proposed use and location of the property as a solid waste disposal facility would otherwise create an adverse effect on the public interest.

(11)

Whether or not the applicant's proposed facility would negatively impact on the county resource recovery systems and facilities.

(Ord. No. 93-93, § 6, 10-19-93; Ord. No. 06-53, § 5, 6-20-06)

Sec. 106-159. - Permit conditions.

In the event that the board of county commissioners approves a permit for a solid waste disposal facility, the board may impose such conditions as it may deem necessary or desirable to ensure proper construction and operation of the facility in conformance with the intent and purpose of this article. Such conditions may include term or length of permit; evidence of other applicable permits; provision of reasonable access by county representatives; compliance with all applicable laws; days and hours of operation; appropriate setbacks; cover requirements; odor, dust and litter control; ingress and egress; liability insurance; indemnification; notification of any permit violations; drainage; depth and slope requirements; fire control; grading requirements; closure requirements; types of solid wastes; salvage, separation and material storage requirements; restrictions on assignment of permit; financial guarantee in a form and in an amount satisfactory to the county; landscaping and buffers; control of air and water pollution and surface water runoff; signs; reporting requirements; and such other conditions as are deemed necessary and desirable by the board of county commissioners to ensure compliance with the purposes and intent of this article.

(Ord. No. 93-93, § 7, 10-19-93; Ord. No. 06-53, § 6, 6-20-06)

Sec. 106-160. - Conditions to effectiveness of permit.

No permit issued by, or at the direction of, the board of county commissioners shall be deemed in effect, and no activity shall commence at an approved facility, unless and until the following conditions have been fulfilled:

(1)

The county must have received copies of any and all applicable state, federal and local valid permits for the same location and operation; and

(2)

Receipt and approval by the county of the appropriate documents regarding operations, liability insurance, indemnification, and financial guarantees as required by section 106-159.

(Ord. No. 93-93, § 8, 10-19-93; Ord. No. 06-53, § 7, 6-20-06)

Sec. 106-161. - Renewal.

(a)

Permits issued pursuant to this article shall not renew automatically. If a permittee desires a new permit issued under this article, the permittee must submit a new application for such new permit no later than 90 days before the expiration of the previously issued permit. An application for a new permit shall specify any material change in factual information from the information contained in the application for the previously submitted permit.

(b)

Review and evaluation of the application for the new permit shall be conducted pursuant to subsection 106-157(b) of this article. Determination of whether to approve or deny the new permit shall be conducted pursuant to subsection 106-157(c). The board of county commissioners shall consider, as an additional criterion in determining whether or not to approve an application for renewal, whether or not the permittee has satisfactorily operated and maintained the solid waste disposal facility in accordance with the conditions imposed in the previously approved permit.

(c)

If, prior to the expiration date of the previously approved permit under this article, the board of county commissioners has not approved or denied the application for a new permit, and if the permittee has requested in writing for an extension, then the board, in its sole discretion, may allow the permittee to continue operations but only if the application for a new permit has been deemed complete, as described in subsection 106-157(b).

(Ord. No. 93-93, § 9, 10-19-93; Ord. No. 06-53, § 8, 6-20-06)

Sec. 106-162. - Copy of permit to be kept on premises; revocation.

(a)

A copy of the permit issued pursuant to this article shall be kept on the premises of the facility and shall be open to public inspection during normal business hours.

(b)

Any permit issued under this article may be revoked in case there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit was based, for violation of conditions imposed pursuant to this article, or for other good cause.

(1)

In the event the county administrator recommends that a permit issued pursuant to this article be revoked, written notice of the intent of the board of county commissioners to revoke such permit shall be provided to

the permittee. Such notice shall set forth the specific reasons for the revocation. The permittee shall have the right to appear before the board of county commissioners at a time and date specified in such notice to show cause why the permit issued to the applicant should not be revoked.

(2)

If the board of county commissioners determines to revoke a permit issued pursuant to this article, after notice and hearing as provided in subsection (b)(1) of this section, the permittee shall be advised of the procedures for closure which shall be required, including the period of time in which the procedure for closure shall be accomplished.

(Ord. No. 93-93, § 10, 10-19-93)

Sec. 106-163. - Cease and desist order.

The county administrator may issue a cease and desist order for any permit issued pursuant to this article for fraud, misrepresentation, or violation of conditions imposed pursuant to the permit, or for other good cause or for any site where work has commenced and a permit has not been obtained but is required pursuant to this article. Any person receiving such an order for cessation of operations shall immediately comply with the requirements thereof. It shall be a violation of this article for any person to fail or refuse to comply with a cease and desist order issued and served under the provisions of this section.

(Ord. No. 93-93, § 13, 10-19-93)

ARTICLE IV. - BIOMEDICAL WASTE DISPOSAL[4]

Footnotes:
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Editor's note—Ord. No. 95-83, adopted Dec. 5, 1995, did not specifically amend this Code; hence, inclusion of §§ 2—6 as ch. 106, art. IV, §§ 106-186—106-190, was at the discretion of the editor.

Sec. 106-186. - Findings.

(a)

The department of environmental protection (DEP) has adopted rules relating to the storage, transport and disposal of biomedical waste.

(b)

Such rules, contained in Chapter 62-712, Florida Administrative Code, are aimed at isolating biomedical waste from the municipal solid waste stream.

(c)

The county finds and determines that it is in the interest of public health, safety and welfare that the disposal of biomedical waste at any place other than a permitted biomedical waste facility be prohibited and that penalties be imposed for the violation of such prohibition.

(Ord. No. 95-83, § 2, 12-5-95)

Sec. 106-187. - Definitions.

Unless the context otherwise requires, terms used herein shall have the following meanings ascribed to them.

Biomedical waste means any solid or liquid waste which may present a threat of infection to humans. The term includes, but is not limited to, nonliquid tissue and body parts from humans and other primates; laboratory and veterinary waste which may contain human disease-causing agents discarded sharps; and blood, blood products, and body fluids from humans and other primates. For purposes of this article, biomedical waste shall also mean biomedical waste which is not treated biomedical waste.

Biomedical waste generator means a facility or person who produces or generates biomedical waste. The term includes, but is not limited to, hospitals, skilled nursing facilities, clinics, dialysis clinics, blood banks, dental offices, surgical clinics, medical buildings, health maintenance organizations, home health agencies, physicians offices, laboratories, emergency medical services, veterinary clinics, and funeral homes.

Costs means includes, but shall not be limited to, the cost of operating and maintaining equipment associated with special handling of biomedical waste; the cost of materials used in such handling; the cost of contract labor and materials; and legal and professional costs.

Sharps means devices with physical characteristics capable of puncturing, lacerating, or otherwise penetrating the skin. These devices include but are not limited to needles and scalpels, intact or broken glass, and intact or broken hard plastic are considered sharps if they are contaminated with blood, body fluids, or blood contaminated excretions or secretions.

Treated biomedical waste means biomedical waste that meets the efficacy requirements in Chapter 10D-184 of the Florida Administrative Code.

(Ord. No. 95-83, § 3, 12-5-95)

Sec. 106-188. - Violations; penalties.

(a)

It shall be unlawful for any biomedical waste generator to dispose of, or attempt to dispose of, any biomedical waste at any place other than a permitted biomedical waste facility.

(b)

Any person who violates subsection (a) of this section shall be subject to penalties as provided in section 1-8 of the county code.

(c)

The county may institute suit in a court of competent jurisdiction to recover any direct or indirect costs incurred by the county as a result of specially handling biomedical waste or solid waste which has been in direct contact with biomedical waste.

(Ord. No. 95-83, § 4, 12-5-95)

Sec. 106-189. - Area embraced.

This article shall be effective in the incorporated as well as unincorporated areas of the county.

(Ord. No. 95-83, § 5, 12-5-95)

Sec. 106-190. - No conflict.

Nothing herein shall be construed to supersede or conflict with any state or federal regulations regarding biomedical waste.

(Ord. No. 95-83, § 6, 12-5-95)

Secs. 106-191—106-249. - Reserved.

ARTICLE V. - LICENSE REQUIREMENTS FOR RESIDENTIAL SOLID WASTE COLLECTION IN UNINCORPORATED PINELLAS COUNTY

Sec. 106-250. - Required license.

It shall be unlawful for any person to engage in the business of collecting, transporting or disposing of residential solid waste collected curbside from single-family residences (four units or less) within the unincorporated areas of the county without first being issued a license by Pinellas County through its division of solid waste with the requirements set forth in this article. In order for any such person to qualify for a collection license, the county shall first determine that such person has complied with this article. Any license issued under this section by the board of county commissioners shall be in the nature of a privilege, subject to the terms and conditions of this article, and shall not be deemed to create a property interest with respect to the license in the license holder. The county reserves the right to revoke any license for failure to comply with this article, the license or other applicable provisions of law and to refuse to renew a license if such renewal conflicts with any portion of this article, any amendment to this article or any subsequent ordinance regulating the collection, transport and disposal of solid waste.

(Ord. No. 12-39, § 1, 8-21-12)

Sec. 106-251. - Application procedures.

Any person seeking a license for the business of collecting, transporting or disposing of residential solid waste from single-family residences shall file an application for license on a form provided by the county through its division of solid waste which shall contain or be accompanied by, at a minimum, the following information and items:

(1)

Name, street address, mailing address of principal place of business and branch offices of the person desiring a license including identification of ownership interest. Partnerships, corporations or other business entities shall furnish names and mailing addresses of the manager or supervisor who will be in charge of the operations within the county.

(2)

Payment to the county of an annual application fee. Cities providing the collection service specified within

the unincorporated county shall be exempt from paying an application fee but shall otherwise comply with the provisions of this article. Fees shall be established by resolution by the board of county commissioners.

(3)

The location of the applicant's local place of business.

(4)

All applicants for a license shall establish a disposal account with the division of solid waste. The license number shall be the same as the account number.

(5)

Proof of all required insurance coverage as specified in subsection 106-258.

(6)

A statement that the applicant has read and is familiar with the requirements of this article and agrees to operate in accordance with such requirements if the license is granted.

(Ord. No. 12-39, § 1, 8-21-12)

Sec. 106-252. - Standards for issuance.

(1)

Upon receipt of the application for the license required under this article, the county's staff shall review and investigate the application. It shall be the applicant's burden to demonstrate that:

The public convenience and advantage will be promoted by the establishment of the proposed collection, transport or disposal services within the proposed licensed service area.

(2)

After consideration of the information presented by the applicant, information contained in the application and information presented by other interested parties, the division of solid waste shall approve the application and issue a license subject to this article if the applicant has demonstrated compliance with the standards set forth in this section. If the division of solid waste determines, after consideration of all such information, that the applicant has failed to demonstrate compliance with such standards, the division of solid waste shall deny the application and set forth its reasons for such denial in a written order.

(Ord. No. 12-39, § 1, 8-21-12)

Sec. 106-253. - Term and conditions.

(1)

Any license issued under section by the county shall be valid for a term of one year and shall be renewed in accordance with this section.

(2)

As a condition of any license issued under this section, the license holder shall comply with all requirements of this article and any rules or regulations promulgated by the board of county commissioners pursuant to the authority contained in this article.

(3)

The license holder shall appear and defend all actions against the county arising out of the exercise of authority under the license and shall indemnify and save the county, its members of the board, its officers, employees and agents harmless and free of all claims, demands, actions or causes of action of any kind and description arising out of or in any way connected with services provided or required to be provided or other actions taken or omitted to be taken or required to be taken pursuant to the license, except as such may relate to the direct negligence of the county and all of the members of the board of county commissioners, its officers, employees or agents.

(Ord. No. 12-39, § 1, 8-21-12)

Sec. 106-254. - Renewals.

(1)

Each license issued under this article shall be for a period of not more than one year commencing on the date issued and expiring December 31 of the year issue. Applications for renewal are the sole responsibility of the license holder and shall be filed with the county not later than November 1 of each year prior to the expiration date of the license. Failure to timely submit an application for renewal and all applicable fees shall automatically terminate the applicant's existing license as of December 31 without right of renewal.

(2)

A license holder must comply with all requirements of this article in order to qualify for renewal, and the renewal application shall contain all information as requested for the original application required by subsection 106-251.

(Ord. No. 12-39, § 1, 8-21-12)

Sec. 106-255. - Transfers and forfeitures.

(1)

Any license issued under this article shall be a privilege which is personal to the original license holder, and it shall not be sold, transferred, leased, assigned or disposed, in whole or in part, either by sale, merger, or consolidation, without prior notification to the division of solid waste.

(2)

Any such transfer or assignment of the license shall be made only by an instrument in writing, which shall include an acceptance of all terms and conditions of the license by the transferee, a duly executed copy of which shall be filed with the board of county commissioners within 30 days of such transfer or assignment.

(3)

The license holder may of its volition relinquish its license.

(Ord. No. 12-39, § 1, 8-21-12)

Sec. 106-256. - Revocation.

(1)

Any license issued under this article may be subject to revocation by the county in accordance with the procedures established in this section, upon an affirmative finding of that license holder has failed to comply with the requirements of the act, this article, the license or other provisions of applicable law.

(2)

Upon determining that sufficient grounds exist to believe that a violation of any state act pertaining to solid waste, this article, the license or another provision of applicable law may have been committed by a license holder, the division of solid waste shall provide written notice of such charges to the license holder prior to setting a public hearing on the charges as required in subsection (3) of this section.

(3)

Within 30 days after submission of the written charges to the license holder, the county shall schedule a public hearing before the board of county commissioners, at which time it shall accept evidence from all interested parties as to the alleged violations set forth in the notice. The license holder shall receive written notice of the public hearing at least ten days in advance.

(4)

Upon completion of the hearing, the board of county commissioners shall adopt a resolution, including findings of fact, which shall determine whether in fact a violation has occurred and any appropriate remedy required, including modification to the license or revocation of the license.

(5)

The revocation procedure required by section 106-256 shall not be constructed as to prohibit any enforcement of a violation of this article in accordance with any other provision of the Pinellas County Code.

(Ord. No. 12-39, § 1, 8-21-12)

Sec. 106-257. - Collection vehicles and equipment.

In the exercise of the license privileges granted in this article, the license holder shall use only collection vehicles and equipment meeting the following specifications and maintenance requirements:

(1)

The body of all collection vehicles and equipment shall be fully enclosed and watertight to prevent the escape of water or other liquids prior to unloading at the authorized disposal area.

(2)

All collection vehicles and equipment of the license holder shall have the license number (account number) displayed in accordance with the requirements of the division of solid waste.

(3)

All collection vehicles and equipment shall bear the name of the license holder and business office phone number of the license holder.

(4)

All collection vehicles and equipment shall meet all federal and state requirements.

(Ord. No. 12-39, § 1, 8-21-12)

Sec. 106-258. - Service standards for license holders.

Any person holding a license issued by the board of county commissioners for the collection, transport and disposal of residential solid waste curbside from single-family residences as provided in this article shall comply with the service standards of this section. The license holder shall:

(1)

Establish and maintain an office accessible to county residents where service applications may be processed and service complaints received, investigated and resolved. Such office shall be equipped with a listed telephone with sufficient operators and shall have a responsible person in charge to receive and resolve user complaints between the hours of 8:30 a.m. and 4:30 p.m. of each day except Saturdays, Sundays and legal holidays. Telephone access to the local office shall be provided to all customers or potential customers in the licensed service area on a toll-free basis.

(2)

Maintain during the term of the license all auto, liability and workers' compensation insurance, as required by the laws of the state, and shall further maintain comprehensive liability insurance coverage in such amounts as required by the state. Evidence of such required coverage shall be included in any application or renewal application.

(3)

Provide curbside collection services for single-family residential solid waste at a frequency of not less than once per week, unless the license holder and customer mutually agree upon a greater frequency.

(4)

Dispose of all residential solid waste at the county's solid waste facility located at 3095 114 th Avenue, St. Petersburg, Florida 33716.

(5)

Offer to its single-family residential collection customer's curbside collection services for recyclable materials placed at curbside at a frequency of not less than once per week. The license holder may charge an additional fee for this service. At a minimum, recyclable materials include: newsprint, magazines, mixed paper, cardboard, aluminum and steel cans, and plastic containers #1—7.

(6)

Offer separate collection of yard waste to its single-family residential solid waste collection customers at a frequency of not less than once per week. The license holder may charge an additional fee for this service.

(7)

Offer bulky waste collection to its single-family residential solid waste collection customers. The frequency and manner of such collection shall be as agreed between the license holder and the customer. The license holder may charge an additional fee for this service.

(8)

Be responsible for the lawful disposition, disposal and cleanup of any hazardous waste collected, transported or disposed of by the license holder, provided, however, this subsection shall be interpreted as limiting any recourse the license holder may have against the generator of such hazardous waste.

(9)

Provide written materials to all customers describing the services offered as well as the contact information of the license holder on at least an annual basis.

(10)

Submit to the director of the division of solid waste an annual report by January 31 of each year including the following information for the previous calendar year: number of customers subscribing to recycling collection service and the total number of tons of recyclable materials collected.

(Ord. No. 12-39, § 1, 8-21-12)

Chapter 110 - SPECIAL ASSESSMENTS[1]
Footnotes:
--- (**1**) ---

Charter reference— General powers of county, § 2.01.

Cross reference— Administration, ch. 2; finance, § 2-141 et seq.; public lake improvements, § 130-31 et seq.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g).

ARTICLE I. - IN GENERAL

Secs. 110-1—110-30. - Reserved.
ARTICLE II. - STREET IMPROVEMENTS AND STORM SEWERS[2]

Footnotes:
--- (**2**) ---

Editor's note—The acts contained in this article assumed ordinance status pursuant to Laws of Fla. ch. 78-596, § 4(1).

Cross reference— Roads and bridges, ch. 98; floodplain management, ch. 158; flood damage prevention, § 170-101 et seq.

Sec. 110-31. - Initial proceedings.

(a)

By a written petition, the owners of 60 percent of the land area of the real estate described in such petition, abutting upon the proposed improvements or otherwise specially benefited thereby, may request the board of county commissioners to construct any one or a combination of the following improvements:

(1)

Street improvements, which may include the grading, widening, drainage, paving, curbing, roadway underdrain, or guttering of any continuous portion of a street, or two or more connecting streets. Sidewalks and bike paths may be included, where feasible, at the option of the board of county commissioners.

(2)

Drainage improvements, which may include pavement, the construction of storm sewers and related stormwater attenuation and treatment facilities, the reconstruction where necessary of streets and sidewalks necessarily damaged in the course of such construction, the building of culverts or enclosing streams where necessary or advisable to carry off stormwater.

The petition shall also request the board of county commissioners to assess the entire cost of such improvements, or such portion thereof as the board may designate against the properties specially benefited thereby. The area containing such properties shall constitute an assessment district. Governmental entities with a statutory exemption from assessments, as well as non-benefited properties, shall be excluded from the assessment procedure, and their proportionate share may be included in the overall assessment or paid from the general fund, as the board may decide.

(b)

The board, upon finding that the petition for improvements under this section is sufficient in form, substance and execution, may by preliminary resolution order the improvements to be made and may assess against the benefited properties that portion of the cost which the board designates, paying as a county charge any remaining cost. Such special assessments shall be levied upon the benefited properties in general proportion to the benefits to be derived. Such special benefits may be determined and prorated according to the foot frontage of the properties or by such other method as the board may prescribe.

(Laws of Fla. ch. 63-1783, § 1; Ord. No. 01-50, § 1, 7-17-01)

Sec. 110-32. - Initiation of programs without petition.

The special improvement programs enumerated in this article may be initiated by the board of county commissioners at any time without the filing of the petition provided for in section 110-31. Such action shall be evidenced by an initial resolution ordering the construction of the improvement and describing the property bounding or abutting the improvement or otherwise specially benefited thereby. The resolution shall state the nature and location of the improvement together with that portion of the cost thereof to be assessed

against the benefited property and that portion, if any, to be paid by the county.

(Laws of Fla. ch. 63-1783, § 2; Ord. No. 01-50, § 2, 7-17-01)

Sec. 110-33. - Estimate of cost.

If improvements under this article are ordered, the county engineer shall prepare an estimate of the cost of constructing the improvements together with an estimate of incidental expenses, such as engineering, permitting costs, property acquisition for ponds, and any other expenses necessary or proper in connection therewith.

(Laws of Fla. ch. 63-1783, § 3; Ord. No. 01-50, § 3, 7-17-01)

Sec. 110-34. - Reserved.

Editor's note— Ord. No. 01-50, § 4, adopted July 17, 2001, repealed § 110-34 which pertained to deposits and derived from Laws of Fla. ch. 63-1783, § 4.

Sec. 110-35. - Notice of hearing.

After the completion of the cost estimates, the clerk of the board of county commissioners shall publish at least once a week for two consecutive weeks in a newspaper of general circulation, published in the county, a notice stating that at a regular meeting of such board at a certain hour on a certain day, not earlier than three days after the final publication, the board will hear objections and comments of all interested persons regarding the project described in the resolution. Such notice shall contain in brief and general terms a description of the proposed improvements with the location thereof and shall state that the estimates of cost are on file in the office of the clerk of the board, and that the preliminary plans and cost estimates are available for review in the department of public works. A copy of the notice shall also be mailed to the current owners of record of benefited properties.

(Laws of Fla. ch. 63-1783, § 5; Ord. No. 01-50, § 5, 7-17-01)

Sec. 110-36. - Hearing.

At the time named in the notice provided for in section 110-35, or at that time to which an adjournment may be taken, the board of county commissioners shall receive the objections and comments of interested persons and may then or thereafter repeal, modify, or confirm the initial resolution, which shall determine the maximum assessment to be charged to each benefited property. This maximum assessment shall be the basis for the assessment roll, which shall describe each parcel of land and the amount of each assessment. Any objections not so made shall be considered waived and if the objections made shall be overruled, adoption of the final resolution, incorporating the assessment roll, shall be the final decision of the issues presented unless proper steps for relief be taken in a court of competent jurisdiction within ten days. A copy of this resolution shall be mailed to the current owners of record of the benefited properties, and a notice of pending assessment lien shall be recorded in the official records of the clerk of the circuit court.

(Laws of Fla. ch. 63-1783, § 6; Ord. No. 01-50, § 6, 7-17-01)

Sec. 110-37. - Report of cost.

After the construction of the project, the county engineer and the clerk shall prepare and present to the board

of county commissioners a report of cost of the improvement. The report of cost shall show the total cost of the improvement, including incidental expenses. The board of county commissioners shall credit to each of the assessments the difference in the assessment as originally made, approved, and recorded and the proportionate part of the actual cost as finally determined. In no event shall the final assessments exceed the amount of the original assessment. This adjusted roll will be the basis for payments and liens as described below.

From the date of recording of the final resolution, such assessments shall become legal, valid, and binding first liens upon the property against which such assessments are made and shall be superior in rank and priority to all other liens, titles and claims. The assessments shall be collectible and shall be entitled to sale and forfeiture in the same manner and with the same attorney's fee, interest and penalties for default in payment, as general county taxes. Collection may also be effected by foreclosure in a court of equity, according to the laws then existing for the foreclosure of mortgages, or the collection and enforcement of payment thereof may be accomplished by any other method authorized by law. It shall be lawful to join in any such bill for foreclosure any one or more lots or parcels of land, by whomsoever owned, if assessed for the same improvement made under the provisions of this article.

(Laws of Fla. ch. 63-1783, § 10; Ord. No. 93-17, § 1, 2-23-93; Ord. No. 01-50, § 7, 7-17-01)

Editor's note— Ord. No. 01-50, § 7, adopted July 17, 2001, renumbered the former § 110-40 as § 110-37, as set out herein. Historical notation has been retained with the amended provisions for reference purposes.

Secs. 110-38, 110-39. - Reserved.

Editor's note— Ord. No. 01-50, §§ 8, 9, adopted July 17, 2001, repealed §§ 110-38 and 110-39, which pertained to notice of hearing on preliminary assessment role and hearing on and confirmation of assessment roll, respectively, and derived from Laws of Fla. ch. 63-1783, §§ 8, 9.

Sec. 110-40. - Recordation.

Following construction and any adjustment of assessments, the resolution and assessment roll shall be recorded in the official records of the clerk of the circuit court; provided however, that no assessment roll shall be recorded between the dates of April 15 and April 30 in any given year.

(Laws of Fla. ch. 63-1783, § 7; Ord. No. 01-50, § 10, 7-17-01)

Editor's note— Ord. No. 01-50, § 10, adopted July 17, 2001, renumbered the former § 110-37 as 110-40, as set out herein. Historical notation has been retained with the amended provisions for reference purposes.

Secs. 110-41. - Reserved.

Editor's note— Ord. No. 01-50, § 11, adopted July 17, 2001, repealed § 110-41 which pertained to assessment on public properties and derived from Laws of Fla. ch. 63-1783, § 11.

Sec. 110-42. - Payment of assessments, collection.

All assessment liens shall be due and payable to the board of county commissioners and checks delivered to the finance division, clerk of the circuit court, special assessments section, on or before 60 days after the date of notice of payment due, which shall be after completion of the project and adjustment to assessments, if any, have been made. All assessment liens not paid within such period shall become payable in not more than

ten annual installments, the first installment to become due on June 30 following the expiration of the 60-day interest-free payment period. The number of installments will be determined by the board at the time of the confirmation and approval of the assessment roll, with interest on the unpaid principal at not more than eight percent per annum from the expiration of the interest-free period; but any assessment lien becoming so payable in installments may be paid in full at any time, together with interest accrued thereon to the date of payment. The assessments shall be collectible and shall be entitled to sale and forfeiture in the same manner and with the same attorney's fee, interest and penalties for default in payment, as general county taxes. Collection may also be effected by foreclosure in a court of equity, according to the laws then existing for the foreclosure of mortgages, or the collection and enforcement of payment thereof may be accomplished by any other method authorized by law. It shall be lawful to join in any such bill for foreclosure any one or more lots or parcels of land, by whomsoever owned, if assessed for the same improvement made under the provisions of this article.

(Laws of Fla. ch. 63-1783, § 12; Laws of Fla. ch. 73-599, § 1; Ord. No. 93-17, § 2, 2-23-93; Ord. No. 01-50, § 12, 7-17-01)

Sec. 110-43. - Bonds.

After the recording of the assessment roll, the board of county commissioners may by resolution authorize an issue of bonds of the county for the payment of such portion of the cost assessed against the properties specially benefited thereby and for the reimbursement of any fund of the county from which any part of such cost shall heretofore have been paid. The amount of such bonds authorized to be issued under this article shall not exceed in the aggregate the total amount of the assessment liens pledged for their payment. Such bonds shall be dated, shall bear interest at such rate or rates as are established by the board of county commissioners, shall mature at such time or times not later than six months after the maturity of the last installment of the special assessment liens pledged to the payment thereof as may be determined by the board, and may be redeemable before maturity at the option of the board under such terms and conditions as may be fixed by the board prior to the issuance of the bonds. The board shall determine the forms of the bonds, including any interest coupons to be attached thereto and the manner of execution of the bonds and coupons; and shall fix the denomination or denominations of the bonds and the place of payment of principal and interest, which may be at any bank or trust company within or without the state. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery. All bonds issued under the provisions of this article shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments laws of the state. The bonds may be issued in coupon or in registered form, or both, as the board may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The issuance of such bonds shall not be subject to any limitation or condition contained in any other law. The county may deliver such bonds to the contractor in full payment for his work or may sell such bonds at public or private sale at not less than par plus accrued interest. Prior to the preparation of definitive bonds, the county may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The board may also provide for the replacement of any bonds which shall be mutilated, destroyed or lost.

(Laws of Fla. ch. 63-1783, § 13; Ord. No. 01-50, § 13, 7-17-01)

State Law reference— Limitations on interest rates, F.S. §§ 215.84, 215.845.

Sec. 110-44. - Security for bonds.

The bonds issued under the provisions of this article shall be payable solely from the special assessments, the installments thereof and interest and penalties thereon which have been pledged to their payment, and shall not be deemed to constitute a general obligation of the county for the payment of which the full faith, credit and taxing power are pledged. The issuance of such bonds shall not directly, indirectly nor contingently obligate the county to levy or to pledge any form of ad valorem taxation whatever.

(Laws of Fla. ch. 63-1783, § 14)

Sec. 110-45. - Construction contract.

The bonds authorized under the provisions of this article shall not be sold until contracts for the construction of the improvements to be paid from the proceeds of such bonds have been finally awarded in an aggregate amount not exceeding the special assessments pledged for the payment of the bonds.

(Laws of Fla. ch. 63-1783, § 15)

Sec. 110-46. - Deposit of collections.

(a)

All collections of assessments contained in any assessment roll which is not secured by a bond issue under this article, and the interest and penalties thereon, shall be deposited in a separate fund properly designated, and such fund shall be used for the payment of the cost of the improvements or as designated by the board of county commissioners.

(b)

Collections of assessments contained in any assessment roll secured by a bond issue under this article, and the interest and penalties thereon, shall be deposited in a separate fund properly designated, and such fund shall be pledged to and used solely for the payment of the principal of and interest on the bonds issued under this article for the construction of the improvements for which such assessments were made until all of such bonds and the interest thereon shall have been fully paid; provided, that if bonds be issued as herein provided for more than one improvement, all assessments collected for all such improvements may by resolution of the board of county commissioners be ordered to be placed in one fund which shall be maintained, pledged and applied for the payment of the principal of and interest on such bonds.

(Laws of Fla. ch. 63-1783, § 16; Laws of Fla. ch. 73-599, § 2)

Sec. 110-47. - Requirement to make new assessments.

If any special assessment made under the provisions of this article to defray the whole or any part of the expense of any improvement shall be either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the board of county commissioners shall be satisfied that any such assessment is so irregular or defective that the assessment cannot be enforced or collected, or if the board shall have omitted to make such assessment when it might have done so, the board shall take all necessary steps to cause a new assessment to be made for the whole or any part of any improvement or against any property benefited by any improvement, following as nearly as may be the provisions of this article. If such second assessment shall be annulled, the board may obtain and make additional assessments until a valid assessment shall be

levied.

(Laws of Fla. ch. 63-1783, § 17)

Sec. 110-48. - Pledge of special assessments.

All assessments and charges made under this article on account of the construction of any improvement may be pledged to the payment of the principal of and the interest on any bonds issued to pay the whole or any part of the cost of such improvement.

(Laws of Fla. ch. 63-1783, § 18)

Secs. 110-49, 110-50. - Reserved.

Editor's note— Ord. No. 01-50, §§ 14, 15, adopted July 17, 2001, repealed §§ 110-49 and 110-50, which pertained to credit for public improvements and description of property, respectively, and derived from Laws of Fla. ch. 63-1783, §§ 19, 20.

Sec. 110-51. - Division of assessments.

If the owner or owners of any lot or parcel of land assessed under the provisions of this article and all those having any interest therein by way of mortgage or other lien or leasehold rights or otherwise shall in writing request that such assessment be divided so that a part of the assessment shall be the assessment on and constitute a lien on one portion of such lot or parcel and the remainder shall be the assessment on and constitute a lien or liens against the remainder of such parcel or separate parts thereof, the board of county commissioners, in its discretion, shall have the power to divide such assessment in accordance with such request, and thereafter the separate parts of such assessment shall be the assessments and constitute separate liens upon the parts of the lot or parcel, respectively, into which the assessment shall have been so divided; and any resolution making such division shall recite a finding of the board that such division is equitable, is based upon the benefits accruing to each portion, as divided, and that the legal description of the altered lot or parcel is reflected on the assessment roll maintained by the property appraiser under law for the levy of taxes.

(Laws of Fla. ch. 63-1783, § 21; Ord. No. 93-17, § 3, 2-23-93)

Secs. 110-52—110-54. - Reserved.

Editor's note— Ord. No. 01-50, §§ 16—18, adopted July 17, 2001, repealed §§ 110-52—110-54, which pertained to surplus proceeds, effective of illegality or irregularity, and admissibility of certified rolls, collection of presently owing assessments, respectively, and derived from Laws of Fla. ch. 63-1783, §§ 22—24 and ch. 73-599, § 3.

Sec. 110-55. - Severability.

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

(Ord. No. 01-50, § 19, 7-17-01)

Editor's note— Ord. No. 01-50, § 19, adopted July 17, 2001, amended § 110-55 in its entirety, in effect repealing and reenacting said section to read as herein set out. The former § 110-55 pertained to property

within municipalities and derived from Laws of Fla. ch. 63-1783, § 25.

Sec. 110-56. - Revolving fund.

In order to carry out the provisions of this article, the board of county commissioners may create with general funds of the county a revolving fund. If moneys on deposit in such revolving fund are advanced to pay the cost of all or any part of improvements constructed under this article, the board shall reimburse such revolving fund with the proceeds of bonds issued under this article or from the collections of special assessments relating to the improvement for which such funds were advanced. The board may also levy a tax not to exceed five mills annually to set up sufficient moneys in the revolving fund for the purpose of this article.

(Laws of Fla. ch. 63-1783, § 26)

Sec. 110-57. - Powers cumulative.

The powers conferred by this article shall be cumulative and in addition to any existing powers and shall not be subject to any restriction or limitation appearing in any other law, nor shall anything in this article be construed as being in derogation of authority existing by virtue of any other special, local or general law.

(Laws of Fla. ch. 63-1783, § 28)

Chapter 114 - SPECIAL DISTRICTS[1]
Footnotes:
--- (**1**) ---

Charter reference— General powers of county, § 2.01.

Cross reference— Administration, ch. 2; boards, commissions, councils and authorities, § 2-226 et seq.; fire prevention authority, § 62-26 et seq.; library services district, § 78-2; taxation, ch. 118; list of special districts, app. B.

State Law reference— Special districts generally, F.S. ch. 189; power of board of county commissioners relative to special districts, F.S. § 125.01(5).

ARTICLE I. - IN GENERAL

Sec. 114-1. - Certain ordinances not affected by Code.

(a)

Nothing in this Code or the ordinance adopting this Code shall affect:

(1)

Any ordinance establishing a streetlighting district not found in this Code.

(2)

Laws of Fla. ch. 67-1919, pertaining to annexations by sanitary districts.

(3)

Laws of Fla. ch. 69-1479, pertaining to sanitary districts.

(b)

All such provisions are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Sec. 114-2. - Abolishment of soil and water conservation district.

The Pinellas County soil and water conservation district, created pursuant to F.S. ch. 582, is hereby abolished.

(Laws of Fla. ch. 81-468, § 1)

Editor's note— The act contained in the above section retains its status as a special act because it was enacted after the charter. The source of the section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. The catchline has been added to accurately reflect the contents of the section. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Sec. 114-3. - Authority to create MSTU within East Lake Tarpon Fire Control District.

(a)

(1) Notwithstanding any other provision of law, the board of county commissioners of Pinellas County may, by ordinance, create a municipal service taxing unit composed of the unincorporated territory situated within the boundaries of the East Lake Tarpon Fire Control District and may levy ad valorem taxes in the unit within the limits fixed for municipal purposes, as authorized by section 9(b) of article VII of the state constitution, but not more than 0.25 mill. The board of county commissioners may also impose, by ordinance, services charges and special assessments within the unit.

(1)

Any ad valorem taxes, services charges, or special assessments which are to be levied or imposed solely within the unit may only be levied or imposed to provide, within the unit, municipal services and facilities which are approved by a majority vote of the electors of the unit voting in a referendum called for that purpose; which are not provided by the East Lake Tarpon Fire Control District; and which are not provided by Pinellas County in the other unincorporated areas of the county.

(2)

The electors of the unit may petition the board of county commissioners to provide specific services or

facilities. If any elector presents to the board of county commissioners a petition which requests specific services or facilities and which is signed by ten percent of the registered electors of the unit, the board of county commissioners shall submit a proposal to provide such services or facilities to the electors of the unit for approval or rejection at the next general election or at an earlier called special election.

(a)

The board of county commissioners of Pinellas County shall appoint an advisory committee composed of residents of the municipal service taxing unit to advise the board on whether the unit should provide services or facilities on its own or contract with other entities for the provision of services or facilities and to advise the board on any other matters relating to the unit.

(Laws of Fla. ch. 86-350, §§ 1, 2)

Editor's note— The act contained in the above section retains its status as a special act because it was adopted after the charter. The source of the section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in the history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. The catchline has been added to accurately reflect the contents of the section. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Secs. 114-4—114-35. - Reserved.

ARTICLE II. - INDIAN ROCKS FIRE DISTRICT[2]

Footnotes:
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Editor's note—The act contained in this article retains its status as a special act. See charter § 5.02 (the district originally created as the Indian Rocks Special Fire Control District). The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Cross reference— Fire prevention and protection, ch. 62.

Sec. 114-36. - Interpretation of terms.

As used in this article, the word "district" means the Indian Rocks Fire District; and the words "board of commissioners" mean the board of commissioners of the district, unless otherwise specified.

(Laws of Fla. ch. 29438(1953), § 16; Laws of Fla. ch. 89-405, § 1)

Sec. 114-37. - Boundaries of district.

(a)

All of the lands hereinafter described shall be a special fire control district, a body corporate, having the powers and duties herein set forth under the name of "Indian Rocks Fire District." The district is composed of all lands and territory lying within the following boundaries:

Commencing at the intersection of the north line of the boundary between the City of Belleair Beach and the City of Clearwater with the east line of Section 25, Township 29 South, Range 14 East and the west line of Section 30, Township 29 South, Range 15 East and run thence east following said boundary between the Cities of Clearwater and Belleair Beach to the intersection with the centerline of the Government Intracoastal Waterway Channel in Clearwater Harbor, thence south along said centerline to the intersection of the south line of State Road 694, thence eastwardly along the southern boundary of said State Road 694 to the intersection with the centerline of Vonn Road which is also known as 131st St. N. and County Road Number 187 in Pinellas County, thence south along the centerline of said road to the intersection of the centerline of 94th Avenue N., thence west along the centerline of said road to the intersection with the eastern boundary of the subdivision known as Tamarac by the Gulf as recorded in Plat Book 63, page 12, of the Official Records of Pinellas County, thence north along lot 8 to the southeast corner of lot 1, thence west following the south lot lines of lot 1, lot 2, lot 3, and lot 4, all in block 4, extending west to the centerline of 141st St. N., thence northerly along said centerline to the intersection of the lot line of lots 29 and 30 extended, thence westerly on the line between lot 30 and lot 29 to the southwest corner of lot 29, block 4, thence northerly to the intersection with the half section line of Section 19, Township 30 South, Range 15 East, thence west along

said half section line being the same as the centerline of 94th Avenue N. to the intersection with the southerly boundary of Harbor Green Yacht Club Estates Condo as recorded in Plat Book 52, page 82, of the Official Records of Pinellas County, thence follow said condo boundary westerly to the southwesterly corner, thence northerly to the intersection of the half section line, thence west along said line to the intersection of condominium Clearwater Cove Phase IV as recorded in Plat Book 84, page 54, of the Official Records of Pinellas County, thence southerly to the southern tip of said condominium lands, thence northwesterly to return to the half section line previously described, thence west to the intersection of condominium Clearwater Cove Phase I, thence northerly on the condominium boundary to the southeast corner of lot 2, thence southwesterly along the southern lot line of lot 2 to the southwest corner of lot 2, thence northwesterly along the westerly lot line of lot 2 past the southwest corner of lot 1 onto the intersection of the previously described half section line, thence west to the intersection with the east lot line of lot 9 of said condominium, thence south along the lot line to the southeast corner of lot 9, thence west along the south lot line of lot 9 to the southwest corner, thence south to return to the previously described half section line, thence west to the intersection with the centerline of the Government Intracoastal Waterway Channel, thence south to the intersection of the extension of the south line of the southeast corner of Park Bank Professional Office Building Condo as recorded in Plat Book 59, page 105, of the Official Records of Pinellas County, thence westward along the southern boundaries of the condominium to the intersection with the eastern edge of Gulf Blvd., officially State Road 699, thence southerly along the eastern edge of S.R. 699 to the intersection with the centerline of 183rd Terr. W., thence westerly along said centerline to the southeast corner of Clamon's Point Condo as recorded in Plat Book 67, page 22, of the Official Records of Pinellas County, thence continue westerly to a point 50 feet west of the surf line into the Gulf of Mexico, thence northerly paralleling the surf line staying west of any platted condominium or subdivision until reaching the east boundary line of Section 36, Township 29 South, Range 14 East, the same being the west boundary line of Section 31, Township 29 South, Range 15 East, thence north along said range line to the intersection of the north boundary of the City of Belleair Beach and the south boundary of the City of Clearwater at the point of beginning.

(b)

The Indian Rocks Fire District shall exist until dissolved by law. Any territory annexed within the corporate limits of any municipality outside the boundaries of this district as of January 1, 1989, is excluded from the boundaries of the district.

(c)

Municipalities within the district are: The City of Belleair Beach, the Town of Belleair Shore, the City of Indian Rocks Beach, the Town of Indian Shores.

(Laws of Fla. ch. 29438(1953), § 1; Laws of Fla. ch. 89-405, § 1)

Sec. 114-38. - Extension of boundaries.

The corporate limits [of the district] may be extended and enlarged from time to time as follows:

(1)

a.
A definitely described tract of land lying contiguous to the boundaries of the district described in section 114-37, or as the same may from time to time exist, or one or more tracts of land lying contiguous to the

boundaries, or one or more tracts of land lying contiguous to each other with one of the tracts lying contiguous to the boundaries of the district, may be annexed when a written petition for annexation signed and sworn to by a majority of the owners of the real property within the tract or tracts to be annexed has been presented to the board of commissioners, the proposal has been approved by the affirmative vote of no fewer than three members of the board of commissioners at a regular meeting, and the proposed annexation is approved by a majority of the electors within the tract or tracts to be annexed voting in a referendum on the proposed annexation called and held by the board of commissioners.

b.

If a tract to be annexed is not situated in an unincorporated area of Pinellas County at the time of annexation, the petition for annexation must be approved by the affirmative vote of a majority of the members of the governing body of the municipality within which the tract is situated before it is presented to the board of commissioners for their approval.

c.

The petition must contain the legal description of the property sought to be annexed and the names and addresses of the owners of the property and must be accompanied by a certificate from an authorized title company doing business in Pinellas County setting forth the names of all persons, firms, or corporations owning any interest in the property.

(2)

If a proposal to annex an area defined in subsection (1) [of this section] is approved by the affirmative vote of no fewer than three members of the board of commissioners at a regular meeting and at the referendum, the board of commissioners shall thereafter adopt a resolution describing the lands to be annexed to the district and shall cause such resolution to be duly enrolled in the record of the meeting and a certified copy of the resolution to be recorded in the office of the clerk of the circuit court in Pinellas County. When the resolution has been enrolled and recorded, the annexed territory and the inhabitants thereof shall enjoy all the privileges and be subject to all of the liabilities pertaining to inclusion in the district.

(Laws of Fla. ch. 29438(1953), § 17-A; Laws of Fla. ch. 89-405, § 1)

Sec. 114-39. - Board of commissioners—Elections; officers; salary; bond; division of district.

The business and affairs of the district shall be conducted and administered by a board of five commissioners, who, upon their election and qualification, and annually, shall organize by electing from their number a chairman, a vice-chairman, and a secretary-treasurer. The commissioners may receive monthly compensation in an amount determined by resolution but not to exceed $200.00. Each commissioner shall, before he enters upon his duties as commissioner, execute to the governor of the State of Florida for the benefit of the district, a good and sufficient bond, to be approved by the clerk of the circuit court of Pinellas County, in the sum of $1,000.00, with a qualified corporate surety, conditioned to faithfully perform his duties as commissioner and to account for all funds that come into his hands as commissioner. All premiums for such surety on all such bonds shall be paid from the funds of the district. Within 90 days after the effective date of this article, and after each decennial census, the board of commissioners shall divide the district into four subdistricts of contiguous territory as nearly equal in population as practicable. To the extent possible, one subdistrict shall include Belleair Beach and Belleair Shore, one subdistrict shall include Indian Rocks Beach, one subdistrict shall include Indian Shores, and one subdistrict shall include the portion of the district located on the

mainland.

(Laws of Fla. ch. 29438(1953), § 2; Laws of Fla. ch. 89-405, § 1)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 114-40. - Same—Elections; term; residency; qualifications; election expenses.

(a)

Each commissioner shall be elected to serve for a term of four years by majority vote of the electors voting to fill such office. Elections for commissioner shall be held at the same time as regular county elections. Any commissioner may succeed himself.

(b)

One commissioner, who must be a resident of the subdistrict, shall be elected from that subdistrict by the electors who reside in that subdistrict. The remaining commissioner must be a resident of any part of the district and shall be elected districtwide. If a commissioner who is required to reside in a subdistrict ceases to reside in that subdistrict, but continues to reside at some other point within the district, he shall continue to serve for the remainder of his term of office. But if any commissioner ceases to reside anywhere within the district, his office shall be declared vacant, he shall be disqualified from further service, and the remaining commissioners shall elect, to fill the unexpired term, a successor who resides in that part of the district where the disqualified commissioner was required to reside.

(c)

Each commissioner shall hold office until his successor is elected and qualified, unless he ceases to be qualified, resigns, or is removed from office.

(d)

All candidates must qualify for election in the same manner as required of candidates for county offices. In addition, each must submit written endorsement of his candidacy by 20 electors of the district. The names of all candidates qualifying for election as commissioners shall be included on the ballot. Any additional expenses of holding elections for commissioners at the regular county elections shall be paid out of the funds of the district if required by proper authority.

(Laws of Fla. ch. 29438(1953), § 3; Laws of Fla. ch. 89-405, § 1)

Cross reference— Elections, ch. 50.

Sec. 114-41. - Levy of special assessments—Fixing rate; preparation of roll; protests.

(a)

The district may levy special assessments against the assessable real estate situated in the district to provide funds for the purposes of the district. The rate of such assessments shall be fixed by a resolution of the board of commissioners on or subsequent to February 1 each year. At any time the board of commissioners changes the rate of assessments in any way from the rate of assessments which had been collected prior to the date of such resolution, such resolution together with a list of the assessments shall be submitted to the electors in the

district for approval by referendum at a special election of the electors of the district which shall first be called by and held under the supervision of the board of county commissioners and the supervisor of elections of Pinellas County in the manner provided by law for regular county elections; and if a majority of the electors voting at such election approve, the assessment rates shall be put into effect for the next special assessment roll completed by the board of commissioners after the results of the special election have been certified by the county canvassing board.

(b)

A special assessment roll showing the assessment rate shall be prepared and completed by the board of commissioners of the district on or before September 10 of each year.

(c)

The board may in any year change the date on which the assessment rate is fixed and change the date on which the final assessment roll will be adopted, by resolution, provided that, in the event of such change of dates, the board shall cause a notice thereof to be published in a newspaper in Pinellas County, one time, at least ten days prior to the date on which it is proposed to fix the rate of assessment.

(d)

Any property owner in the district may, during the period within 20 days subsequent to the date of the mailing of the assessment notices in any year, file a protest in writing with the board of commissioners against the assessment paid by him and appear before the board in support of such protest; and the board shall hold a meeting or meetings following such period to consider such protest and to make such adjustment, refund, or denial as it determines to be fair, equitable, and proper.

(Laws of Fla. ch. 29438(1953), § 4; Laws of Fla. ch. 89-405, § 1)

Sec. 114-42. - Same—Delivery of roll; duty of tax collector.

(a)

The board of commissioners, upon the adoption of the resolution fixing the rate of assessment, shall prepare an assessment and collection roll setting forth a description of each lot or parcel of land subject to taxation in the district together with the amount of assessment against the lot or parcel of land and attach thereto a certified copy of the resolution fixing the rate of assessment, and it shall, before September 15 each year, deliver the roll to the county tax collector of Pinellas County, for collection of the assessments. All assessments shall be made against the land subject to assessment, and the roll shall set forth the names of the respective owners of such lands.

(b)

It is the duty of the county tax collector to collect the assessments according to the assessment roll and deliver the whole of such proceeds of such collection, less the costs of collection, monthly to the board of commissioners, taking its receipt for such funds. The tax collector shall, upon delivery of such funds to the board of commissioners, furnish it with a description of the lands for which payments are made.

(Laws of Fla. ch. 29438(1953), § 5; Laws of Fla. ch. 89-405, § 1)

Sec. 114-43. - Same—Lien.

(a)

Such special assessments shall be a lien upon the lands so assessed prior in dignity to all other liens and assessments against the lands, except for liens for county taxes, until paid. The assessment shall become a lien from January 1 of the year for which the assessment is made, and shall be payable on and after November 1 of the same year without discounts to the tax collector, unless authorized by the board of commissioners, but shall not become delinquent unless unpaid on April 1 of the following year.

(b)

The county tax collector shall, upon payment of the county taxes against any property subject to such special assessments, collect therewith the special assessments unless such special assessment has been sooner paid.

(Laws of Fla. ch. 29438(1953), § 6; Laws of Fla. ch. 89-405, § 1)

Sec. 114-44. - Same—Collection.

Special assessments levied by the district may be collected in the manner provided by general law.

(Laws of Fla. ch. 29438(1953), § 6-A; Laws of Fla. ch. 89-405, § 1)

Sec. 114-45. - Delinquent assessments; procedure for collection.

(a)

If a special assessment is not paid on or before April 1 of the year following that for which the assessment is made, the tax collector shall retain the assessment and collection roll in his possession until he delivers to the person appointed by law the books and records showing delinquent and unpaid county taxes during which time the tax collector may receive payments of the special assessments. When the tax collector delivers to the person provided by law the records of unpaid and delinquent county taxes, he shall deliver to the same person the assessment and collection roll for special assessments, and it is the duty of such person, upon payment or assignment of delinquent county taxes against any of such lands subject to special assessments, to collect therewith such special assessments together with the penalties hereinafter provided, unless they have been paid theretofore, and deliver the proceeds of the collection of such assessments, less the costs of collection, monthly to the board of commissioners in like manner as is required of payment by the county tax collector. The person charged by law with the collection of delinquent county taxes shall, on payment of such delinquent county taxes against any property subject to special assessments, collect therewith such special assessments, unless they have been sooner paid. Such delinquent special assessments and the lien thereof may be assigned in like manner as the assignment of tax and sales certificates for unpaid county taxes.

(b)

If any special assessment is not paid before April 1 of the year following that for which the special assessment was made, there shall be collected with such special assessment after April 1 of the year following that for which the assessment was made interest from that date at the same rate per annum provided by law upon county taxes until paid. The special assessment may be foreclosed in like manner as provided by law for the foreclosures of county sales certificates or as provided by law for the foreclosure of mortgages or other liens. Any one or more of such delinquent assessments and liens may be foreclosed in one suit, and

such suit may be instituted and maintained by the district or any assignee of such assessment or lien. In the event of the institution of a suit for foreclosure, the attorney for the complainant shall be entitled to a reasonable fee for his services, which shall be deemed part of the cost of the cause, and the holder of such delinquent assessment and lien shall have a lien upon the property for the amount of the fee to be allowed by the court.

(Laws of Fla. ch. 29438(1953), § 7; Laws of Fla. ch. 89-405, § 1)

Sec. 114-46. - Depository for funds; loans.

(a)

The proceeds of the assessment and the funds of the district shall be deposited in the name of the district in an authorized depository of the state designated by resolution of the board of commissioners.

(b)

The board of commissioners may borrow money for the purposes of acquisition of land, vehicles, and equipment or for other capital purposes. The board of commissioners may pledge for the payment thereof collections on the tax roll not to exceed 70 percent of the anticipated revenues and give tax anticipation notes. Neither the district nor the commissioners nor any of them shall be personally or individually liable as such for the loan or any part thereof, and in event of such pledge it shall be the duty of the board of commissioners upon collection of the assessment roll so pledged to apply the first proceeds thereof to the payment of the loan for which such assessment or lien was pledged until full payment of the loan; however, except as provided in this subsection, the board of commissioners shall not create indebtedness or incur obligations for any sum or amount which it is unable to pay out of district funds then in its hands.

(Laws of Fla. ch. 29438(1953), § 8; Laws of Fla. ch. 89-405, § 1)

Sec. 114-47. - Ad valorem tax authorized.

In addition to or in lieu of levying special assessments pursuant to section 114-41, the board of commissioners may levy an ad valorem tax of not more than three mills against the taxable property within the district.

(Laws of Fla. ch. 29438(1953), § 8-A; Laws of Fla. ch. 89-405, § 2)

Editor's note— The county has advised that the above section was approved by the voters at referendum.

Sec. 114-48. - Use of funds restricted; contracts.

(a)

No funds of the district shall be used for any purpose other than:

(1)

The administration of the affairs and business of the district relating to fire prevention and control, fire code adoption and enforcement, emergency medical services, and services associated with fire prevention and control;

(2)

The construction, care, maintenance, upkeep, operation, lease, and purchase of fire stations and equipment;

(3)

The payment of public utilities such as electric service and water; or

(4)

The payment of salaries and benefits to a fire chief and other personnel.

(b)

The powers of the district may be exercised only for the purpose of providing services, equipment, and facilities within the district, and no expenditure may be made by the district that does not relate to that purpose. However, the district may enter into contracts to furnish district personnel and facilities for the purpose of providing additional services when such contracts provide that the reasonable cost of furnishing such personnel and facilities will be paid by the other contracting party.

(Laws of Fla. ch. 29438(1953), § 9; Laws of Fla. ch. 89-405, § 1)

Sec. 114-49. - Equipment; fire chief and personnel.

(a)

The board of commissioners may acquire by gift, lease, or purchase such firefighting equipment as is deemed necessary for the protection of the district, and it may make and enter into contracts relating to any and all purposes of the district.

(b)

The board of commissioners may hire a fire chief and such other personnel as are required to operate firefighting equipment, inspect property, or provide administrative support.

(Laws of Fla. ch. 29438(1953), § 10; Laws of Fla. ch. 89-405, § 1)

Sec. 114-50. - General duties of commissioners; records; rules and regulations.

(a)

The officers of the board of commissioners shall have the duties usually pertaining to, vested in, and incumbent upon like officers. A record shall be kept of all meetings of the board of commissioners, and in such meetings the concurrence of a majority of the commissioners is necessary to any affirmative action by the board.

(b)

The board of commissioners may adopt such rules and regulations as it deems necessary to transact its business and carry out the provisions of this article.

(Laws of Fla. ch. 29438(1953), § 11; Laws of Fla. ch. 89-405, § 1)

Sec. 114-51. - Fire marshal; fire code.

(a)

The board of commissioners shall appoint a fire marshal, who shall work with and cooperate with all local and state governmental bodies within the district to prevent fires of all types. He shall have the power to issue orders and citations for code violations in the same manner as the state fire marshal pursuant to F.S. ch. 633. He must inspect, no less frequently than annually: places of assembly; educational facilities: residential structures, other than detached one-family or two-family residences; motels and hotels; dormitories and lodging or rooming houses; commercial and business structures; industrial facilities; and storage facilities.

(b)

The fire chief shall report the activities of the fire marshal to the board of commissioners annually.

(c)

The board of commissioners shall adopt a fire code for the district.

(Laws of Fla. ch. 29438(1953), § 12; Laws of Fla. ch. 89-405, § 1)

Cross reference— Fire prevention code, § 62-56 et seq.

Sec. 114-52. - Annual report.

The board of commissioners shall, on or before February 1, make an annual report of its actions and accounting of its funds as of September 30 of each year, and shall file the report in the office of the board of county commissioners of Pinellas County, who [which] shall receive and file the report and hold and keep it as a public record.

(Laws of Fla. ch. 29438(1953), § 13; Laws of Fla. ch. 89-405, § 1)

Sec. 114-53. - Effect of annexations.

If any municipality or other fire control district annexes any land included in the district, the district shall continue as the sole taxing, enforcing, and service-providing authority for district purposes in the annexed land.

(Laws of Fla. ch. 29438(1953), § 14; Laws of Fla. ch. 89-405, § 1)

Sec. 114-54. - Impact fees for new construction.

(a)

It is hereby declared that the cost of new facilities for services within the district should be borne by new users of district services, to the extent that new construction requires new facilities. It is the legislative intent to transfer to the new users of the district's services a fair share of the costs that they impose on the district for new facilities.

(b)

The district may impose impact fees on new construction within the district. The board of commissioners shall set the amount of such fees by resolution.

(c)

A person may not obtain a certificate of occupancy for new residential dwelling units or new commercial or industrial structures within the district, or obtain construction plan approval for a new mobile home development located within the district, until the developer thereof has paid any applicable impact fee to the district.

(d)

The impact fees collected by the district pursuant to this section shall be kept separate from other revenue of the district and shall be used exclusively for the acquisition, purchase, or construction of new facilities or portions thereof required to provide the services of the district to new construction. "New facilities" means buildings and capital equipment, including, but not limited to, fire vehicles and radio-telemetry equipment. Such fees may not be used for the acquisition, purchase, or construction of facilities which must be obtained in any event, regardless of growth within the district. The board of commissioners shall maintain adequate records to ensure that impact fees are expended only for permissible new facilities.

(Laws of Fla. ch. 29438(1953), § 17-B; Laws of Fla. ch. 89-405, § 1)

Cross reference— Impact fees, ch. 150.

Secs. 114-55—114-80. - Reserved.

ARTICLE III. - PALM HARBOR SPECIAL FIRE CONTROL DISTRICT[3]

Footnotes:
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Editor's note—The acts contained in this article retain their status as special acts. See charter § 5.02 (district as originally created being the Ozona-Palm Harbor-Crystal Beach Special Fire Control District). The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Cross reference— Fire prevention and protection, ch. 62.

Sec. 114-81. - Interpretation of terms.

For purposes of this article, unless the context clearly requires otherwise, the word "district" means the Palm Harbor Special Fire Control District hereby established; and the terms "board," "commissioners," and "board of commissioners" mean the board of commissioners of the Palm Harbor Special Fire Control District as created and organized in this article.

(Laws of Fla. ch. 61-2661, § 15; Laws of Fla. ch. 82-369, § 1)

Sec. 114-82. - Formation; boundaries.

All of the lands hereinafter described shall be incorporated into a special fire control district, which shall be a public municipal corporation, having the powers and duties herein set forth, under the name of "Palm Harbor Special Fire Control District," hereinafter referred to as the "district." The lands so incorporated are described as follows:

All lands and territory lying within the boundaries as set forth below:

Begin at the intersection of the centerline of the Intercoastal Waterway and the westerly extension of the centerline of Klosterman Road; thence run east by the centerline of Klosterman Road and the westerly extension thereof to the west ¼ corner of Section 19, Township 27 South, Range 16 East; thence S. 0° 14′ 32″ E. along the west line of said Section 19, 1333.85 feet to the southwest corner of lot 56, Tampa and Tarpon Springs Land Company Sub. as recorded in Plat Book H1, page 116, of the official records of Hillsborough County, of which Pinellas County was formerly a part; thence S. 87° 48′ 12″ E. along the south line of lots 56 and 52 of said subdivision, 1740.84 feet; thence N. 0° 33′ 31″ W. along the southerly extension of the east line of lot 51 of said subdivision and the east line of lot 51, 1385.80 feet to the east and est. centerline of said Section 19, said centerline also being the centerline of Klosterman Road; thence run east by the centerline of Klosterman Road and the easterly extension thereof to the center of Lake Tarpon; thence southeasterly through the waters of Lake Tarpon and the Lake Tarpon Outfall Canal to the centerline of Curlew Rd. (S.R. 586); thence west by the centerline of Curlew Rd. (S.R. 586) to a point on the north-south centerline of the northwest ¼ of Section 14, Township 28 South, Range 15 East; thence north by the north-south centerline of the northwest ¼ of said Section 14 to the north section line of said Section 14; thence west on said section line and continuing west on the north section line of Section 15, Township 28 South, Range 15 East to the centerline of the Intercoastal Waterway; thence north on said centerline of the Intercoastal Waterway to the point of beginning, less and except lots 51, 53, 54, 55, 56, and part of lot 52, Tampa and Tarpon Springs Land Company, Section 19, Township 27 South, Range 16 East, Pinellas County, Florida, described as follows:

Plat Book 1, page 116, Public Records of Pinellas County, commencing at the west ¼ corner of Section 19, Township 27 South, Range 16 East; thence S. 0° 14′ 32″ E. along west line of Section 19, Township 27 South, Range 16 East, 1333.85 feet to south line of lot 56; thence S. 87° 48′ 12″ E. along south line of lots 56 and 52, 1740.84 feet; thence N. 0° 33′ 31″ W. along the southerly extension of east line of lot 51 and the east line of lot 51, 1385.80 feet to east and west ¼ line of Section 19, Township 27 South, Range 16 East; thence N. 89° 30′ 34″ W. along east and west ¼ line 1731.75 feet to P.O.B. less north 50 feet for Klosterman Road and west 15 feet for easement right-of-way containing 51.74 acres.

And also less and except those portions of the above-stated territory which are now within the corporate limits of the City of Dunedin.

(Laws of Fla. ch. 61-2661, § 1; Laws of Fla. ch. 82-369, § 1; Laws of Fla. ch. 88-477, § 1)

Sec. 114-83. - Extension of boundaries.

The corporate limits [of the district] may be extended and enlarged from time to time as follows, to wit:

(1)

A definitely described tract of land lying contiguous to the boundaries of the district as hereinabove described, or as the same may from time to time exist, or one or more tracts of land lying contiguous to said boundaries, or one or more tracts of land lying contiguous to each other with one of said tracts lying contiguous to the boundaries of the district, when written petition for annexation, signed by and sworn to by all of the owners of the real property within said tract or tracts to be annexed, has been presented to the board of commissioners and the proposal has been approved by the affirmative vote of no fewer than three members of the board of commissioners at a regular meeting. All tracts of land so annexed shall be situated in an unincorporated area in Pinellas County at the time of annexation. The petition shall contain the legal description of the property sought to be annexed and the names and addresses of the owners of said property, and shall be accompanied by a certificate of title from an authorized title company doing business in Pinellas County, setting forth the names of all persons, firms or corporations owning any interest in said property.

(2)

Should a proposal to annex a definitely described unincorporated area, as defined in subsection (1) [of this section], be approved by the affirmative vote of no fewer than three members of the board of commissioners at a regular meeting, the board of commissioners shall thereafter pass a resolution describing the lands to be annexed to the district and shall cause such resolution to be duly enrolled in the record of the meeting and a certified copy of same to be recorded in the office of the clerk of the circuit court in Pinellas County. When such resolution has been so enrolled and recorded, the territory so annexed to the district, and the inhabitants thereof, shall enjoy all the privileges and be subject to all of the liabilities pertaining thereto.

(Laws of Fla. ch. 61-2661, § 2; Laws of Fla. ch. 82-369, § 1)

Sec. 114-84. - Board of commissioners—Officers; bond; compensation.

(a)

The business and affairs of the district shall be conducted and administered by the board of commissioners of the Palm Harbor Special Fire Control District, which is established as a board of five commissioners who, upon their election and qualification and annually thereafter, shall organize by electing from their number a chairman, a vice-chairman, and a secretary-treasurer. The office of each commissioner comprising the board of commissioners of the Palm Harbor Special Fire Control District is hereby designated as being a seat on the commission, distinguished from each of the other seats by a numeral: 1, 2, 3, 4, or 5. The seat number of each of the commissioners is defined in terms of the board of commissioners of the Palm Harbor Special Fire Control District existing in January of 1984, as follows:

Seat 1—Norman Atherton or his successors.

Seat 2—William Gardiner or his successors.

Seat 3—William Walton or his successors.

Seat 4—Leon Doyen or his successors.

Seat 5—Sharon Nauman or her successors.

(b)

Each commissioner, before he enters his duties as commissioner, shall execute with a qualified corporate surety a good and sufficient bond to be approved by the clerk of the circuit court of Pinellas County, in the sum of $1,000.00, payable to the governor of the State of Florida for the benefit of the district, conditioned upon the faithful performance of his duties as a commissioner and upon the accounting for all funds to come into his hands as commissioner. All premiums for each surety on all such bonds shall be paid from the funds of the district.

(c)

Effective upon the second Tuesday following the next regular county election at which a board of commissioners is elected, each commissioner shall receive from the funds of the district compensation for his services in the amount of $200.00 per month.

(Laws of Fla. ch. 61-2661, § 3; Laws of Fla. ch. 82-369, § 1; Laws of Fla. ch. 84-512, § 1; Laws of Fla. ch. 88-477, § 2)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 114-85. - Same—Terms; election; qualifications; certification of single candidate.

(a)

Each of the five commissioners shall hold his or her respective seat on the board of commissioners of the Palm Harbor Special Fire Control District for a term of four years and, except as provided in subsection (h) [of this section], shall be elected by majority vote of the qualified electors of the district voting at a general county election, provided that the commissioners holding seats on the effective date of this article shall continue to hold their respective seats for the remainder of their terms or until their successors are elected and qualified, whichever occurs first. Any commissioner may be a candidate to succeed himself. Vacancies shall be filled as provided in paragraph (c)(2) [of this section].

(b)

Voting for commissioners shall be districtwide and nonpartisan.

(c)

[Residency requirements for commissioners shall be as follows:]

(1)

All commissioners must be qualified electors within the district and must reside within the district.

(2)

If any commissioner ceases to reside anywhere within the district, resigns his seat, or is removed from office, his seat shall be declared vacant; he shall be disqualified from further service for the remainder of his unexpired term; and the remaining commissioners, even though they be less than a quorum, shall elect a successor to fill the unexpired term of the seat vacated, pursuant to the time requirements of F.S. § 114.04.

(d)

Each commissioner, whenever elected, shall begin his term of office on the second Tuesday following his election, pursuant to F.S. § 100.041(4), and shall hold his seat until his successor is elected and qualified, unless he ceases to be qualified, resigns or is removed from office. Any resignation by a commissioner of his seat shall be accepted.

(e)

All candidates shall qualify for election in the same manner as required of candidates for county offices. In addition, each candidate shall submit written endorsement of his candidacy by at least 20 qualified electors of the district, and all candidates must indicate the seat on the board of commissioners of the Palm Harbor Special Fire Control District for which he or she is qualifying.

(f)

The names of all candidates qualifying for election to a seat on the board of commissioners shall be included, in such a way as to clearly indicate the respective seat for which each qualified candidate is running, on the ballot or voting machines provided for use in the district along with the candidates for county office at each regular county election.

(g)

Any expenses of holding elections for commission seats at the regular county elections shall be paid for out of the funds of the district if required by proper authority.

(h)

Beginning with the regular county election in 1984, in the event only one candidate for any one particular seat on the board of commissioners has qualified for election by the deadline for qualifying, the board of commissioners shall forthwith by resolution declare such a candidate to have been duly elected to fill the respective seat or seats without the necessity of holding an election as otherwise provided in this section.

(Laws of Fla. ch. 61-2661, § 4; Laws of Fla. ch. 82-369, § 1; Laws of Fla. ch. 84-512, § 2; Laws of Fla. ch. 88-477, § 3)

Cross reference— Elections, ch. 50.

Sec. 114-86. - Depositories; borrowing by district; limitation on debt, exception.

(a)

The revenue and funds of the district shall be deposited in the name of the district in a bank or banks authorized to receive deposits of county funds, which bank or banks shall be designated by resolution of the board of commissioners. The designation of such bank or banks and the deposit of funds therein shall be by the exercise of due care and diligence on the part of the board of commissioners for the safekeeping of said funds. No funds of the district shall be paid out or disbursed except by check.

(b) (1) The board of commissioners shall have the power and authority to borrow money for the purposes of the district, not to exceed 50 percent of the total ad valorem tax roll, and may pledge as security for the payment of such loan collections on said roll and pursuant thereto shall have the power and authority to give

tax anticipation notes, which shall be the sole security for any such loan, except where real property is purchased and a mortgage is given, subject to referendum approval where required by the constitution, to secure the purchase.

(2)

Neither the district nor the commissioners shall be collectively or individually liable for any such loan, or any part thereof; and in the event of such pledge, it shall be the duty of the commissioners, upon collection of the ad valorem tax roll so pledged, to apply the first proceeds thereof to the payment of the loan for which such ad valorem tax roll or lien was pledged until full payment of the loan is made.

(3)

Except as provided in paragraph (b)(1) [of this section], the commissioners shall not create indebtedness or incur obligations for any sum or amount which the board is unable to pay out of district funds then in its hands; provided, however, that this paragraph shall not be construed to prohibit the purchasing of essential equipment and apparatus under rental-purchase or retain title contracts in which the equipment or apparatus, and/or tax anticipation certificates, constitute the sole security for the remaining balance due on the purchase price thereof.

(Laws of Fla. ch. 61-2661, § 9; Laws of Fla. ch. 82-369, § 1; Laws of Fla. ch. 88-477, § 4)

Sec. 114-87. - Limitation on use of district funds.

No funds of the district shall be used for any purpose other than the following, as the board may determine to be in the best interests of the district:

(1)

The administration of the affairs and business of the district relating to fire control and emergency medical services;

(2)

The construction, care, maintenance, upkeep, operation, lease, and purchase of stations and equipment;

(3)

The installation of fire hydrants and waterlines;

(4)

The payment of public utilities, such as electric lights and water; and

(5)

The payment of salaries to commissioners, a fire chief, and one or more personnel to perform the duties of the district, the payment of expenses as approved by the board of commissioners, and the exercise of the powers of the district shall be exercised only for the purposes of providing services, equipment, and facilities for the fire protection and control within the district as defined herein and amended by interlocal agreement, and no expenditures by the district shall be made except as shall relate to such purpose.

Notwithstanding the foregoing, the district may enter into contracts with the Pinellas County Emergency Medical Services Authority for the furnishing of district personnel and facilities for the purpose of providing emergency medical services where such contracts provide the reasonable cost of furnishing such personnel and facilities shall be fully paid by the Pinellas County Emergency Medical Services Authority, provided that no such contract shall provide for the district to expend funds for capital outlay purposes.

(Laws of Fla. ch. 61-2661, § 10; Laws of Fla. ch. 82-369, § 1; Laws of Fla. ch. 84-512, § 6; Laws of Fla. ch. 88-477, § 5)

Sec. 114-88. - Power to acquire equipment, enter into contracts, hire personnel.

The board of commissioners shall have the power and authority to:

(1)

Acquire by gift, lease, trade or purchase such land, space, equipment or service as is deemed necessary for the protection of the district;

(2)

Make and enter into contracts with firms and individuals, natural or corporate, relating to any and all purposes of the district; and

(3)

Hire a fire chief and one or more personnel to perform the duties of the district.

(Laws of Fla. ch. 61-2661, § 11; Laws of Fla. ch. 82-369, § 1; Laws of Fla. ch. 84-512, § 7)

Sec. 114-89. - Duties of district officers; record; rules and regulations; power to enact fire prevention ordinance; ordinance procedures; civil penalties.

(a)

The officers of the board of commissioners shall have the duties usually pertaining to, vested in, and incumbent upon like officers. A record shall be kept of all meetings of the board of commissioners, and in such meetings the concurrence of a majority of the commissioners in attendance shall be necessary to any affirmative action by the board, provided that no action shall be taken by the board of commissioners unless a quorum of commissioners is present, a quorum being defined as three or more commissioners.

(b)

The board of commissioners may adopt such rules, regulations, and ordinances as it may deem necessary to carry out the transaction of its business and the provisions of this article. The board shall have the right, power, and authority to enact and enforce a fire prevention ordinance in the same manner that other ordinances of the district are adopted.

(c)

The board of commissioners shall adopt uniform ordinance procedures. Ordinances shall be signed and dated, recorded with the clerk of the court of Pinellas County, and published as provided by Florida law. Ordinances

shall be effective after publication, which constitutes legal notice of same.

(d)

The board may specify, by rule, civil penalties for violations of such ordinances and a maximum daily fine of $1,000.00.

(e)

In any civil action brought by the Palm Harbor Special Fire Control District to enforce the provisions of its charter or its duly enacted ordinances, including, but not limited to, actions brought to collect fees, taxes, or other moneys owed to the Palm Harbor Special Fire Control District, the party in whose favor a judgment or decree has been rendered may recover reasonable court costs and attorney's fees from the nonprevailing party.

(Laws of Fla. ch. 61-2661, § 12; Laws of Fla. ch. 82-369, § 1; Laws of Fla. ch. 88-477, § 6)

Sec. 114-90. - Annual report.

The board of commissioners shall make an annual report of its actions and accounting of its funds each year and shall file said report as required by F.S. ch. 189.

(Laws of Fla. ch. 61-2661, § 13; Laws of Fla. ch. 82-369, § 1)

Sec. 114-91. - Dissolution of district; effect of annexations.

The special fire control district shall exist until dissolved by law. Should any municipality, city, village, town, or other fire control district, or any other municipal corporation, annex or cause to be annexed to its territorial limits any part or portion of land included in the district, said fire control district shall continue as the sole taxing authority for fire control purposes. However, this shall not preclude an interlocal agreement between the entity initiating the annexation and the district, as it relates to fire control.

(Laws of Fla. ch. 61-2661, § 14; Laws of Fla. ch. 82-369, § 1)

Sec. 114-92. - Annexation of territory by municipalities; ad valorem tax authorized.

(a)

Notwithstanding any other provision of law, no municipality in Pinellas County may annex any unincorporated territory situated on the effective date of this section within the boundaries of the Palm Harbor Special Fire Control District unless the annexation of such territory by the municipality is first approved by the board of county commissioners of Pinellas County or unless annexation proceedings were commenced prior to the effective date of this section.

(b) (1) Notwithstanding any other provision of law, the board of county commissioners of Pinellas County may, by ordinance, create a municipal service taxing unit composed of the unincorporated territory situated within the boundaries of the Palm Harbor Special Fire Control District and may levy ad valorem taxes in the unit within the limits fixed for municipal purposes, as authorized by section 9(b) of article VII of the state constitution. The board of county commissioners may also impose, by ordinance, service charges and special assessments within the unit.

(2)

Any ad valorem taxes, service charges, or special assessments which are to be levied or imposed solely within the unit may only be levied or imposed to provide, within the unit, municipal services and facilities which are approved by a majority vote of the electors of the unit voting in a referendum called for that purpose; which are not provided by the Palm Harbor Special Fire Control District; and which are not provided in the other unincorporated areas of the county.

(3)

The electors of the unit may petition the board of county commissioners to provide specific services or facilities. If any elector presents to the board of county commissioners a petition which requests specific services or facilities and which is signed by ten percent of the registered electors of the unit, the board of county commissioners shall submit a proposal to provide such services or facilities to the electors of the unit for approval or rejection at the next general election.

(Laws of Fla. ch. 85-489, §§ 1, 2)

Sec. 114-93. - Impact fees for new construction.

(a)

It is hereby declared that the cost of new facilities for fire protection service within the Palm Harbor Special Fire Control District, as created by Laws of Fla. ch. 61-2661, as amended by Laws of Fla. chs. 77-643, 81-469, 82-369, and 84-512, should be borne by new users of the district services to the extent new construction requires new facilities, but only to that extent. It is the legislative intent of this section to transfer to the new user of the district's services a fair share of the costs that new users impose on the district for new facilities.

(b)

The district is authorized to impose impact fees for new construction within the district. The board of commissioners of the district shall set the amount of such fees by resolution.

(c)

No person shall issue or obtain a building permit for new residential dwelling units or new commercial or industrial structures within the district, or issue or obtain construction plan approval for new mobile home developments located within the district, until the developer thereof has paid any applicable impact fee to the district or its authorized representative; however, under no circumstances shall a failure to collect said fees before issuance of a building permit be construed as a waiver of said fees by the district.

(d)

The impact fees collected by the district pursuant to this section shall be kept as a separate fund from other revenues of the district and shall be used exclusively for the acquisition, purchase, or construction of new facilities or portions thereof required to provide fire protection services to new construction. "New facilities" means buildings and capital equipment, including, but not limited to, fire vehicles and radio-telemetry equipment. Said fees shall not be used for the acquisition, purchase, or construction of facilities which must be obtained in any event, regardless of growth within the district. The board of commissioners shall maintain adequate records to ensure that impact fees are expended only for permissible new facilities.

(Laws of Fla. ch. 86-441, § 1; Laws of Fla. ch. 88-477, § 8)

Cross reference— Impact fees, ch. 150.

Sec. 114-94. - Levy of taxes to provide funds for district purposes; rate.

(a)

The board of commissioners of the Palm Harbor Special Fire Control District shall have the authority to levy ad valorem taxes against all taxable property within the district to provide funds for the purposes of the district.

(b)

The levy of ad valorem taxes shall proceed pursuant to general law. The rate of taxation shall be fixed annually by resolution of the board and shall not exceed 1.5 mills.

(Laws of Fla. ch. 86-441, § 2; Laws of Fla. ch. 88-477, § 9)

Editor's note— The county has advised that the above tax was approved by the voters at referendum.

Secs. 114-95—114-130. - Reserved.

ARTICLE IV. - PINELLAS PARK WATER MANAGEMENT DISTRICT[4]

Footnotes:
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Editor's note—The act contained in this article retains its status as a special act. See charter § 5.02. The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Cross reference— Environment, ch. 58; natural resources, ch. 82; environmental and natural resource protection, ch. 166.

Sec. 114-131. - Short title.

This article shall be known and may be cited as the "Pinellas Park Water Management District Law."

(Laws of Fla. ch. 75-491, § 1)

Sec. 114-132. - Definitions.

As used in this article and unless the context clearly indicates otherwise:

(1)

Authority means the body politic and corporate, an agency of the county, created by this article.

(2)

Members means the governing body of the authority and "member" means one of the individuals constituting such governing body.

(3)

Pinellas Park Water Management District means initially the municipality of Pinellas Park and the unincorporated areas of Pinellas County surrounding the city limits of Pinellas Park located in the district.

(4)

Municipality means any city, village, borough or town.

(5)

County means the County of Pinellas.

(6)

Storm drainage means storm water run-off.

(7)

[Number; person.] Words importing singular number shall include the plural number in each case and vice versa, and the words importing persons shall include firms and corporations.

(Laws of Fla. ch. 75-491, § 2)

Cross reference— Definitions generally, § 1-2.

Sec. 114-133. - District authority—Created; appointments; qualifications; officers; quorum; engineer, other employees; compensation of members; record.

(a)

There is hereby created and established a body politic and corporate, an agency of the county, to be known as the Pinellas Park Water Management District Authority, hereinafter referred to as "authority."

(b)

The governing body of the authority shall consist initially of three members, serving and selected as provided herein. Two members shall be appointed by the city council of Pinellas Park to serve for three years, except that for the terms beginning in 1990 one of these shall serve for a term of four years; and one member

appointed by the Pinellas County commission to serve for two years. Thereafter, the term of each appointed member shall be for three years. Each appointed member shall hold office until his successor has been appointed and qualified. A vacancy occurring during a term shall be filled only for the balance of the unexpired term. The first member shall be selected as provided herein within 60 days after the occurrence of the vacancy or before expiration of the term; whichever is applicable. If any selection is not made by the municipality as provided herein, the county commissioners shall appoint an eligible person to the authority with like effect as if the selection were made by the municipality. Any member of the authority shall be eligible for reappointment.

(c)

Each appointed member of the authority shall be a person who is a qualified elector of the district with an outstanding reputation for civic pride, interest, integrity, responsibility and business ability. No person who is an officer or employee of any city or of the county in any capacity, except elected officials, shall be an appointed member of the authority.

(d)

The authority shall elect one of its members as chairman of the authority and one as a vice-chairman, to serve for one year in that capacity or until their successors are elected. At the same time, a secretary and treasurer shall be elected who may or may not be members of the authority, and they shall serve at the will of the authority. The treasurer shall post a good and sufficient surety bond in an amount approved by the board of county commissioners. Two members shall constitute a quorum and the vote of two members shall be necessary for any action taken by the authority. No vacancy in the authority shall impair the right of a quorum of the authority to exercise all of the rights and perform all of the duties of the authority. Upon the effective date of his appointment, or as soon thereafter as possible, each appointed member of the authority shall enter upon his duties.

(e)

The district shall appoint an engineer who shall be a person of recognized ability and experience to serve at the pleasure of the authority. The district may also appoint or employ such employees as may be necessary for the proper performance of its duties and functions, and may determine the qualifications and fix the compensation of such persons; also, the authority may contract for the services of attorneys, engineers, consultants and agents for any purpose of the authority, including engineering, management, feasibility, and other studies concerning the acquisition, construction, extension, operation, maintenance, regulation, consolidation and financing of the system in the area.

(f)

Members of the authority shall be entitled to receive from the authority their traveling and other necessary expenses incurred in connection with the business of the authority, as provided in F.S. § 112.061, but they shall receive no salaries or other compensation. During the unexpired term of any member of the authority, that member may be removed for misconduct, malfeasance, misfeasance or nonfeasance in office by a two-thirds vote of both appointing governing bodies.

(g)

The authority shall give reasonable notice of all its meetings. The authority shall keep a record of its meetings, and the record must be available for public inspection.

(Laws of Fla. ch. 75-491, § 3; Laws of Fla. ch. 90-448, §§ 1, 4)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 114-134. - Same—Purposes and powers.

(a)

The authority created and established by the provisions of this article is hereby granted and shall have the right and power to purchase, own, and maintain storm drainage facilities; to contract for construction of facilities; to exercise power of eminent domain; to conduct studies; and to contract with other governmental agencies, private companies and individuals.

(b)

The authority is hereby granted, and shall have and may exercise, all powers necessary, appurtenant, convenient or incidental to the carrying out of the aforesaid purposes, including, but without being limited to, the following rights and powers:

(1)

To sue and be sued, implead and be impleaded, complain and defend in all courts.

(2)

To adopt, use and alter at will a corporate seal.

(3)

To acquire, purchase, hold, lease as a lessee and use any franchise, property, real, personal or mixed, tangible or intangible, or any interest therein, necessary or desirable for carrying out the purposes of the authority, and to sell, lease as lessor, transfer and dispose of any property or interest therein at any time acquired by it. Any sale, lease or transfer of any property or interest shall be upon competitive bid.

(4)

To regulate the construction of storm drainage facilities, to establish rules and regulations with respect to storm drainage systems in said area.

(5)

To make contracts of every name and nature and to execute all instruments necessary or convenient for the carrying on of its business.

(6)

To enter into management contracts with any person or persons for the management of the district controlled by the authority for such period or periods of time, and under such compensation and other terms and conditions, as shall be deemed advisable by the authority.

(7)

Without limitation, to borrow money and accept gifts or grants or loans of money or other property and to enter into contracts, leases or other transactions with any federal agency, the state, any agency of the state, the County of Pinellas or with any other public body of the state.

(8)

To do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority in order to carry out the powers granted to it by this article or any other law.

(9)

To prescribe and promulgate rules and regulations as it deems necessary for the purposes of this article.

(Laws of Fla. ch. 75-491, § 4)

Sec. 114-135. - Finances.

The budget of the authority is not subject to approval by the board of county commissioners of Pinellas County. For planning and budget purposes, the fiscal year of the authority shall commence on October 1 of each year and end on September 30 of the succeeding year. The debts of the authority are the sole responsibility of the authority. The authority shall comply with financial disclosure and reporting requirements imposed by general law, including F.S. ch. 189.

(Laws of Fla. ch. 75-491, § 4A; Laws of Fla. ch. 90-448, § 3)

Sec. 114-136. - Boundaries.

The Pinellas Park Water Management District shall consist of the major outfall ditches, nos. 1, 2, 3, 4, and 5, located in certain unincorporated areas adjacent to the City of Pinellas Park, and all those areas in the City of Pinellas Park, all located within Pinellas County, Florida, and more specifically defined as follows:

Beginning at the intersection of Joe's Creek and the Cross Bayou Canal, in the southeast ¼ of Section 25-30-15; thence proceeding in a general northeasterly direction along the centerline of Cross Bayou Canal to its intersection with the north side of Section 19-30-16, which is also the centerline of 102nd Avenue; thence running east along the centerline of 102nd Avenue and the north section line of Section 19; thence along the north line of Section 20 of the northeast corner thereof; thence northerly along the west boundary of Section 16 for 2000 feet MOL; thence easterly 2000 feet MOL to the westerly R/W line of U.S. 19; thence southeasterly along the westerly R/W line of U.S. 19 to the centerline of 102nd Avenue; thence easterly along the north centerline of Sections 21, 22, and 23, to the west R/W line of I-75; thence southerly along the westerly R/W line of I-75, which is located MOL on the east line of Sections 23 and 26; thence proceeding in a southerly direction to east ¼ corner [of] Section 26; thence in a southwesterly direction 3000 feet MOL to the northeast corner of the southeast ¼ of the southwest ¼ of Section 26-30-16; thence turning and running west along the north side of the southeast ¼ of the southwest ¼ of Section 26-30-16 a distance of 330 feet; thence running south along a line 330 feet west of and parallel to the ½ section line to the south line of Section 26-30-16; thence turning and running west along the south line of Section 26-30-16 a distance of 660 feet to a point 990 feet west of the ½ section line; thence turning and running south along a line 990 feet west of the ½ section line of Section 35-30-16 to a point on the south line of the northeast ¼ of the southwest ¼ of Section 35-30-16, thence turning and running east along the south line of the northeast ¼ of the southwest ¼ of Section 35-30-16 to the ½ section line of the northeast corner of the southeast ¼ of the southwest ¼ of section; thence turning and running south along the ½ section line to the south line of Section 35-30-16 and

the center of 54th Avenue North; thence turning and running west along south line of Sections 35, 34, and 33-30-16, and the centerline of 54th Avenue to the northeast corner of Section 5-31-16; thence turning and running southwest on a line to the southwest corner of northwest ¼ of the northwest ¼ of Section 5-31-16 and continuing southwesterly as an extension of the line to a point of intersection with the waterline of Joe's Creek; thence following the centerline of Joe's Creek R/W in the northwesterly direction to the intersection of Joe's Creek and Cross Bayou Canal and the POB.

Excepting therefrom and thereto, the triangular portion within Kenneth City in the southwesterly portion of the hereinbefore described parcel more specifically described as follows:

Beginning at the intersection of the centerline of 54th Avenue at the northeast corner of Section 5-31-16 and running west along said centerline of 54th Avenue a distance of 900 feet more or less to a point opposite the dividing line between lots 43 and 44 of Kenneth City of Unit 9 Replat 47-31; thence south 550 feet more or less along said dividing line and the extension thereof to its intersection with a line running from the northeast corner of Section 5-31-16 southwesterly to the southwest corner of the northeast ¼ of the northwest ¼ of Section 5-31-16; thence northeasterly 1065 feet more or less along said previously described course to the northeast corner of Section 5-31-16, the point or place of beginning.

(Laws of Fla. ch. 75-491, § 5; Laws of Fla. ch. 77-641, § 1; Laws of Fla. ch. 78-597, § 1)

Sec. 114-137. - Expansion of area.

Upon a resolution adopted by the governing body of municipalities adjoining the present water management district area or by the board of county commissioners for adjoining unincorporated areas, the authority may include such areas in the Pinellas Park Water Management District area subject to approval of electors in the added area for tax purposes as provided herein.

(Laws of Fla. ch. 75-491, § 8; Laws of Fla. ch. 77-641, § 2)

Sec. 114-138. - Independent special district taxation.

The Pinellas Park Water Management District shall be deemed an independent special district and is authorized to levy ad valorem tax on the taxable real property in the district at a rate sufficient to produce an amount that may be necessary for the purposes of this article not to exceed three mills, provided such millage limit is approved by a vote of the electors who are not wholly exempt from taxation. Property taxes determined and levied under this section shall be certified by the authority to the county auditor, extended, assessed and collected in like manner as provided by law for regular property taxes for the county or municipalities. The proceeds under this section shall be remitted by the tax collector to the treasurer of the authority, who shall credit them to the funds of the authority for use of the purposes of this article. At any time after making a tax levy under this section and certifying the same to the county, the authority may issue tax anticipation notes of indebtedness in anticipation of the collection of such taxes. In the event that over 50 percent of a taxable property is certified by the authority to drain outside of the herein described district area, then the authority shall notify the county auditor, property appraiser, and tax collector that said property shall be deleted from the tax rolls of said district and that any taxes previously levied and collected on said property pursuant to the provisions of this section shall be forthwith remitted to the owner of said property.

(Laws of Fla. ch. 75-491, § 7; Laws of Fla. ch. 78-597, § 2; Laws of Fla. ch. 90-448, § 2)

Sec. 114-139. - Exemption from taxation.

Notwithstanding of [sic] any other law to the contrary, the property, monies, and other assets of the authority and all revenues or other income of the authority shall be exempt from all taxation, licenses, fees or other charges of any kind imposed by the state or by the county or by any municipality, political subdivision, taxing district or other public agency or body of the state.

(Laws of Fla. ch. 75-491, § 6)

Sec. 114-140. - Dissolution of district upon establishment of countywide drainage district.

Upon the establishment of a countywide drainage district by the county, the district created under this article shall be dissolved and shall be incorporated within the countywide district.

(Laws of Fla. ch. 75-491, § 9)

Secs. 114-141—114-170. - Reserved.

ARTICLE V. - GREATER SEMINOLE AREA SPECIAL RECREATION DISTRICT[5]

Footnotes:
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Editor's note—The act contained in this article retains its status as a special act, as it was established after the charter. The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Laws of Fla. ch. 80-584 was approved at referendum on Oct. 7, 1980.

Cross reference— Parks and recreation, ch. 90.

Sec. 114-171. - Interpretation of terms.

The word "district" shall mean the special recreational district hereby organized, and the words "board" and "board of commissioners" shall mean the board of commissioners of and for the special recreational district hereby created when used in this article, unless otherwise specified.

(Laws of Fla. ch. 80-584, § 13)

Sec. 114-172. - Formation of district; boundaries.

Upon the filing with the clerk of the board of county commissioners of Pinellas County, Florida, of a certificate by the clerk of the canvassing board of Pinellas County, Florida, that a majority of the voters of

said district voting at a special election have approved this article, all of the lands hereinafter described shall become and are hereby created as a special recreational district, which shall become a public corporation, having the powers and duties herein set forth under the name of Greater Seminole Area Special Recreation District, the land so as to be incorporated being described as follows:

All lands and territory lying within the boundaries as set forth below:

From a point at the intersection of the centerlines of County Road 595A, a/k/a 113th Street N. and Duhme Road, and Florida 694, a/k/a Walsingham Road, as a POB (point of beginning), run westerly along said centerline of Florida 694, a/k/a Walsingham Road, to the centerline of Boca Ciega Bay; thence run south and southeasterly along a said centerline of Boca Ciega Bay to a point where, if extended, the centerline of 54th Avenue N. would intersect with the centerline of Boca Ciega Bay; thence run easterly to a point where, if extended, the centerline of 54th Avenue N. would intersect with the centerline of Long Bayou; thence run northwesterly and north along the centerline of Long Bayou and Lake Seminole to a point where, if extended, the centerline of 122nd Avenue North would intersect with the centerline of Lake Seminole; thence westerly along the centerline of 122nd Avenue North until its intersection with the centerline of County Road 595A, a/k/a 113th Street North and Duhme Road; thence southerly along the centerline of County Road 595A, a/k/a 113th Street North and Duhme Road, to the POB or the point where the centerline of the County Road 595A, a/k/a 113th Street North and Duhme Road, intersects with the centerline of Florida 694, a/k/a Walsingham Road, all in Pinellas County, Florida. However, any portion of [within] the current boundaries of the City of Largo are excluded.

(Laws of Fla. ch. 80-584, § 1; Laws of Fla. ch. 84-516, § 1)

Editor's note— Laws of Fla. ch. 84-516, § 1 was approved at an election held Sept. 4, 1984.

Sec. 114-173. - Board of commissioners—Created.

The business and affairs of said district shall be conducted and administered by a board of five commissioners who, upon their election and qualification, shall serve for a period of four years. From the effective date of this article, the following named individuals residing within the district shall constitute the board of commissioners and shall serve as a board of commissioners for the initial term of four years: George Jendrusiak, Richard Johnson, Joseph Alberti, Emil Schmoultz, and a fifth commissioner to be picked from a consensus of the other four members.

(Laws of Fla. ch. 80-584, § 2)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 114-174. - Same—Elections.

Said five commissioners shall serve for terms of four years each and shall be elected by a majority vote of the voters of said district voting at regular election. The first regular election for a board of commissioners shall be held at the expiration of the initial four-year term of the abovementioned board of commissioners. At such election the two commissioners receiving the highest popular vote shall serve for a four-year period. The remaining three commissioners shall serve for two years. Elections shall be held at regular local elections every two years. Any commissioner may be a candidate to succeed himself. Voting for commissioners shall be districtwide and by voters of the district only. Candidates shall meet the following qualifications: All commissioners shall be freeholders within the district and shall reside within the district. If any commissioner shall cease to reside anywhere within the district, his office shall be declared vacant; he shall be disqualified

from further service; and the remaining commissioners shall elect a successor to fill the unexpired term.

(Laws of Fla. ch. 80-584, § 3)

Cross reference— Elections, ch. 50.

Sec. 114-175. - Management contracts.

Upon the effective date of this article, the district, by and through the above-named commissioners designated in section 114-173 above, may enter into a management contract with the Seminole Youth Athletic Association or its successor, Seminole Junior Warhawks or its successor, or any other association or organization, or its successor, whose programs are intended to serve the recreational needs of both adults and youths re-siding within the district. Said Seminole Youth Athletic Association or its successor, Seminole Junior Warhawks Athletic Association or its successor, or any other association or organization or its successor shall have the authority to establish reasonable rules and regulations in the operation of their respective programs.

(Laws of Fla. ch. 80-584, § 4)

Sec. 114-176. - Ad valorem tax authorized.

Subject to referendum approval by the voters of said district, said district shall have the right, power and authority to levy ad valorem taxes not to exceed one-half mill against the taxable real estate situated in said district. Said levy shall be for three years only. Property taxes determined and levied under this section shall be certified to the county property appraiser and extended, assessed and collected in like manner as provided by law for regular property taxes for the county and municipalities. The proceeds under this section shall be remitted by the county tax collector to the board of commissioners of said district for use in accomplishing the purposes of this article.

(Laws of Fla. ch. 80-584, § 5)

Sec. 114-177. - Property right.

Said district shall have the right, power and authority to acquire and to hold title to real property within said district.

(Laws of Fla. ch. 80-584, § 6)

Sec. 114-178. - Use of funds—General purpose.

All funds derived from the tax described herein shall be used, except as provided for in section 114-180, solely for the purchase of that parcel of real estate described in section 114-179, including any legal or other expenses incident thereto. In the event that there should be a surplus of funds after the purchase of said parcel of land, no funds of said district shall be used for any purposes other than the administration of the affairs and business of said district, including the construction, care, maintenance, upkeep and operation of any recreational land and facilities as the board may determine to be in the best interest of the district. The board of commissioners shall not influence the finances of any existing recreational organization or association.

(Laws of Fla. ch. 80-584, § 10)

Sec. 114-179. - Same—Purchase of specific property.

The funds derived from the tax provided herein shall be used for the purchase of that parcel of real property currently owned by the Board of Public Instruction of Pinellas County, Florida, and leased by the Seminole Youth Athletic Association or its successor and further described as Parcel No. 606, Pinellas Farms, located in the south ½, [Section] 21-30-15, Pinellas County, Florida, and further described as follows:

The south ½ of northeast ¼ of southwest ¼ of Section 21, Township 30 South, Range 15 East, less the east 60 feet thereof conveyed to Tampa and Gulf Coast Railroad Company for railroad right-of-way, Pinellas County, Florida.

(Laws of Fla. ch. 80-584, § 7)

Sec. 114-180. - Same—Optional purchase.

In the event that said district is unable to purchase or in the event that the Board of Public Instruction [school board] of Pinellas County, Florida, is unable or unwilling to sell that parcel of real estate above described in section 114-179 to said district, then in that event, the district shall be authorized to expend the funds collected by the tax for the purchase of a like parcel of land within said district to be utilized for and to provide recreational programs and facilities.

(Laws of Fla. ch. 80-584, § 8)

Sec. 114-181. - Disposition of proceeds.

The proceeds of said tax and the funds of said district shall be deposited in the name of the district in a bank authorized to receive deposits of county funds, which bank shall be designated by a resolution of the board of commissioners. Such designation of such bank and deposit of funds therein shall be by the exercise of due care and diligence on the part of said commissioners for the safekeeping of said funds. No funds of the district shall be paid out or disbursed save and except by check. The board of commissioners, as mentioned above, shall have the power and authority to borrow money for the purposes of the district not to exceed 50 percent of the total assessment roll and to pledge for the payment thereof collections on said roll and give tax anticipation notes, which shall be the sole security for such loan; and neither the said district nor the commissioner nor any of them shall be personally or individually liable as such for said loan or any part thereof, and in the event of such pledge, it shall be the duty of the commissioners, upon completion of the assessment roll so pledged, to apply the first proceeds thereof to the payment of said loan for which such tax was pledged until full payment of said loan.

(Laws of Fla. ch. 80-584, § 9)

Sec. 114-182. - Board duties; record; meetings; rules and regulations.

The board shall handle duties usually pertaining to, vested in and encumbered upon like officers. A record shall be kept of all meetings of said board, and in such meetings the concurrence of a majority of said board members shall be necessary to any affirmative action by said board. The board may adopt such rules and regulations as it may deem necessary in and about the transaction of its business and in carrying out the provisions of this article.

(Laws of Fla. ch. 80-584, § 11)

Sec. 114-183. - Length of existence of district.

Said special recreational district shall exist until dissolved by law.

(Laws of Fla. ch. 80-584, § 12)

Secs. 114-184—114-210. - Reserved.

ARTICLE VI. - PALM HARBOR COMMUNITY SERVICES DISTRICT[6]

Footnotes:
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State Law reference— Municipal service taxing units, F.S. § 125.01(1)(q), (2).

Sec. 114-211. - Established.

There is hereby established a municipal servicing taxing unit under the name of "Palm Harbor Community Services District." The district shall exist until dissolved by law.

(Ord. No. 85-28, § 1, 9-10-85)

Sec. 114-212. - Boundaries.

All of the lands as described in this section shall be incorporated into a municipal service taxing unit under the name of Palm Harbor Community Services District. The land so incorporated is described as all unincorporated lands and territory lying within the boundaries set forth in the legal description included in Laws of Fla. ch. 82-369, § 1 (compiled in section 114-82 of this Code) as amended, pursuant to law prior to the effective date of this section.

(Ord. No. 85-28, § 2, 9-10-85)

Sec. 114-213. - Governing body; program management.

The board of county commissioners shall be the governing body of the district. The board of county commissioners shall contract with a nonprofit corporation created for the purposes set forth in this article for the administration and operation of the business and affairs of the district within a reasonable time after the effective date of sections 114-216 or 114-217 of this article. The articles of the nonprofit corporation referenced above shall provide:

(1)

For a board of directors, to be comprised of the following:

a.

One director who is an officer or director of, and appointed by, the Palm Harbor Friends of the Library, Inc.;

b.

One director who is an officer or director of, and appointed by, the Palm Harbor Recreation League, Inc.;

c.

One director who is an officer or director of, and appointed by, the East Lake Community Library Advisory Board, Inc.;

d.

One director who is an officer or director of, and appointed by, the East Lake Youth Sports Association, Inc.; and

e.

Four directors appointed by the board of county commissioners. Each county commissioner representing the three at-large districts shall nominate one director each and the county commissioner representing District 4 shall nominate one director.

(2)

The terms of office of the board of directors shall be for two years each from the date of their appointment. A director may serve no more than two successive terms. Each director shall be a qualified Pinellas County elector. The directors appointed by the Palm Harbor Friends of the Library, Inc. and the Palm Harbor Recreation League, Inc. shall reside in the district; the director appointed by the East Lake Community Library Advisory Board, Inc. shall reside in the East Lake Library Services District; the director appointed by the East Lake Youth Sports Association, Inc. shall reside in the East Lake Recreation Services District; and the directors appointed by the Board of County Commissioners shall reside either in the district, the East Lake Library Services District, or the East Lake Recreation Services District. If any director ceases to reside within the required municipal services taxing unit, resigns from office, or is removed for cause from office, his/her office shall be declared vacant, he/she shall be disqualified from further service, and a new director shall be appointed as provided in subsection (1) of this section to fill the unexpired term of office. Each director shall hold office until his/her successor is appointed and qualified. Any resignation by a director shall be accepted.

(3)

A record shall be kept of all meetings of such corporation, and in such meetings the concurrence of a majority of such directors shall be necessary to any affirmative action by such corporation; provided however, the director appointed by the Palm Harbor Friends of the Library, Inc. shall not be entitled to vote on matters pertaining to the appropriation and expenditure of funds relating to recreation programs or the East Lake Library; and the director appointed by the Palm Harbor Recreation League, Inc. shall not be entitled to vote on matters pertaining to the appropriation and expenditure of funds relating to the Palm Harbor Library or East Lake Library programs, the director appointed by the East Lake Community Library Advisory Board, Inc. shall not be entitled to vote on matters pertaining to the appropriation and expenditure of funds relating to recreation programs or the Palm Harbor Library; and the director appointed by the East Lake Youth Sports Association, Inc. shall not be entitled to vote on matters pertaining to the appropriation and expenditure of funds relating to library services or the Palm Harbor Recreation programs. The board of directors may adopt such rules and regulations as it may deem necessary regarding the transaction of its business and in carrying out the provisions of this article, subject to approval by the board of county commissioners.

(4)

The board of directors shall, within 30 days of their qualification and appointment, and annually thereafter, elect from their number a chair, a vice-chair, and a secretary-treasurer.

(5)

That directors shall receive no compensation for their services, but shall be entitled to reasonable per diem and travel expenses incurred in furtherance of authorized business of the district subject to the limitations provided in F.S. § 112.061, and subject to approval by the board of directors.

(Ord. No. 85-28, § 3, 9-10-85; Ord. No. 00-58, § 1, 8-1-00; Ord. No. 05-88, § 1, 12-6-05; Ord. No. 13-24, § 1, 9-17-13; Ord. No. 14-36, § 1, 9-11-14)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 114-214. - Limitations on funding.

(a)

Subject to referendum approval as provided in section 114-216, funds derived from the levy of ad valorem taxes shall be utilized only to provide public library facilities and related land acquisitions for library and other community services and programs. No funds derived from the tax provided in section 114-216, shall be used for any purposes other than the administration and operation of the affairs and business of the district pertaining to the purposes set forth in this subsection (a), including the construction, care, maintenance, upkeep, acquisition or lease of real property, and operation of a public library facility and related land acquisitions for library and other community service programs as the board of directors may determine to be in the best interest of the district and pursuant to its contract with the board of county commissioners.

(b)

Subject to referendum approval as provided in section 114-217, funds derived from the levy of ad valorem taxes shall be utilized only to provide recreational facilities, programs and related land acquisitions. No funds derived from the tax provided in section 114-217, shall be used for any purposes other than the administration and operation of the affairs and business of the district pertaining to the purposes set forth in this subsection (b), including the construction, care, maintenance, upkeep, acquisition or lease of real property, and operation of recreational programs, facilities, and related land acquisitions as the board of directors may determine to be in the best interest of the director and pursuant to its contract with the board of county commissioners.

(Ord. No. 85-28, § 4, 9-10-85; Ord. No. 00-58, § 2, 8-1-00; Ord. No. 05-88, § 2, 12-6-05)

Cross reference— Libraries, ch. 78.

Sec. 114-215. - Powers and duties of board of commissioners.

(a)

The board of county commissioners shall have the power and authority to:

(1)

Establish, by resolution, reasonable rules and regulations for the operation of the program authorized by this article and funded pursuant to sections 114-216 and 114-217;

(2)

Acquire by gift, lease or purchase such equipment and real property within the district as deemed necessary for the operation of programs authorized by this article and funded pursuant to sections 114-216 and 114-217;

(3)

Employ such personnel as are deemed necessary to implement and operate programs authorized by this article and funded pursuant to sections 114-216 and 114-217;

(4)

Make or enter into contracts with firms and individuals, natural or corporate, relating to any and all purposes of the district authorized by this article and funded pursuant to sections 114-216 and 114-217;

(5)

Borrow money for the purposes of the district authorized by this article and funded pursuant to sections 114-216 and 114-217, not to exceed the total assessment roll certified pursuant to sections 114-216 and 114-217, and to pledge for the payment thereof collections on such roll and give tax anticipation notes, which shall be the sole security for such loans; provided, however, that in no event shall the funds derived from the tax provided in sections 114-216 and 114-217 be pledged or expended or otherwise committed other than for those purposes provided in such respective sections.

(b)

Except as provided in subsection (a)(5) of this section, the board of county commissioners shall not create indebtedness or incur obligations for any sum or amount which the board of county commissioners is unable to pay out of district funds authorized for such purposes and in its possession; provided, however, that this subsection should not be construed to prohibit the purchase of essential equipment and apparatus under rental-purchase or retain title contracts in which the equipment or apparatus, or tax anticipation certificates, constitute the sole security for the remaining balance due on the purchase price thereof.

(c)

The board of county commissioners shall require an annual report of the district's actions and an accounting of funds each year, and shall file such report as required by law.

(d)

The board of county commissioners shall require the preparation and submittal of separate annual budgets for funds derived pursuant to sections 114-216 and 114-217. No annual budget of the district shall be deemed final, and no expenditure shall be made pursuant thereto, unless and until approved by a majority vote of the board of county commissioners.

(Ord. No. 85-28, § 5, 9-10-85; Ord. No. 00-58, § 3, 8-1-00; Ord. No. 05-88, § 3, 12-6-05)

Sec. 114-216. - Ad valorem tax levy—Library.

Within the limits fixed for municipal purposes as authorized by section 9(b), article VII of the state constitution, the board of county commissioners shall be authorized to levy ad valorem taxes not to exceed one-fourth mill within the district created by this article for the purpose of funding a public library facility and related land acquisitions which shall be used for library and other community services. Property taxes

determined and levied under this section shall be certified to the county property appraiser and extended, assessed and collected in like manner as provided by law for regular property taxes for the county and municipalities located therein. The proceeds of the tax collected pursuant to this section shall be remitted by the county tax collector, less any fee authorized by law, to the board of county commissioners.

(Ord. No. 85-28, § 6, 9-10-85)

Editor's note— The county has advised that the levy of the tax provided for in the above section was approved by the voters on Oct. 15, 1985.

Sec. 114-217. - Same—Recreation.

Within the limits fixed for municipal purposes as authorized by section 9(b), article VII of the state constitution, the board of county commissioners shall be authorized to levy ad valorem taxes not to exceed one-fourth mill within the district created by this article for the purpose of funding recreational facilities, programs and related land acquisitions. Property taxes determined and levied under this section shall be certified to the county property appraiser and extended, assessed and collected in like manner as provided by law for regular property taxes for the county and municipalities located therein. The proceeds of the tax collected pursuant to this section shall be remitted by the county tax collector, less any fee authorized by law, to the board of county commissioners.

(Ord. No. 85-28, § 7, 9-10-85)

Editor's note— The county has advised that the levy of the tax provided for in the above section was approved by the voters on Oct. 15, 1985.

Sec. 114-218. - Reserved.

Editor's note— Ord. No. 05-88, § 6, adopted Dec. 6, 2005, repealed § 114-218, which pertained to funding senior recreational facilities and derived from Ord. No. 00-58, § 4, adopted Aug. 1, 2000.

Secs. 114-219—114-240. - Reserved.

ARTICLE VII. - TIERRA VERDE FIRE CONTROL DISTRICT[7]

Footnotes:
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Editor's note—The county has advised that Ord. No. 88-30, from which this article is derived, was approved by the voters at referendum on Nov. 8, 1988.

Cross reference— Fire prevention and protection, ch. 62.

State Law reference— Municipal service taxing units, F.S. § 125.01(1)(q), (2).

Sec. 114-241. - Established.

There is hereby established a municipal service taxing unit under the name of "Tierra Verde Fire Control District." The district shall exist until dissolved by law.

(Ord. No. 88-30, § 1, 10-4-88)

Sec. 114-242. - Boundaries.

All of the lands as described in this section shall be incorporated into a municipal service taxing unit under the name of Tierra Verde Fire Control District (referred to in this article as the "district"). The land so incorporated is described as all unincorporated lands and territory lying within that area described in the legal description attached to Ordinance No. 88-30 as exhibit A and by this reference incorporated in this article.

(Ord. No. 88-30, § 2, 10-4-88)

Sec. 114-243. - Governing body.

The board of county commissioners shall be the governing body of the district.

(Ord. No. 88-30, § 3, 10-4-88)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 114-244. - Limitations on funding.

Funds derived from the levy of ad valorem taxes shall be utilized only to provide fire control and protection services within the district, including acquisition of land, facilities and equipment for the provision of such services. No funds derived from the tax provided in section 114-246 shall be used for any purposes other than the administration and operation of the affairs and business of the district pertaining to the purposes set forth in this section, including the construction, care, maintenance, upkeep, acquisition or lease of real property, as the board of county commissioners may determine to be in the best interest of the district.

(Ord. No. 88-30, § 4, 10-4-88)

Sec. 114-245. - Powers and duties of board of commissioners.

(a)

The board of county commissioners shall have the power and authority to:

(1)

Establish, by resolution, reasonable rules, regulations and procedures for the provision of services authorized by this article and funded pursuant to section 114-246.

(2)

Acquire by gift, lease, or purchase such equipment and real property within the district as deemed necessary for the provision of services authorized by this article and funded pursuant to section 114-246.

(3)

Employ such personnel as are deemed necessary to implement and operate programs authorized by this article and funded pursuant to section 114-246.

(4)

Make or enter into contracts with firms and individuals, natural or corporate, relating to any and all purposes of the district authorized by this article and funded pursuant to section 114-246.

(5)

Borrow money for the purposes of the district authorized by this article and funded pursuant to section 114-246, not to exceed the total assessment roll certified pursuant to section 114-246, and to pledge for the payment thereof collections on such roll and give tax anticipation notes, which shall be the sole security for such loans; provided, however, that in no event shall the funds derived from the tax provided in section 114-246 be pledged or expended or otherwise committed other than for those purposes provided in such respective sections.

(b)

Except as provided in subsection (a)(5) of this section, the board of county commissioners shall not create indebtedness or incur obligations for any sum or amount which the board of county commissioners is unable to pay out of district funds authorized for such purposes and in its possession; provided, however, that this subsection should not be construed to prohibit the purchase of essential equipment and apparatus under rental-purchase or retain title contracts in which the equipment or apparatus, or tax anticipation certificates, constitute the sole security for the remaining balance due on the purchase price thereof.

(c)

The board of county commissioners shall provide for an annual report of the district's actions and an accounting of funds each year, and shall file such report as required by law.

(d)

The board of county commissioners shall provide for the preparation of an annual budget for funds derived pursuant to section 114-246. No annual budget of the district shall be deemed final, and no expenditure shall be made pursuant thereto, unless and until approved by a majority vote of the board of county commissioners.

(Ord. No. 88-30, § 5, 10-4-88)

Sec. 114-246. - Ad valorem tax levy authorized.

Within the limits fixed for municipal purposes as authorized by section 9(b), article VII, of the state constitution, the board of county commissioners shall be authorized to levy ad valorem taxes not to exceed 3.0 mills within the district created by this article for the purpose of providing fire control and protection services within the district. Property taxes determined and levied under this section shall be certified to the county property appraiser and extended, assessed and collected in like manner as provided by law for regular property taxes for the county and municipalities located therein. The proceeds of the tax collected pursuant to this section shall be remitted by the county tax collector, less any fee authorized by law, to the board of county commissioners.

(Ord. No. 88-30, § 6, 10-4-88; Ord. No. 10-33, § 1, 6-15-10)

Sec. 114-247. - Non-ad valorem levy authorized.

Notwithstanding any other provision contained herein, the board of county commissioners may, pursuant to F.S. § 192.3631, et. seq., or as otherwise provided by law, levy a non-ad valorem assessment for the purpose of providing funds for the acquisition, maintenance or repair of capital assets to be used for the benefit of the municipal services taxing unit and which are intended to be used for providing fire protection and suppression services. The non-ad valorem assessment may be levied by resolution as provided for by law and any such levy shall be for a specific purpose.

(Ord. No. 10-07, § 1, 2-2-10)

Secs. 114-248—114-275. - Reserved.

ARTICLE VIII. - FEATHER SOUND MUNICIPAL SERVICES TAXING UNIT[8]

Footnotes:
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State Law reference— Municipal service taxing units, F.S. § 125.01(1)(q), (2).

Sec. 114-276. - Established.

There is hereby established a municipal service taxing unit under the name of "Feather Sound Municipal Services Taxing Unit," which shall exist until dissolved by law.

(Ord. No. 90-25, § 1, 3-20-90)

Sec. 114-277. - Boundaries.

All of the lands as described in this section shall be incorporated into a municipal service taxing unit under the name of Feather Sound Municipal Services Taxing Unit, referred to in this article as the "unit". The land so incorporated is described as all unincorporated lands and territory lying within the boundaries set forth in the legal description attached to Ordinance No. 90-25 as exhibit A.

(Ord. No. 90-25, § 2, 3-20-90)

Sec. 114-278. - Governing body.

The board of county commissioners shall be the governing body of the unit. The board of county commissioners shall contract with a nonprofit corporation created for the purposes set forth in this article for the administration and operation of the business and affairs of the unit within a reasonable time after the effective date of this article. The charter of such nonprofit corporation shall provide:

(1)

For a board of directors to be comprised of seven persons, one each nominated by each member of the board of county commissioners and appointed by the board of county commissioners.

(2)

The term of office of the board of directors shall be one year each from the date of their appointment. A director may serve successive terms. Each director shall be a qualified elector of and reside within the unit. If

any director ceases to reside anywhere within the unit, resigns from office, or is removed for cause from office, his office shall be declared vacant, he shall be disqualified form further service, and a new director shall be appointed in subsection (1) of this section to fill the unexpired term of office. Each director shall hold office until his successor is appointed and qualified. Any resignation by a director shall be accepted.

(3)

A record shall be kept of all meetings of the corporation, and in such meetings the concurrence of a majority of the directors shall be necessary to any affirmative action by such corporation. The board of directors may adopt such rules and regulations as it may deem necessary regarding the transaction of its business and in carrying out the provisions of this article, subject to approval of the board of county commissioners.

(4)

The board of directors shall, within 30 days of their qualification and appointment, and annually thereafter, elect from their number a chairman, a vice-chairman, and a secretary-treasurer.

(5)

Directors shall receive no compensation for their services, but shall be entitled to reasonable per diem and travel expenses incurred in furtherance of authorized business of the unit subject to the limitations provided in F.S. § 112.061, and subject to approval by the board of directors and the board of county commissioners.

(Ord. No. 90-25, § 3, 3-20-90; Ord. No. 00-84, § 1, 10-10-00)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 114-279. - Limitations of funding.

Subject to referendum approval as provided in section 114-281, funds derived from the levy of ad valorem taxes shall be utilized only for street lighting and to acquire, develop and maintain recreational areas/greenspace. No funds derived from the tax provided in section 114-281 shall be used for any purposes other than the administration and operation of the affairs and business of the unit pertaining to the purposes set forth in this article, as the board of directors may determine to be in the best interest of the unit and pursuant to its contract with the board of county commissioners.

(Ord. No. 90-25, § 4, 3-20-90)

Sec. 114-280. - Powers and duties of board of commissioners.

(a)

The board of county commissioners shall have the power and authority to:

(1)

Establish, by resolution, reasonable rules and regulations for the operation of programs authorized by this article and funded pursuant to this article.

(2)

Acquire by gift, lease, or purchase such equipment and real property within the unit as deemed necessary for the operation of programs authorized by this article and funded pursuant to this article.

(3)

Employ such personnel as are deemed necessary to implement and operate programs authorized by this article and funded pursuant to this article.

(4)

Make or enter into contracts with firms and individuals, natural or corporate, relating to any and all purposes of the unit authorized by this article and funded pursuant to this article.

(5)

Borrow money for the purposes of the unit authorized by this article and funded pursuant to this article, not to exceed the total assessment roll certified pursuant to this article, and to pledge for the payment thereof collections on such roll and give tax anticipation notes, which shall be the sole security for such loans.

(b)

Except as provided in subsection (a)(5) of this section, the board of county commissioners shall not create indebtedness or incur obligations for any sum or amount which the board of county commissioners is unable to pay out of unit funds authorized for such purposes and in its possession; provided, however, that this subsection should not be construed to prohibit the purchase of essential equipment and apparatus under rental-purchase or retain title contracts in which the equipment or apparatus, or tax anticipation notes, constitute the sole security for the remaining balance due on the purchase price thereof.

(c)

The board of county commissioners shall require an annual report of the unit's actions and an accounting of funds each year, and shall file such report as required by law. The board of county commissioners shall have the right to audit the records of the unit as well as those of any nonprofit entity contracted with pursuant to this section.

(d)

The board of county commissioners shall require the preparation and submittal of an annual budget for funds derived pursuant to this article. No annual budget of the unit shall be deemed final, and no expenditure shall be made pursuant thereto, unless and until approved by a majority vote of the board of county commissioners.

(Ord. No. 90-25, § 5, 3-20-90)

Sec. 114-281. - Ad valorem tax levy.

Within the limits fixed for municipal purposes as authorized by section 9(b), article VII, of the state constitution, the board of county commissioners shall be authorized to levy ad valorem taxes on taxable property located within the unit not to exceed one mill for the purposes of street lighting and the acquisition, development and maintenance of recreational areas/greenspace. Property taxes determined and levied under this section shall be certified to the county property appraiser and extended, assessed and collected in like

manner as provided by law for regular property taxes for the county and municipalities located therein. The proceeds of the tax collected pursuant to this section shall be remitted by the county tax collector, less any fee authorized by law, to the board of county commissioners.

(Ord. No. 90-25, § 6, 3-20-90)

Editor's note— The county has advised that the tax provided for in the above section was approved by the voters at referendum.

Sec. 114-282. - Territory embraced.

All territory within the unincorporated area of the Feather Sound Municipal Services Taxing Unit as legally described in exhibit A attached to Ordinance No. 90-25 shall be embraced by the provisions of this article.

(Ord. No. 90-25, § 9, 3-20-90)

Secs. 114-283—114-295. - Reserved.

ARTICLE IX. - RESERVED[9]

Footnotes:

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Editor's note—Ord. No. 96-63, §§ 1—9, adopted July 30, 1996, established the East Lake Community Municipal Service Taxing Unit. Section 10 of said ordinance stated "This ordinance shall be deemed to automatically be repealed in the event the referendum called for in Section 7 results in rejection by a majority of those voting." On November 5, 1996, the proposed creation of the East Lake Community Municipal Service Taxing Unit was rejected by the voters. At the direction of the county §§ 114-296—114-302 have been removed from this Code.

Secs. 114-296—114-325. - Reserved.

ARTICLE X. - PINELLAS COUNTY UNINCORPORATED AREA MUNICIPAL SERVICE TAXING UNIT

Sec. 114-326. - Ratification of unit.

The establishment of a municipal service taxing unit under the name of Pinellas County Unincorporated Area Municipal Service Taxing Unit" (the "unit") pursuant to Resolution 75-351 of the board of county commissioners is hereby ratified and said unit shall continue to exist until dissolved by law.

(Ord. No. 01-78, § 1, 11-13-01)

Sec. 114-327. - Territory embraced.

The unit embraces and shall continue to embrace all unincorporated lands and territory lying within Pinellas County and shall include all property not situated within an incorporated municipality.

(Ord. No. 01-78, § 2, 11-13-01)

Sec. 114-328. - Governing body.

The board of county commissioners is and shall continue to be the governing body of the unit ("governing body").

(Ord. No. 01-78, § 3, 11-13-01)

Sec. 114-329. - Funding.

The unit is and shall continue to be funded through the levy of an ad valorem tax millage not in excess of ten mills on the dollar of assessed value of all property within the unit without the necessity of a referendum, as provided in F.S. § 125.01, and through other revenues as appropriate.

(Ord. No. 01-78, § 4, 11-13-01)

Sec. 114-330. - Powers.

(a)

The board of county commissioners shall have the power and authority to:

(1)

Establish by resolution, reasonable rules and regulations for the operation of programs authorized by this article and funded pursuant to this article;

(2)

Acquire by gift, lease, or purchase such equipment and real property within said unit as deemed necessary for the operation of programs authorized by this article and funded pursuant to this article;

(3)

Employ such personnel as are deemed necessary to implement and operate programs authorized by this article and funded pursuant to this article;

(4)

Make or enter into contracts with firms and individuals, natural or corporate, relating to any and all purposes of the unit authorized by this article and funded pursuant to this article; and

(5)

Borrow and spend money for the purposes of the unit, issue bonds, revenue certificates and other obligations of indebtedness, all as provided by law.

(b)

The board of county commissioners shall adopt an annual budget for the unit and shall have the power to provide municipal services, directly or by contract or service agreement, in the unincorporated area of the county, including but not limited to fire protection, law enforcement, beach erosion control, recreation service and facilities, water, streets, sidewalks, street lighting, garbage and trash collection and disposal, waste and sewage collection and disposal, drainage, transportation and other essential facilities and municipal services

from charges and special assessments as well as ad valorem taxes and other revenues provided for above.

(c)

Except as provided in subsection (a)(5), the board of county commissioners shall not create indebtedness or incur obligations for any sum or amount which the board of county commissioners is unable to pay out of unit funds authorized for such purposes and in its possession; provided, however, that this subsection should not be construed to prohibit the purchase of essential equipment and apparatus under rental-purchase or retain title contracts in which the equipment or apparatus, or tax anticipation notes constitute the sole security for the remaining balance due on the purchase price thereof.

(Ord. No. 01-78, § 5, 11-13-01)

Secs. 114-331—14-350. - Reserved.

ARTICLE XI. - LEALMAN SOLID WASTE COLLECTION AND DISPOSAL DISTRICT

Sec. 114-351. - Definitions.

For the purposes of this article:

Biological waste means those wastes that cause or have the capability of causing disease or infection and includes, but is not limited to, biomedical waste, diseased or dead animals, and other waste capable of transmitting pathogens to humans or animals.

Bulky waste includes furniture, appliances, C&D debris, and other similar bulky objects, but excluding extraordinary wastes such as abandoned automobiles, boats, individual tree branches or stumps greater than four feet in length, and C&D debris is excess of two cubic yards.

Commercial mobile home park means any improved real property divided into ten or more spaces for the erection and maintenance of residential mobile homes, modular homes, recreational vehicles, or trailers in which the individual spaces are not individually owned.

Construction and demolition (C&D) debris means materials generally considered to be not water soluble and nonhazardous in nature resulting from construction, destruction, or renovation of a structure, including but not limited to steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum, and wallboard.

County representative means the county administrator or the person designated by the county administrator to oversee residential waste services.

Curbside means that portion of the right-of-way within five feet of a roadway.

Franchisee means a hauler of residential waste operating under a currently valid franchise granted by the board of county commissioners pursuant to this article.

Garbage includes every waste accumulation of animal or vegetable matter which attends the preparation, use, cleaning, processing, handling or storing of foodstuffs, and other putrescible waste.

Hazardous waste means solid waste, or a combination of solid wastes, which because of its quantity, concentration, physical, or chemical characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial

present or potential hazard to human health or the environment when improperly transported, disposed, treated, or otherwise managed, and any material or substance identified in the Florida Administrative Code Rule 62-730 and 40 Code of Federal Regulations, Part 261.

Residential unit means any single-family, duplex, triplex, or quadplex dwelling unit with kitchen facilities for which a certificate of occupancy has been issued by the Pinellas County Building Department, and except as provided in section 114-359, including mobile homes, modular homes, recreational vehicles, or trailers that have residential permanent license tags.

Residential waste means garbage, trash, yard waste, and bulky waste generated by residential households, but excluding biological waste and hazardous waste.

Special assessment means the non ad valorem assessment levied upon residential real property to provide funding for the collection and disposal of residential waste.

Trash includes paper, cans, bottles, rags, yard waste, and other nonputrescible waste, but does not include bulky waste as defined herein.

Yard waste means grass clippings, leaves, shrubbery cuttings, and tree limbs not over four feet in length or four inches in diameter.

Vacant or vacancy means a residential unit which is unhabitated or lawfully utilized for a nonresidential purpose.

(Ord. No. 05-89, § 1, 12-6-05; Ord. No. 08-22, § I, 4-8-08)

Sec. 114-352. - Creation of municipal service benefit unit.

There is hereby created, pursuant to the authority of F.S. § 125.01, a municipal service benefit unit within the unincorporated area of the county known as Lealman for the purpose of providing residential waste collection and disposal. The name of the municipal service benefit unit shall be the "The Lealman Solid Waste Collection and Disposal District" (referred to in this article as "MSBU"). Lealman, the territory included within the MSBU, is more particularly described in the legal description and map attached to Ordinance No. 05-89 labeled Exhibit A.

(Ord. No. 05-89, § 2, 12-6-05)

Sec. 114-353. - Purpose.

The purpose of the MSBU is to promote the common interest of the people of Lealman to put into effect residential waste collection and disposal services through the levy of a special assessment against residential units for the provision of such services, and to promote the health, welfare, and safety of the citizens and residents of the MSBU by providing adequate residential waste collection and disposal through the regulated services of a franchisee(s) chosen because of demonstrated qualifications to provide such services to the citizens of the MSBU by the most economical means.

(Ord. No. 05-89, § 3, 12-6-05)

Sec. 114-354. - Governing body.

The board of county commissioners shall be the governing body of the MSBU (referred to in this article as

the "governing body").

(Ord. No. 05-89, § 4, 12-6-05)

Sec. 114-355. - Administration.

The county administrator, acting in behalf of the board of county commissioners as governing body of the unit, shall ex officio be the chief executive officer of the MSBU. He shall keep separate records of all expenses incurred on behalf of the unit and charge all such expenses to the MSBU. He may employ and pay the wages of such personnel as he may deem necessary, and discipline and discharge such personnel in the same manner and subject to the same procedures by which county employees are employed, compensated, disciplined, and discharged.

(Ord. No. 05-89, § 5, 12-6-05)

Sec. 114-356. - Powers.

The MSBU shall have all of the powers granted by law to the county for providing residential waste collection and disposal, including without limiting the generality of the foregoing power.

(1)

To sue and be sued, implead and be impleaded, and complain and defend in all courts in its own name;

(2)

To acquire for the purposes of the MSBU by grant, purchase, gift, devise, exchange, or in any other lawful manner all property, real or personal or any estate or interest therein, upon such terms and conditions as the governing body shall determine, and to own all such property in its own name;

(3)

To make contractual arrangements with any public, private, or municipal firm, person, or corporation for the furnishing of residential waste collection and disposal within the MSBU, or for any matter proper to effectuate the purposes of the MSBU. The term "contractual arrangements" includes the power to grant exclusive franchises for residential waste collection;

(4)

To make and adopt, by resolution of the governing body, rules and regulations governing the collection and disposal of residential waste within the MSBU;

(5)

To borrow and expend money and issue bonds, revenue certificates, and other obligations of indebtedness in such manner and subject to such limitation as may be provided by law;

(6)

To establish, levy and collect, by appropriate resolution, a special assessment for the collection and disposal of residential waste generated within the boundaries of the MSBU;

(7)

To provide by resolution for the collection of a special assessment utilizing the uniform method of collection of non-ad valorem special assessments found in F.S. § 197.3632;

(8)

To make and enter into all contracts and agreements as the governing body, in its discretion, may determine to be necessary or incidental to the performance of its duties and to the execution of its powers under this article. All such expenses shall be payable from funds made available under the provisions of this article; and

(9)

To do all acts necessary or convenient to carry out the powers expressly granted in this article.

(Ord. No. 05-89, § 6, 12-6-05)

Sec. 114-357. - Special assessments.

(a)

The fiscal year of the MSBU for the purposes of residential special assessments shall commence on January 1 of each year and end on December 31 of each year.

(b)

Except as described in subsection 114-357(f)(2) herein, the county shall comply with the provisions of F.S. § 197.3632 for the levy, collection and enforcement of special assessments related hereto.

(c)

All special assessments shall constitute a lien upon the property so assessed from the date of confirmation of the resolution to the same extent as a lien for general county taxes and shall be collectible in the same manner and at the same time as ad valorem taxes are as may be collectible with the same discounts, attorney's fees, interest, and penalties, and under the same provisions as to forfeiture and the right of the county to purchase the property assessed as are or may be provided by law in the case of county ad valorem taxes.

(d)

All special assessments shall be set aside in a specified account to fund the costs for providing and administering the residential waste collection and disposal services in the MSBU, including, but not limited to, the collection, transport, and disposal of residential waste; fees paid to the county tax collector and property appraiser; and administrative and oversight fees incurred by the department of solid waste operations.

(e)

All special assessments and other charges levied and collected herein shall be distributed to the governing body of the MSBU. For services performed during the pervious month, the governing body shall distribute to each franchisee an amount equal to one-twelfth of the approved annual service fee per residential unit, plus adjustments for residential units added subsequent to the establishment of the approved annual payment and

corrections in errors or omissions in the tax roll.

(f)

The Pinellas County Building Department shall not issue a certificate of occupancy for residential real property, whether new construction or a change in the use of property from another category to residential real property, until the following circumstances have been met:

(1)

The subject property is listed on the then current special assessment roll for residential waste collection and disposal; or

(2)

If the property is not on the then current special assessment roll, upon payment in full to the county administrator or his designee of an amount equal to the pro rata portion of the current annual assessment plus an additional 12 months for each residential unit on the residential real property. The department of solid waste operations shall compute and publish a schedule reflecting the pro rata payment in effect for each month of the current fiscal year.

(Ord. No. 05-89, § 7, 12-6-05)

Sec. 114-358. - Description of services.

(a)

All residential properties in the MSBU containing residential units shall be subject to mandatory residential waste collection and disposal services. All residential waste generated and accumulated by residential units in the MSBU, except as otherwise provided in this article, shall be collected, conveyed, and disposed of by a collector holding a valid franchise for such activity. All other properties not specifically covered by this article, are responsible for obtaining all necessary and proper waste collection in accordance with applicable law.

(b)

The governing body shall be responsible for providing within the MSBU, through agreement(s) with franchisee(s), collection and disposal services for properly prepared residential waste.

(c)

Residential waste shall be placed curbside prior to the time designated for collection. Garbage and trash shall be in containers with lids or tied bags not exceeding 45 gallons or 50 pounds each. Yard waste to be collected with garbage and trash must be containerized, bagged, or piled loose, but cannot exceed four feet in length and four inches in diameter. Containers and bags shall be placed curbside no more than 12 hours prior to a collection day, and containers shall be removed from the curb by 11:59 p.m. of the day on which collection is provided.

(d)

Any accumulation of residential waste for more than seven days is hereby declared to be a public nuisance

and a violation of this Code. After such time, the franchisee shall notify the county representative of residential units that have not properly prepared residential waste for collection. The county representative shall promptly investigate each such report, make a determination as to whether the terms of this article are being violated and if a violation is found, notify the owner, occupant, or other entity in control of a residential unit of the nature and extent of such violation, action to be taken for the correction thereof, and the time allowed for the taking of such action. If such violation is not corrected within the time allowed, the county representative shall forthwith take such legal action as may be necessary to enforce the terms of this article without further authorization or instruction, including but not limited to the processes found in Pinellas County Code section 1-8.

(e)

The following materials are exempt from the mandatory provisions of this article and may be collected or delivered for disposal or processing by the owner or occupant of the residential unit, or the owner's or occupant's representative at the owner's or occupant's expense:

(1)

Recyclable materials, provided such materials are properly recycled; and

(2)

Waste not considered residential waste, as defined in this article.

(Ord. No. 05-89, § 8, 12-6-05)

Sec. 114-359. - Collection service exemptions.

Modular homes, mobile homes, recreational vehicles or trailers located in a commercial mobile home park whose owner documents to the county representative that the complex receives adequate residential waste collection service through an existing commercial contract may be exempted from the provisions of this article subject to the following conditions:

(1)

The commercial mobile home park is serviced using commercial containers, such as dumpsters, rather than receiving curbside collection of waste;

(2)

The owner, manager, or association representing the commercial mobile home park provides a copy of a current contract for waste collection;

(3)

Such contract includes at least weekly collection of waste; and

(4)

The container size and frequency of service are deemed adequate, as determined by the county representative, to service the number of units located within the park.

(Ord. No. 05-89, § 9, 12-6-05)

Sec. 114-360. - Collection of assessments by the uniform method, creation of liens, and assessment on public property.

(a)

After proper public hearing and adoption of a resolution by the board, the annual non-ad valorem assessments on all properties in the MSBU shall be levied, collected, and enforced pursuant to the uniform method set forth in F.S. § 197.3632, as it may be amended from time to time. The assessments shall have the same priority rights, discounts, and be subject to the same delinquent interest and penalties, and be treated the same as taxes of the county. The assessments shall be deposited in such revolving fund as set forth in section 114-357 of this article and applied accordingly. The board shall enter into respective agreements with the tax collector for reimbursement of the tax collector's administrative costs and commission, in accordance with F.S. §§ 197.3632(2) and 192.091(2)(b), as they may be amended from time to time, and with the property appraiser for reimbursement of necessary administrative costs pursuant to F.S. § 197.3632(2), as it may be amended from time to time.

(b)

The assessment shall become a lien upon the property assessed within the MSBU on January 1 of each calendar year, commencing with calendar year 2006, and shall be collected on the respective tax bills for the tax year corresponding with the calendar year of the lien. The amount of the MSBU special assessment roll shall become final with the confirmation and approval of the board, pursuant to F.S. § 197.3632(4), as it may be amended from time to time.

(c)

Except as may otherwise be provided in state law, Pinellas County and any school district or other political subdivision owning property within a MSBU shall be subject to the same duties and liabilities with respect to assessment affecting their real property that private owners of real property possess or are subject to hereunder.

(Ord. No. 05-89, § 10, 12-6-05)

Sec. 114-361. - Refunds for vacancy.

(a)

A residential unit which has been vacant for the entire fiscal year, January 1 through December 31, may apply for a refund of the special assessment paid, provided that the residential unit has generated no residential waste during the period of vacancy.

(b)

An owner who seeks a refund pursuant to subsection (a) shall file an application supplied by the county no later than March 31 of the following year for which the refund is sought. Such application shall be notarized and filed by the owner with the county administrator or his designee and shall be under oath. Failure to file the application within the time permitted shall be deemed to be a waiver of the right to seek a refund pursuant to this section. The application shall contain the following:

(1)

The name and address of the owner;

(2)

The address and legal description of the residential unit for which the refund is sought;

(3)

Certification that the person or entity seeking the refund was the owner of the residential unit for the entirety of the fiscal year for which refund is sought;

(4)

Proof of payment of the special assessment for the fiscal year for which the refund is sought and the amount of such payment including any applicable discounts;

(5)

The period for which the residential unit was vacant;

(6)

Certification that the residential unit is not claimed as homestead on the applicable tax roll;

(7)

Such objective evidence as would indicate in the sole determination of the county administrator or, his designee that such residential unit was vacant; and

(8)

That no residential waste was generated from such residential unit during the period of vacancy.

(c)

For the purposes of subsection (b) above, "objective evidence" requires, at a minimum, confirmation from the electrical utility serving the area of electrical service for the residential unit of low electrical use typically averaging less than 400 kwh per month.

(d)

The submittal of an application for refund of the special assessment pursuant to this section constitutes consent for county inspectors to enter the property and inspect the interior and exterior of the Residential Unit to the extent reasonably necessary to determine the veracity of representations made in the application. Refusal to admit county inspectors upon reasonable notice, for the foregoing purposes, shall result in the denial of the application with prejudice.

(e)

County inspectors may enter and inspect residential units, interior and exterior, and perform other

investigation, including but not limited to interviews with neighbors or review of utility records, to verify the statements made in applications for refund as may be necessary in the sole judgment of the county administrator.

(f)

If the application meets the requirements of this section, inspections may be performed pursuant to this section. The district shall refund from district funds to the owner an amount equal to the special assessment, net of any applicable discount, paid for the fiscal year for which the residential unit was vacant.

(Ord. No. 08-22, § II, 4-8-08)

Secs. 114-362—114-385. - Reserved.

ARTICLE XII. - EAST LAKE LIBRARY SERVICES DISTRICT

Sec. 114-386. - Established.

There is hereby established a municipal service taxing unit under the name of East Lake Library Services District ("district"). The district shall exist until dissolved by law.

(Ord. No. 13-11, § 1, 5-21-13)

Sec. 114-387. - Boundaries.

All of the lands hereinafter described shall be incorporated into a municipal service taxing unit under the name of East Lake Library Services District. The land so incorporated shall include all of the unincorporated area of Pinellas County within the district that constitutes the East Lake Tarpon Special Fire Control District, as of the effective date of this ordinance [Ordinance No. 13-11]. In the event that the East Lake Tarpon Special Fire Control District ceases to exist, or has a change to its boundaries, after the effective date of this ordinance [Ordinance No. 13-11], such event shall have no effect on the boundaries of the East Lake Library Services District.

(Ord. No. 13-11, § 1, 5-21-13)

Sec. 114-388. - Limits.

All of the unincorporated area of Pinellas County within the district shall cease to be part of the Pinellas County Library Services District established in section 78-2 of the Pinellas County Code effective upon the date that the ad valorem tax authorized by this ordinance [Ordinance No. 13-11] becomes effective as a lien upon the properties of the district.

(Ord. No. 13-11, § 1, 5-21-13)

Sec. 114-389. - Governing body.

The board of county commissioners shall be the governing board of the district.

(Ord. No. 13-11, § 1, 5-21-13)

Sec. 114-390. - Ad valorem tax levy.

Within the limits fixed for municipal purposes as authorized by Section 9(b), Article VII, of the Florida Constitution, the board of county commissioners shall be authorized to levy ad valorem taxes not exceeding one-quarter mill within the district created by this article for the purposes of providing library services and facilities within the district, commencing with the 2013 tax levy.

(Ord. No. 13-11, § 1, 5-21-13)

ARTICLE XIII. - EAST LAKE RECREATION SERVICES DISTRICT

Sec. 114-391. - [Established.]

There is hereby established a municipal service taxing unit under the name of East Lake Recreation Services District ("district"). The district shall exist until dissolved by law.

(Ord. No. 14-30, § 1, 6-24-14)

Sec. 114-392. - [Boundaries.]

All of the lands hereinafter described shall be incorporated into a municipal service taxing unit under the name of East Lake Recreation Services District. The land so incorporated shall include all of the unincorporated area of Pinellas County within the district that constitutes the East Lake Tarpon Special Fire Control District.

(Ord. No. 14-30, § 1, 6-24-14)

Sec. 114-393. - [Governing body.]

The board of county commissioners shall be the governing board of the district.

(Ord. No. 14-30, § 1, 6-24-14)

Sec. 114-394. - [Ad valorem tax levy.]

Within the limits fixed for municipal purposes as authorized by Section 9(b), Article VII, of the Florida Constitution, the board of county commissioners shall be authorized to levy ad valorem taxes not exceeding one-quarter mill within the district created by this article for the purposes of providing recreation services and facilities within the district.

(Ord. No. 14-30, § 1, 6-24-14)

Chapter 118 - TAXATION[1]
Footnotes:
--- (**1**) ---

Cross reference— Finance, § 2-141 et seq.; special districts, ch. 114; boat registration fee, § 130-77.

ARTICLE I. - IN GENERAL

Sec. 118-1. - Waiver of annual renewal statement for property tax exemption.

(a)

After an initial application for any exemption provided for under F.S. ch. 196, except the exemption under F.S. § 196.1995, has been made and the exemption granted, the requirement of an annual renewal application or statement for the above-specified exemptions is hereby waived when there has been no change in ownership or use of the exempt property.

(b)

Reapplication for all exemptions under F.S. ch. 196, excluding the exemption under F.S. § 196.1995, shall be required when any property granted an exemption is sold or otherwise disposed of, or when ownership changes in any manner or when the applicant ceases to use the property as his homestead or when the status of the owner changes so as to change the exempt status of the property.

(Ord. No. 89-64, §§ 1, 2, 12-12-89)

State Law reference— Authority to so provide, F.S. § 196.011(9).

Sec. 118-2. - Sales surtax.

(a)

One percent sales surtax levied. There is hereby levied a one percent local government infrastructure surtax on sales pursuant to F.S. § 212.055(2).

(b)

Use of proceeds of tax. The proceeds of the tax levied under this section shall be used by the county and the municipalities located within the county and receiving proceeds only for infrastructure purposes, including roads, bridges, parks, land and environmental preservation, drainage, public safety, hurricane sheltering, and other authorized capital improvement projects in accordance with F.S. § 212.055(2). The proceeds of such tax shall be allocated between the county and the municipalities by interlocal agreement.

(1)

The county and such municipalities may pledge such proceeds for the purpose of servicing new bond indebtedness incurred pursuant to law. In no case, however, may the county or the participating municipalities issue bonds more frequently than once per year. The county and municipalities may join together for the issuance of bonds.

(2)

The tax imposed by this section shall be collected by the state department of revenue and distributed monthly to the board of county commissioners for distribution between the county and such municipalities in accordance with the distribution formula established by the interlocal agreement between the county and such municipalities executed for this purpose.

(c)

Duration of tax. Subject to the approval of the electorate in a referendum extending the tax as provided herein, the infrastructure sales surtax levied pursuant to F.S. 212.055(2), as authorized by this section, shall

be levied and imposed for the period commencing January 1, 2010, and ending at midnight December 31, 2019; provided that collection and disbursement of the infrastructure sales tax shall commence on February 1, 2010.

(Ord. No. 89-42, §§ 3—5, 9-19-89; Ord. No. 07-06, §§ 3, 4, 1-9-07)

Editor's note— Section 1 of Ord. No. 89-42, adopted Sept. 19, 1989, called a referendum for Nov. 7, 1989, for the purpose of approving the tax which is the subject of this section. The measure was approved.

Sec. 118-3. - Waiver of annual agricultural classification applications.

(a)

After an initial application for classification of use provided for under F.S. ch. 193 (1993) has been made and the classification granted, the requirement of annual renewal application or statement for the above specified classification is hereby waived when there has been no change in ownership or use of the classified property.

(b)

Reapplication for all classifications under F.S. ch. 193 shall be required when any property granted a classification is sold or otherwise disposed of, or when ownership changes in any manner or when the status of the owner changes so as to change the classified status of the property.

(Ord. No. 95-40, §§ 1, 2, 6-13-95)

Editor's note— Ord. No. 95-40, adopted June 13, 1995, did not specifically amend this Code; hence, inclusion of §§ 1 and 2 as § 118-3 was at the discretion of the editor.

Sec. 118-4. - Waiver of annual renewal applications for veteran's disability discount.

(a)

After an initial application for the veteran's discount provided for under Section 6(g), Art. VII, of the State Constitution, as implemented by F.S. § 196.082, has been made and the discount granted, the requirement of an annual renewal application for the above-specified discount is hereby waived when there has been no change in the use of the property or the percentage of disability to which the veteran is entitled.

(b)

The board recognizes that pursuant to F.S. § 196.011(9)(b), the disabled veteran receiving a discount for which annual application is waived herein has the duty to notify the property appraiser promptly whenever there is a change to the use of the property or the percentage of disability to which the veteran is entitled.

(Ord. No. 07-58, §§ 1, 2, 12-18-07)

Secs. 118-5—118-30. - Reserved.

ARTICLE II. - TOURIST DEVELOPMENT TAX[2]

Footnotes:

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State Law reference— Tourist development tax, F.S. § 125.0104.

Sec. 118-31. - Levied; collection and remittance; duties of county tax collector; enforcement.

(a)

There is hereby levied and imposed and set a tourist development tax throughout the county at a rate of six percent of each whole and major fraction of each dollar of the total rental charged every person who rents, leases, or lets for consideration and living quarters or accommodations in any hotel, apartment hotel, motel, resort hotel, apartment, apartment motel, roominghouse, tourist or trailer camp, mobile home park, recreational vehicle park, timeshare accommodation, or condominium for a term of six months or less. When receipt of consideration is by way of property other than money, the tax shall be levied and imposed on the fair market value of such nonmonetary considerations. The six percent tourist development tax levied herein shall be used for the following purposes:

(1)

The levy and the imposition of the first and second percent commenced on the first day of the month following referendum approval in 1978, pursuant to Ordinance No. 78-20. The first percent is pledged to the payment of debt service on bonds issued to finance the construction, reconstruction or renovation of Tropicana Field, a professional sports franchise facility; however, as provided in subsection (3) herein, the fourth percent has been committed to the payment of Tropicana Field debt, and those sums replace the first percent on a monthly basis when received. The first and second percent shall be utilized as provided in the tourist development plan set out in section 118-32.

(2)

The levy of the third percent commenced on July 1, 1988, pursuant to Ordinance No. 88-14. The first 50 percent of the third percent is pledged to the payment of debt service on bonds issued to finance the construction, reconstruction or renovation of Tropicana Field, a professional sport franchise facility; however, as provided in subsection (3) herein, the fourth percent has been committed to the payment of Tropicana Field debt, and those sums replace the first 50 percent of the third percent on a monthly basis when received. The third percent shall be utilized as provided in the tourist development plan set out in section 118-32.

(3)

The levy and imposition of the fourth percent commenced on January 1, 1996, and expires on September 30, 2015, pursuant to Ordinance No. 95-35. The fourth percent is committed to the payment of debt service on bonds issued to finance the construction, reconstruction or renovation of Tropicana Field, a professional sports franchise facility, or payment of indebtedness issued to refund obligations issued for such purposes. The expiration date of September 30, 2015, for the levy of the fourth percent as provided in Section 3 of Ordinance No. 95-35 is hereby repealed, and the levy of the fourth percent is extended, reenacted and reestablished effective October 1, 2015, through September 30, 2021, inclusive, at which time the fourth percent levy shall expire and be of no further force and effect. The revised expiration date of September 30, 2021, for the levy of the fourth percent as previously extended in Ordinance No. 10-67, is hereby repealed, and the levy of the fourth percent is extended, reenacted, and reestablished until such time, if any, as repealed. The fourth percent shall be utilized as provided in the tourist development plan set out in section 118-32.

(4)

The levy and imposition of the fifth percent commenced on December 1, 2005, pursuant to Ordinance No. 05-47. The fifth percent shall be utilized as provided in the tourist development plan set out in section 118-32.

(5)

The sixth percent shall commence on January 1, 2016, and shall be used in accordance with F.S. § 125.0104(5), unless its use is specifically further limited by the tourist development plan.

(b)

The tourist development tax shall be in addition to any other tax imposed pursuant to F.S. ch. 212 and in addition to all other taxes, fees and considerations for rental or lease.

(c)

The tourist development tax shall be charged by the person receiving the consideration for the lease or rental; and it shall be collected from the lessee, tenant, or customer at the time of payment of the consideration for such lease or rental.

(d)

Initial collection of the tourist development tax shall be made in the same manner as the tax imposed under F.S. ch. 212, pt. I (F.S. § 212.01 et seq.). The person receiving the consideration for such rental or lease shall receive, account for, and remit the tax to the county tax collector, who shall keep appropriate records of such funds. The same duties and privileges imposed by F.S. ch. 212 upon dealers in tangible property respecting the collection and remission of tax, and making of returns, the keeping of books, records and accounts, the payment of a dealer's credit in compliance with the rules of the county tax collector in the administration of such chapter shall apply to and be binding upon all persons who are subject to the provisions of this article; provided, however, that the tax collector may authorize a quarterly return and payment when the tax remitted by the person receiving the consideration for such rental or lease for the preceding quarter did not exceed $500.00. Registered and enrolled taxpayers may file returns and pay amounts due electronically for the Tourist Development Taxes and fees. Florida Statutes §§ 213.755 and 443.163 require certain taxpayers to file and/or pay tax electronically.

(e)

The county tax collector may promulgate rules, and prescribe and publish the forms necessary to effectuate this article.

(f)

The county tax collector shall perform the enforcement and audit functions associated with the collection and remission of the tourist development tax, including, without limitation, the following:

(1)

For the purpose of enforcing the collection of the tax levied by this article, the county tax collector is hereby specifically authorized and empowered to examine at all reasonable hours the books, records, and other

documents of all persons taxable under this article, or other persons charged with the duty to report or pay a tax under this article, in order to determine whether they are collecting the tax or otherwise complying with this article. In the event such person refuses to permit such examination of its books, records, or other documents by the tax collector as aforesaid, such person is guilty of a misdemeanor of violating the provisions of this article and shall be subject to the penalties provided for in section 1-8. The tax collector shall have the right to proceed in circuit court to seek a mandatory injunction or other appropriate remedy to enforce its rights against the offender, as granted by this section, to require an examination of the books and records of such dealer.

(2)

Each person taxable under this article shall secure, maintain, and keep for a period of three years a complete record of rooms or other lodging leased or rented by such person, together with gross receipts from such sales, and other pertinent records and papers as may be required by the tax collector for the reasonable administration of this article; and all such records which are located or maintained in this state shall be open for inspection by the tax collector at all reasonable hours at such person's place of business located in the county. Any person who maintains such books and records at a point outside this county must make such books and records available for inspection by the tax collector in the county. Any person subject to the provisions of this article who violates these provisions is guilty of violating the provisions of this article and shall be subject to the penalties provided for in section 1-8.

(3)

Notification by tax collector; acceptable materials.

a.

The tax collector shall send written notification, at least 60 days prior to the date an auditor is scheduled to begin an audit, informing the taxpayer of the audit. The tax collector is not required to give 60 days' prior notification of a forthcoming audit in any instance in which the taxpayer requests an emergency audit.

b.

Such written notification shall contain:

1.

The approximate date on which the auditor is scheduled to begin the audit.

2.

A reminder that all of the records, receipts, invoices, and related documentation of the taxpayer must be made available to the auditor.

3.

Any other requests or suggestions the tax collector may deem necessary.

c.

Only records, receipts, invoices, and related documentation which are available to the auditor when such

audit begins shall be deemed acceptable for the purposes of conducting such audit.

(4)

All taxes collected under this article shall be remitted to the tax collector. In addition to any other powers under this article, the tax collector is empowered, and it shall be his or her duty, when any tax becomes delinquent or is otherwise in jeopardy under this article, to issue a warrant for the full amount of the tax due or estimated to be due, with the interest, penalties, and cost of collection, directed to all and singular the sheriffs of the state, and shall record the warrant in the public records of the county; and thereupon the amount of the warrant shall become a lien on any real or personal property of the taxpayer in the same manner as a recorded judgment. The tax collector may issue a tax execution to enforce the collection of taxes imposed by this article and deliver it to the sheriff. The sheriff shall thereupon proceed in the same manner as prescribed by law for executions and shall be entitled to the same fees for his services in executing the warrant to be collected. The tax collector may also have a writ of garnishment to subject any indebtedness due to the delinquent dealer by a third person in any goods, money, chattels, or effects of the delinquent dealer in the hands, possession, or control of the third person in the manner provided by law for the payment of the tax due. Upon payment of the execution, warrant, judgment or garnishment, the tax collector shall satisfy the lien of record within 30 days.

(5)

The tax collector is authorized to impose and retain a dishonor fee as an additional cost of collection of any check, draft, or other order for payment of the taxes collected under this article (an "instrument"), if such instrument is dishonored in accordance with the provisions of F.S. §§ 125.0104 and 125.0105. The amount of the dishonor fee shall be pursuant to F.S. §§ 125.0105 and 832.08(5): Twenty-five dollars if the face value of the instrument does not exceed $50.00, $30.00 if the face value of the instrument is more than $50.00 but does not exceed $300.00, $40.00 if the face value is more than $300.00 but does not exceed $800.00, and $50.00 if the face value is more than $800.00.

(g)

Tax revenues under this article may be used only in accordance with the provisions of F.S. § 125.0104.

(h)

A portion of the tax collected shall be retained for the costs incurred for administration, but such portion shall not exceed three percent of collections. Beginning with the 2010/2011 county fiscal year, the county tax collector shall annually notify the county tourist development council of the estimated cost of administration for the ensuing fiscal year by the date established for submittal of the tax collector's tentative budget as provided in F.S. §129.03(2). The remainder of the tax collected shall be submitted to the county on a monthly basis.

(i)

The county assumes responsibility for auditing the records and accounts of dealers and assessing, collecting, and enforcing payment of delinquent tourist development taxes. The county adopts any and all powers and authority granted to the state in F.S. § 125.0104 and F.S. ch. 212, to determine the amount of the tax, penalties and interest to be paid by each person subject to the tax under this article and to enforce payment of such tax, penalties and interest by, but not limited to, distress warrants, writs of garnishment and criminal penalties as provided in F.S. ch. 212.

(j)

Refunds. A refund is limited to three years from the date the tax was paid. Once a refund application is submitted with appropriate documentation to substantiate the validity of the claim, the refund will be processed within 90 days. If the refund claim is not processed within 90 days, and it was properly submitted to substantiate the validity of the claim, interest will be paid on the claim based upon the statutory floating interest rate as determined by the department of revenue.

(Ord. No. 78-20, § 1, 8-29-78; Ord. No. 88-14, § 1, 5-10-88; Ord. No. 90-50, § 1, 7-3-90; Ord. No. 95-35, § 1, 5-9-95; Ord. No. 04-62, §§ 2, 3, 9-7-04; Ord. No. 05-47, § 1, 7-26-05; Ord. No. 10-11, § 1, 3-16-10; Ord. No. 10-64, §§ 1, 2, 11-16-10; Ord. No. 10-67, § 1, 11-30-10; Ord. No. 14-55, § 1, 12-16-14; Ord. No. 15-31, § 1, 8-4-15)

Sec. 118-32. - Use of revenues; tourist development plan.

(a)

Tourist development plan. The tax revenues received pursuant to this article shall be used to fund the Pinellas County tourist development plan hereby adopted as follows; however, the board may, by a majority-plus-one vote, authorize other allocations in accordance with statutory uses in instances when the Board of County Commissioners or the Governor of the State of Florida has declared a state of emergency:

(1)

Categories of allowable uses of tax revenues:

a.

Category A (promotions, advertising/marketing): Promoting and advertising tourism in the state, nationally and internationally, and funding for the following: (i) marketing special events and programs; (ii) providing promotional or operating support for exhibits or programs provided by museums owned and operated by not-for-profit organizations and open to the public; (iii) providing promotional support for zoological parks that are owned and operated by not-for-profit organizations and open to the public; and (iv) event and program sponsorships; however, funding of not more than $2,000,000.00 annually for subsection (i), herein. Grant guidelines shall be established by the tourist development council, which shall be subject to approval by the board of county commissioners, to determine eligibility, the application process, and award criteria and priorities for subsection (i), (ii), and (iii) funding herein.

b.

Category B (CVB, promotions, advertising/marketing): Funding the St. Petersburg/Clearwater Convention and Visitors Bureau; funding budget reserves as authorized by law; and funding convention bureaus, tourist bureaus, tourist information centers and news bureaus by contract with the chambers of commerce or similar associations in Pinellas County.

c.

Category C (beach improvement/nourishment): Funding beach improvement, maintenance, renourishment, restoration and erosion control.

d.

Category D (capital funding/debt service other): Funding annually as matching funds (applicants must have at least $1.00 for every $1.00 of Category D tourist tax funding) to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, or provide debt service on one or more publicly owned and operated convention centers, coliseums, or auditoriums as well as aquariums or museums that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public, and sports and recreation facilities not eligible for Category E funding below (hereinafter referred to as "eligible facilities"). Eligible facilities must be located within Pinellas County and demonstrate the ability to attract tourists from the State of Florida, nationally or internationally. Funding guidelines shall be established by the tourist development council, which shall be subject to approval by the board of county commissioners. These purposes may be implemented through service contracts and leases with parties with sufficient expertise or financial capabilities to operate such eligible facilities.

e.

Category E (debt service/professional sports and convention center capital costs): Funding for debt service payments for bonds issued to finance the construction, reconstruction, or renovation of any of the following facilities: (i) a professional sports franchise facility located within Pinellas County either publicly owned and operated, or publicly owned and operated by the owner of a professional sports franchise or other lessee with sufficient expertise or financial capability to operate such facility, and to pay the planning and design costs incurred prior to the issuance of such bonds; (ii) a retained spring training facility located within Pinellas County either publicly owned and operated, or publicly owned and operated by the owner of a professional sports franchise or other lessee with sufficient expertise or financial capability to operate such facility, and to pay the planning and design costs incurred prior to the issuance of such bonds; or (iii) a convention center located within Pinellas County, and to pay the planning and design costs prior to the issuance of such bonds. Funding guidelines shall be established by the tourist development council, which shall be subject to approval by the board of county commissioners.

(2)

It is the intent of the board of county commissioners that the total tourist development tax revenue shall be allocated as follows for the fiscal year in which it is collected:

a.

Sixty percent of the total tourist development tax revenue may be used for Categories A and/or B and any monies not utilized accordingly shall become reserves to be used for future Category A and/or B uses.

b.

Forty percent of the total tourist development tax revenue may be used for Categories C, D and E and any monies not utilized accordingly shall become reserves to be used for future Categories C, D and/or E uses.

(3)

Notwithstanding the allocations in subsection (b)(2) above, there currently exist ongoing financial commitments which, until such time as satisfied and no longer outstanding, shall be funded as follows:

a.

Payment of debt service on bonds issued by the City of Dunedin to finance the construction, reconstruction or renovation of a retained spring training facility, which shall be paid as necessary out of the fifth percent tourist development tax through February 15, 2016, at which time this obligation will be fully satisfied, and the fifth percent may then be used as otherwise provided for in the tourist development plan.

b.

Payment of capital project funds for the Dali Museum which shall be paid out of the second percent tourist development tax in equal quarterly installments of $125,000.00 commencing on October 15, 2015, and continuing through July 15, 2020, at which time this obligation will be fully satisfied, and the second percent may then be used as otherwise provided for in the tourist development plan.

c.

Payment of debt service on bonds issued by the City of Clearwater to finance the construction, reconstruction or renovation of a retained spring training facility, which shall be paid out of the fifth percent tourist development tax through February 15, 2021, at which time this obligation will be fully satisfied, and the fifth percent may then be used as otherwise provided for in the tourist development plan.

(b)

Review of the plan. The tourist development council shall review the tourist development plan at least every five years and forward its recommendations for revisions, if any, to the plan to the board of county commissioners for consideration. The board of county commissioners shall review the tourist development plan recommendations and determine the most effective use of the revenues derived from the tax.

(c)

Amendment of the plan. The tourist development plan provided for in this section may not be amended except by ordinance enacted by an affirmative vote of a majority plus one additional member of the board of county commissioners.

(Ord. No. 78-20, § 2, 8-29-78; Ord. No. 82-19, § 1, 7-13-82; Ord. No. 88-14, § 2, 5-10-88; Ord. No. 93-87, § 2, 10-19-93; Ord. No. 97-38, § 1, 6-10-97; Ord. No. 01-8, § 1, 1-30-01; Ord. No. 05-48, § 1, 7-26-05; Ord. No. 08-05, § 1, 1-22-08; Ord. No. 08-53, § 1, 10-7-08; Ord. No. 10-67, § 2, 11-30-10; Ord. No. 14-24, § 1, 5-6-14; Ord. No. 15-47, § 1, 11-24-15)

Sec. 118-33. - Revenues may be pledged to liquidate revenue bonds.

All or any portion of the revenues raised by the tax levied under this article may be pledged by the board of county commissioners to secure and liquidate revenue bonds issued by the county for the acquisition, construction, extension, enlargement, remodeling, repair, improvement, maintenance, operation or promotion of one or more publicly owned and operated convention centers, sports arenas, sports stadiums, coliseums or auditoriums within the boundaries of the county, which projects are set forth within this article or may be adopted by appropriate amendment to this article, as one of the uses to be made of the tourist development tax hereby levied, or for the purpose of refunding bonds issued for such purpose.

(Ord. No. 78-20, § 3, 8-29-78; Ord. No. 93-87, § 3, 10-19-93)

Sec. 118-34. - Tourist development council.

(a)

There is hereby established, pursuant to the provisions of F.S. § 125.0104, an advisory council to be known as the Pinellas County Tourist Development Council. The council shall be composed of 12 members who shall be appointed by the board of county commissioners. The chair of the board of county commissioners or any other county commissioner designated by the chair shall serve as the chair of the council. Four members of the council shall be elected municipal officials, one of whom shall be from the most populous municipality in Pinellas County, one of whom shall be from the municipality in which the greatest percentage of tourist development tax revenue is generated in Pinellas County, one of whom shall be from among the cities of Belleair Beach, Belleair Shores, Indian Rocks Beach, Indian Shores, Madeira Beach, North Redington Beach, Redington Beach, Redington Shores, St. Pete Beach, and Treasure Island, and one of whom shall be from a city in Pinellas County that is not specifically named in this section. Seven members of the council shall be persons who are involved in the tourist industry and who have demonstrated an interest in tourist development, of which not less than three nor more than four members shall be owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the county and subject to the tax. All members of the council shall be electors of the county. The members of the council shall serve for staggered terms of four years.

(b)

The tourist development council established by this section shall, from time to time, make recommendations to the board of county commissioners for the effective operation of the special projects or uses of the tourist development tax revenue raised by the tax levied by this article and may perform such other duties or functions as may be prescribed by ordinance or resolution.

(c)

The tourist development council shall continuously review all expenditures of revenue raised by the tax levied by this article, receive at least quarterly expenditure reports for the board of county commissioners or its designee, and shall report to the board of county commissioners all expenditures of such revenue believed to be unauthorized by the provisions of this article. The board of county commissioners, upon receiving notification of expenditures believed to be unauthorized by the council shall review the council's findings and take such administrative or judicial action as it sees fit to ensure compliance with this article and the provisions of F.S. § 125.0104.

(Ord. No. 78-20, § 4, 8-29-78; Ord. No. 05-08, § 1, 2-22-05; Ord. No. 06-69, § 1, 9-7-06)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 118-35. - Effect of failure or refusal to collect or charge tax.

Any person who is taxable under this article who fails or refuses to charge and collect from the person paying any rental or lease the taxes provided in this article, either by himself or through his agents or employees, shall be, in addition to being personally liable for the payment of the tax, guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082, 775.083 or 775.084.

(Ord. No. 78-20, § 5, 8-29-78)

Sec. 118-36. - Unlawful advertisements.

No person shall advertise or hold out to the public in any manner, directly or indirectly, that he will absorb all or any part of the tax levied by this article, or that he will relieve the person paying the rental of the payment of all or any part of such tax, or that the tax will not be added to the rental or lease consideration, or when added, that it or any part thereof will be refunded or refused, either directly, or indirectly, by any method whatsoever. Any person who willfully violates any provision of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082, 775.083 or 775.084.

(Ord. No. 78-20, § 6, 8-29-78)

Sec. 118-37. - Tax to constitute lien on property of lessee, customer or tenant.

The tax levied by this article shall constitute a lien on the property of the lessee, customer or tenant in the same manner as, and shall be collectible as are, liens authorized and imposed in F.S. §§ 713.67, 713.68 and 713.69.

(Ord. No. 78-20, § 7, 8-29-78)

Sec. 118-38. - Petition for repeal referendum.

Upon petition of 15 percent or more of the electors of the county, the board of county commissioners shall cause an election to be held for the repeal of this article and the tourist development tax levied hereunder, subject only to any outstanding revenue bonds for which the tax has been pledged.

(Ord. No. 78-20, § 8, 8-29-78)

Sec. 118-39. - Purpose and intent.

In passing this amending ordinance [sections 118-39—118-42,] it is the intent and purpose of the board of county commissioners to comply with the mandatory amendments to F.S. §§ 72.011—72.031, as they relate to notice to taxpayers and to establishing a time of finality of assessments or denial of refunds of the tax. It is the further intent and purpose of the board of county commissioners to exercise the election under the aforesaid amendments to provide for in-county informal dispute resolution procedures when a taxpayer wishes to challenge any tax assessment or denial of refund by the county without prejudicing any right of the taxpayer to seek judicial or administrative relief under the statutes referenced herein.

(Ord. No. 97-23, § 1, 4-22-97)

Sec. 118-40. - Notice to taxpayers.

(a)

With respect to any assessment or denial of refund of the tax as well as to any informal dispute resolution procedure initiated hereunder the taxpayer shall be entitled to the following written notices:

(1)

Notice of assessment;

(2)

Notice of denial of refund;

(3)

Notice regarding date, time and place of any informal dispute conference; and

(4)

Notice of decision regarding final disposition of any taxpayer informal dispute.

(b)

Except for the notice regarding a scheduled conference all notices shall clearly define the action being taken by the county, a summary of the factual and/or legal reasons for the action and shall further advise the taxpayer of his right to challenge the noticed action either under the informal procedures provided for by this article and/or by reference to judicial and administrative remedies under F.S. §§ 72.011—72.031. Any action initiated by the taxpayer seeking judicial remedies shall comply with the provisions of F.S. § 72.011. Any action initiated by the taxpayer seeking administrative remedies shall include a commitment, should the taxpayer fail to prevail, to reimburse the tax collector for the costs and fees incurred to employ the services of the division of administrative hearings pursuant. This remedy is in addition to any other rights for reimbursement under F.S. ch. 120.

(c)

Notices shall be sent to the taxpayer by first class mail and shall include a certificate of mailing attesting to the date the tax collector's office placed the notice with the proper postage in the custody of the post office.

(Ord. No. 97-23, § 2, 4-22-97; Ord. No. 04-62, § 2, 9-7-04)

Sec. 118-41. - Finality of assessments or denial of refunds.

(a)

An assessment or denial of refund of the tax shall be final upon the earliest of the following occurrences:

(1)

Sixty days after a notice of assessment or notice of denial of refund was mailed to the taxpayer unless the taxpayer has timely filed a notice of dispute under section 118-42 of this article.

(2)

A notice of decision overruling in whole or in part the taxpayer's challenge in a timely filed dispute has been mailed to the taxpayer.

(b)

Except for the taxpayer's notice of dispute, all referenced times begin to run from the date of the execution by the tax collector of the mailing certificate required by section 118-40(c). If the last date creating a time limit hereunder falls on a Saturday or Sunday, the time shall be extended to the next Monday and if such a date falls on a county holiday the time shall be extended to the next scheduled county workday.

(c)

While any dispute or challenge not timely filed in accordance with the above 60-day time limit will not serve to toll the statute of limitations for seeking judicial or administrative remedies, nothing herein shall preclude the tax collector and the taxpayer from pursuing negotiated settlement of any dispute in accordance with F.S. § 213.21.

(Ord. No. 97-23, § 4, 4-22-97; Ord. No. 04-62, § 2, 9-7-04)

Sec. 118-42. - Informal dispute procedures.

(a)

A taxpayer may challenge and be entitled to a review of any notice of assessment or denial of refund by complying with the following procedures.

(b)

In accordance with F.S. § 213.21(1)(b), the statute of limitations provided for in F.S. § 72.011(2)(a), shall be tolled during the period in which the taxpayer is engaged in a procedure under this section and shall remain tolled until the assessment or denial becomes final within the meaning of section 118-41(a)(2).

(c)

To initiate review of any notice of assessment or denial of refund, a written, dated notice of dispute must be mailed to the tax collector by the taxpayer or its representative no later than 60 days after the date of the tax collector's notice of certificate of mailing included on any assessment or denial of refund the taxpayer intends to challenge. The tax collector's review time provided for herein shall begin to run on the postmark date of the notice of dispute.

(d)

The notice of dispute should identify the notice of assessment or denial of refund being challenged and should further:

(1)

Include a statement of the factual and/or legal grounds which are the grounds for the challenge.

(2)

Include attachments of all documents the taxpayer wishes to submit in support of the challenge.

(3)

Include a statement of whether the taxpayer wishes to have a conference scheduled. Absent such a request the challenge will be decided on the written materials submitted.

(4)

If the timely written dispute does not contain all the information in subsections (1), (2), and (3), and the taxpayer is so notified by the tax collector, then the taxpayer may request in writing an additional 15 days to submit the required information. The taxpayer's failure to submit the information within the extension periods

shall result in dismissal of the dispute and forfeiture of the taxpayer's right to dispute the proceeding.

(5)

Any disputes filed under this section will be submitted to and considered by the tax collector or his or her designees.

(6)

If the taxpayer fails to attend any scheduled oral conference, without having arranged for a continuance with the tax collector, the dispute may be decided on the written materials submitted. Any continued conference must be held within 15 days of the originally scheduled conference except upon mutual agreement of the parties and no further continuances can be granted.

(7)

During conferences under these procedures, the taxpayer has a right to be represented at the taxpayer's cost and to have the conference manually or electronically recorded at taxpayer's cost. The conference shall be conducted informally and shall not be in the nature of a formal evidentiary hearing.

(8)

If no conference is held, a notice of decision must be mailed to the taxpayer by the tax collector within 30 days of the date of the postmark date on the taxpayer's notice of dispute. If a conference is held, a notice of decision must be mailed to the taxpayer by the tax collector within 30 days of the date of the conclusion of any such conference. The notice of decision shall contain a tax collector certificate of mailing which shall be the date which determines the finality of the challenged assessment or denial of refund.

(9)

The notice of decision shall set forth the factual and/or legal reasons serving as the grounds thereof. It shall be signed by the tax collector's designees who considered the challenge and must contain the approval signature of the tax collector.

(10)

The undertaking of dispute resolution procedures hereunder shall in no way alter or interfere with the duty of tax collector to proceed with jeopardy enforcement procedures under F.S. § 213.732, should circumstances calling for the employment of such procedures be determined to exist.

(Ord. No. 97-23, § 4, 4-22-97; Ord. No. 04-62, § 2, 9-7-04; Ord. No. 10-64, § 3, 11-16-10)

Sec. 118-43. - Permits and approvals.

(a)

Activity. For the purpose of this subsection, "activity" means: (i) commercial photography or filming that involves the use of special settings, structures, lighting or apparatus, and/or the performance of persons or animals, and/or the posing of models; or (ii) events or programs, whether sponsored or promoted by a commercial, non-profit, or a governmental organization, including but not limited to athletic events and contests, concerts, and shows.

(b)

Permits. Any activity that is sponsored, supported, or facilitated by the St. Petersburg/Clearwater Convention & Visitors Bureau, including the St. Petersburg/Clearwater Film Commission and the St. Petersburg/Clearwater Sports Commission (the "CVB"), including activity on or in county-owned or managed real property, facilities, or improvements, or any real property, facilities, or improvements owned or managed by a municipality that has authorized the CVB to issues permits on its behalf by agreement, ordinance, or other approval, may be allowed by permit, approval, or license (collectively a "permit") by the county administrator or his/her designee. If the real property, facility, or improvement is managed or operated by a county department other than the CVB and the activity requires a permit pursuant to ordinance, regulations or policy, the CVB and the managing department shall coordinate all permitting activities, and a single permit may be issued for the activity.

(c)

Facilitation. The CVB may act as a facilitator for any activity conducted on private property or property owned by another governmental unit, including coordinating activities, expediting the issuance of permits and/or providing notification to affected parties; provided it shall be the sole responsibility of the person or entity engaging in the activity to satisfy any requirements or conditions and secure whatever approvals are necessary to conduct the activity from the owner or manager.

(d)

Conditions. The permit shall contain such conditions that are reasonably consistent with the protection, maintenance or operation of the facility or activity.

(e)

Denial. If an application for a permit is denied, the applicant shall be so informed of the denial in writing.

(f)

Transferability. Permits are not transferable and may only be utilized by those persons or entities to whom the permit was issued.

(g)

Revocation. Any permit issued pursuant to this section may be revoked for failure to comply with any condition imposed on the permit.

(h)

Fees. The CVB shall charge such fees for permits for activities described herein as established by the board of county commissioners.

(Ord. No. 10-64, § 4, 11-16-10)

Secs. 118-44—118-70. - Reserved.

ARTICLE III. - LOCAL GAS TAXES[3]

Footnotes:

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State Law reference— Local option gas taxes, F.S. § 336.025.

DIVISION 1. - GENERALLY

Secs. 118-71—118-100. - Reserved.

DIVISION 2. - FOUR-CENT TAX

Sec. 118-101. - Levied.

Pursuant to the authority of F.S. § 336.025 and other applicable law, there is hereby levied and imposed, in addition to other taxes allowed by law, a four-cent local option gas tax upon every gallon of motor fuel sold in the county and taxed under the provisions of F.S. ch. 206 for the period specified in section 118-102.

(Ord. No. 85-14, § 1, 6-18-85)

Sec. 118-102. - Effective date; duration.

The local option gas tax created by section 118-101 shall be imposed effective September 1, 1985, for a period of ten years.

(Ord. No. 85-14, § 2, 6-18-85)

Sec. 118-103. - Utilization of proceeds.

The proceeds of the local option gas tax imposed by this division shall be utilized only for transportation expenditures authorized by F.S. § 336.025.

(Ord. No. 85-14, § 3, 6-18-85)

Sec. 118-104. - Collection.

The tax imposed by this division shall be collected by the state department of revenue in the manner prescribed by F.S. § 336.025 and distributed monthly to the board of county commissioners for disbursement in accordance with the distribution formula established by the interlocal agreement between the county and municipalities located within the county representing a majority of the population of the incorporated area of the county executed for this purpose. Prior to the disbursement of proceeds, each eligible municipality shall submit to the board of county commissioners a list of proposed projects for the period commencing September 1, 1990.

(Ord. No. 85-14, § 4, 6-18-85)

Sec. 118-105. - Eligible municipalities.

Only those municipalities eligible for participation in the distribution of moneys under F.S. ch. 218, pts. II and VI (F.S. §§ 218.20 et seq., 218.60 et seq.) are eligible to receive proceeds of the tax imposed by this division. Any funds otherwise undistributed because of ineligibility shall be distributed to the county and eligible municipalities within the county in proportion to the proceeds distributed pursuant to the provisions of section 118-104.

(Ord. No. 85-14, § 5, 6-18-85)

Sec. 118-106. - Revenues pledged to liquidate revenue bonds.

All of the proceeds derived by the tax levied and imposed under this division shall, to the extent permitted by law, be pledged by the board of county commissioners to secure and liquidate revenue bonds issued by the county for the purposes set forth in this division and the interlocal agreement, and any amendments thereto, referenced herein. The board of county commissioners is also authorized to develop, implement and administer any other program or financial arrangement in accordance with applicable law to provide for the availability of funds for disbursement in accordance with the provisions of section 118-104 prior to the collection of all tax revenues to be received pursuant to this division.

(Ord. No. 85-14, § 6, 6-18-85)

Sec. 118-107. - County projects.

The county's share of the proceeds of the tax levied by this division shall be used to construct projects, including but not limited to the following:

(1)

Belcher corridor:

a.

Fifty-fourth Avenue North to 38th Avenue North.

b.

Thirty-eighth Avenue North to Tyrone Boulevard.

c.

Curlew Road to State Road 584.

(2)

McMullen-Booth corridor: Main Street to State Road 580.

(3)

Forty-ninth Street corridor: Ulmerton Road to Roosevelt Road.

(Ord. No. 85-14, § 7, 6-18-85)

Sec. 118-108. - Change of projects limited.

Projects referenced in the local option gas tax use plan attached as appendix A to the interlocal agreement referenced in section 118-104 of this division may not be changed or deleted, nor may different projects be substituted or added, except with the express written consent, in advance, by an affirmative vote by a majority plus one additional member of the board of county commissioners.

(Ord. No. 85-14, § 8, 6-18-85)

Secs. 118-109—118-130. - Reserved.

DIVISION 3. - TWO-CENT AND SIX-CENT TAXES

Sec. 118-131. - Levied.

Pursuant to the authority of F.S. § 336.025 and other applicable law, there is hereby levied and imposed, in addition to other taxes allowed by law, an additional two-cent local gas tax upon every gallon of motor fuel sold in the county and taxed under the provisions of F.S. ch. 206 for the period from September 1, 1987, through August 31, 1995, and a six-cent local gas tax upon every gallon of motor fuel sold in the county and taxed under the provisions of F.S. ch. 206 for the period from September 1, 1995, until August 31, 2007.

(Ord. No. 87-46, § 1, 6-30-87; Ord. No. 93-64, § 1, 6-8-93)

Sec. 118-132. - Rights of existing bond holders continued.

This division shall under no circumstances materially or adversely affect the rights of holders of the outstanding countywide transportation revenue bonds, series 1985, which are payable from taxes authorized by F.S. § 336.025 and division 2 of this article. The amounts pledged and payable by the county shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolutions outstanding on the date of establishment of the new interlocal agreement.

(Ord. No. 87-46, § 2, 6-30-87; Ord. No. 93-64, § 2, 6-8-93)

Sec. 118-133. - Utilization of proceeds.

The proceeds of the additional local option gas taxes imposed by this division or from any revenue bonds to be issued thereunder shall be utilized only for transportation expenditures authorized by F.S. § 336.025(7), as amended.

(Ord. No. 87-46, § 3, 6-30-87)

Sec. 118-134. - Collection and disbursement.

The tax imposed by this division shall be collected by the state department of revenue in the manner prescribed by F.S. § 336.025, and distributed monthly to the board of county commissioners for disbursement in accordance with the distribution formula established by the interlocal agreements between the county and municipalities located within the county representing a majority of the population of the incorporated area of the county executed for this purpose.

(Ord. No. 87-46, § 4, 6-30-87)

Sec. 118-135. - Eligible municipalities.

Only those municipalities eligible for participation in the distribution of monies under F.S. ch. 218, pts. II and VI (F.S. §§ 218.20 et seq., 218.60 et seq.) are eligible to receive proceeds of the tax imposed by this division. Any funds otherwise undistributed because of ineligibility shall be distributed to the county and eligible municipalities within the county in proportion to other proceeds distributed pursuant to the provisions of

section 118-134.

(Ord. No. 87-46, § 5, 6-30-87)

Sec. 118-136. - Revenues pledged to liquidate revenue bonds.

The revenues derived by the tax levied and imposed by this division may, after disbursement in accordance with the distribution formula established by interlocal agreement, and to the extent permitted by law, be pledged by the board of county commissioners to secure, release certain previously pledged county non-ad valorem tax receipts, and liquidate revenue bonds during the life of such bonds that may be or have been issued by the county for the purposes set forth by this division or division 2 of this article and the interlocal agreements and any amendments thereto referenced in this division. The board of county commissioners is also authorized to develop, implement and administer any other program or financial agreement in accordance with applicable law to provide for the availability of funds for disbursement or pledge of funds in accordance with the provisions of section 118-134 prior to the collection of all tax revenues to be received pursuant to this division.

(Ord. No. 87-46, § 6, 6-30-87)

Sec. 118-137. - Use of proceeds.

The county's and cities' shares of the proceeds of the tax shall only be used for transportation expenditures as defined by F.S. § 336.025(7).

(Ord. No. 87-46, § 7, 6-30-87; Ord. No. 05-96, § 1, 12-20-05)

Sec. 118-138. - Extension of the local option fuel tax.

The six-cent local option fuel tax levied pursuant to F.S. § 336.025(1)(a) upon every gallon of motor and diesel fuel sold in Pinellas County and taxed pursuant to F.S. ch. 206, as provided in section 118-131, is hereby levied and imposed for the period commencing September 1, 2007 and ending at midnight August 31, 2017.

(Ord. No. 05-96, § 2, 12-20-05)

Sec. 118-139. - Additional extension of the local option fuel tax.

The six-cent local option fuel tax levied pursuant to F.S. § 336.025(1)(a) upon every gallon of motor and diesel fuel sold in Pinellas County and taxed pursuant to F.S. ch. 206, as provided in sections 118-131 and 118-138, is hereby levied and imposed for the period commencing September 1, 2017, and ending at midnight December 31, 2027.

(Ord. No. 15-48, § 1, 12-15-15)

Secs. 118-140—118-150. - Reserved.

DIVISION 4. - NINE-CENT TAX

Sec. 118-151. - Tax levy and imposition.

Pursuant to the authority of F.S. § 336.021 and other applicable law, there is hereby levied and imposed in addition to other fuel taxes allowed by law a one-cent local option motor and diesel fuel tax, designated as the

ninth-cent fuel tax, per net gallon of motor fuel and diesel fuel sold in Pinellas County and taxed under the provisions of F.S. ch. 206 for the period specified in section 118-152.

(Ord. No. 06-29, § 1, 3-14-06)

Sec. 118-152. - Term of levy.

The ninth-cent fuel tax levied by this division shall be effective January 1, 2007, and continue for a period of 20 years, through December 31, 2026.

(Ord. No. 06-29, § 2, 3-14-06)

Sec. 118-153. - Collection and distribution.

The ninth-cent fuel tax imposed by this article shall be collected by the State of Florida Department of Revenue and distributed monthly to the Board of County Commissioners of Pinellas County, Florida in the manner prescribed by F.S. § 336.021, as amended.

(Ord. No. 06-29, § 1, 3-14-06)

Sec. 118-154. - Use of proceeds.

The proceeds of the ninth-cent fuel tax, or from any revenue bonds issued hereunder, shall be utilized only for transportation expenditures related to the design, construction, improvement, operation and maintenance of a countywide traffic management system under county control and within the unincorporated areas of Pinellas County and jurisdictions that have entered into a countywide unified traffic control interlocal agreement with the county.

(Ord. No. 06-29, § 4, 3-14-06)

Sec. 118-155. - Authority to pledge tax proceeds.

All of the proceeds derived by the ninth-cent fuel tax hereby levied and imposed may, to the extent permitted by law, be pledged by the board of county commissioners to secure and liquidate revenue bonds issued by the county for the purposes set forth in this article. The board of county commissioners reserves the right, power, and authority to pledge the proceeds of the ninth-cent fuel tax to debt, and covenants that it shall not take any action adverse to its ability to collect such revenues or maintain its eligibility to receive such revenues, and any irrevocable pledge shall not be subject to repeal or impairment by subsequent action or proceedings of the board.

(Ord. No. 06-29, § 5, 3-14-06)

Secs. 118-156—118-160. - Reserved.

ARTICLE IV. - HISTORIC PROPERTY TAX EXEMPTION[4]

Footnotes:

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Editor's note—Sections 2—14 of Ord. No. 96-13, adopted January 16, 1996, have been added as a new art. IV, §§ 118-161—118-173, at the editor's discretion, as they were nonamendatory of the Code.

Sec. 118-161. - Short title.

This article shall be known and may be cited as the "Pinellas County Historic Property Tax Exemption Ordinance."

(Ord. No. 96-13, § 2, 1-16-96)

Sec. 118-162. - Purpose and intent.

It is the intent of the board of county commissioners to foster the preservation and renovation of historic properties in the county by providing incentives to restore, renovate or rehabilitate historic structures through the implementation of F.S. §§ 196.1997 and 196.1998 relating to the exemption of certain ad valorem taxes for historic properties.

(Ord. No. 96-13, § 3, 1-16-96)

Sec. 118-163. - Definitions.

Applicant means the owner of record of a property or the authorized agent of the owner.

Application means the two-part historic preservation property tax exemption application, DOS Form No. HR3E101292, effective 1-31-94. This form may be obtained through the county planning department, or by writing the Bureau of Historic Preservation, 500 South Bronough Street, Tallahassee, Florida 32399-0250, or from the local historic preservation office.

Assessed value means the total value of a tax parcel (including structures, land and other rights appurtenant thereto) as determined by the county property appraiser and shown on the property tax bill sent to the owner of record by the county.

Board of county commissioners means the Pinellas County Board of County Commissioners.

Certificate of appropriateness means a written authorization by the county administrator to the owner(s) of a designated property, or any building, structure or site within a designated historic district, allowing a proposed alteration, relocation, or the demolition of a building, structure, or site. A certificate of appropriateness is required for any proposed work that will result in the alteration, demolition, relocation, reconstruction, new construction or excavation of a designated historic resource.

Contributing property means and includes any building, structure or site which contributes to the overall historic significance of a designated historic district and was present during the period of historic significance and possesses historic integrity reflecting the character of that time or is capable of yielding important information about the historically significant period or independently meets the criteria for designation as an historic resource.

Covenant means the historic preservation tax exemption covenant required to be recorded with the deed for the property in the official records of the county to obtain an exemption pursuant to this ordinance.

Designation means action by the county board of county commissioners to approve an historic preservation overlay zoning district for (a) parcel(s) of land or district.

Division of historical resources means the Division of Historical Resources of the State of Florida.

Exemption means the ad valorem tax exemption for historic properties authorized pursuant to this ordinance.

Historic district means an area designated as historic pursuant to Chapter 146, Pinellas County Land Development Code, Historic Preservation, or pursuant to the historic preservation regulations of an applicable municipality within Pinellas County, Florida, or that is listed in the National Register of Historic Places.

Historic property means a property that is designated as an historic property, or as a contributing property to an historic district, by the historic preservation regulations found in Chapter 146, Pinellas County Land Development Code, Historic Preservation, or in the historic preservation regulations of the applicable municipality within Pinellas County, Florida, or that is listed in the National Register of Historic Places.

Improvements means changes in the condition of real property brought about by the expenditure of labor or money for the restoration, renovation or rehabilitation of such property. Improvements include additions and accessory structures (i.e. a garage) necessary for efficient contemporary use.

Local historic preservation office is for properties located in the unincorporated area of the county means the City of St. Petersburg Planning Department that has been certified by the State of Florida, Division of Historical Resources as qualified to review applications for historic property tax exemptions pursuant to F.S. § 196.1997 or 196.1998, and that has entered into an interlocal agreement with the board of county commissioners to perform the duties of a local historic preservation office in the unincorporated area of the county. For properties located within municipalities in Pinellas County, local historic preservation office means the agency or entity designated in the applicable municipal historic property ad valorem tax exemption ordinance.

National Register of Historic Places means the list of historic properties significant in American history, architecture, archaeology, engineering and culture, maintained by the Secretary of the Interior, as established by the National Historic Preservation Act of 1966 (Public Law 89-665:80 STAT. 915; 16 U.S.C. 470), as amended.

Renovation or rehabilitation means the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, cultural and archaeological values.

Restoration means the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

Useable space means that portion of the space within a building which is available for assignment or rental to an occupant, including every type of space available for use of the occupant.

(Ord. No. 96-13, § 4, 1-16-96)

Sec. 118-164. - Property and improvements eligible for tax exemption; area embraced.

(a)

This ordinance shall govern and be applicable to all property located in unincorporated Pinellas County, Florida, and to all property located within any municipality within Pinellas County, Florida that adopts an

historic property ad valorem tax exemption ordinance within their jurisdiction, provided that the property meets the following qualifications:

(1)

The property is individually listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended; or

(2)

The property is a contributing property to a National Register-listed-district;. or

(3)

The property is designated as an historic property, or as a contributing property to an historic district, by the historic preservation regulations found in Chapter 146, Pinellas County Land Development Code, Historic Preservation, or in the historic preservation regulations of the applicable municipality within Pinellas County, Florida.

(b)

In order for an improvement to qualify a property for an exemption, the improvement must:

(1)

Be consistent with the United States Secretary of Interior's Standards for Rehabilitation; and

(2)

Be determined by the local historic preservation office to meet criteria established in rules adopted by the Department of State, Chapter 1A-38, F.A.C.; and

(3)

Be completed within two years from the date of approval of a complete preconstruction application. A preconstruction application approval shall automatically be revoked if the property owner has not submitted a request for review of completed work within two years following the date of approval of a preconstruction application. The local historic preservation office may grant an extension to this provision for up to six months if such request is made in writing prior to the expiration of the initial period; and

(4)

Within the unincorporated area, contain a minimum of $2,500.00 worth of improvements to the exterior of the property, unless it has been documented in the preconstruction application that no improvements to the exterior of the property are needed; and

(5)

Meet the certificate of appropriateness requirements for a qualifying restoration, renovation, or rehabilitation, if applicable under the conditions of Chapter 146, Pinellas County Land Development Code, Historic Preservation, or applicable municipal historic preservation ordinance.

(Ord. No. 96-13, § 5, 1-16-96)

Sec. 118-165. - Duration and amount of tax exemptions.

Any tax exemption granted by this ordinance shall remain in effect for ten years regardless of any change in the authority of the board of county commissioners to grant such exemptions or any change in the ownership of the property, except as set forth in section 118-168 and in section 118-170(b) of this article. Improvements which qualified the property for an exemption must be maintained over the period for which the exemption is granted. The tax exemption amount will be determined by the assessed value of the improvements as determined by the county property appraiser's office and will be fixed in amount for the length of the exemption period based on the assessed value of the improvements at the year the improvements are completed.

(Ord. No. 96-13, § 6, 1-16-96)

Sec. 118-166. - Applicable taxes.

The tax exemptions allowed herein are only ad valorem taxes assessed by the county board of county commissioners and include the following:

(1)

Pinellas County Government;

(2)

Pinellas County Health;

(3)

Pinellas County Mosquito Control;

(4)

Pinellas Planning Council;

(5)

Pinellas County Municipal Services Taxing District.

The exemptions do not apply to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to Section 9(b) or Section 12, Article VII of the Florida Constitution.

(Ord. No. 96-13, § 7, 1-16-96)

Sec. 118-167. - Ad valorem tax exemptions for improvements to historic property authorized: limitations.

The board of county commissioners may authorize an exemption from ad valorem taxation equal to 100 percent of the assessed value of all improvements to historic properties which result from the restoration, renovation or rehabilitation of such properties. The exemption applies only to improvements to real property. For properties located within a municipality, the exemption shall not be allowed for that portion of the

assessed value of an improvement which exceeds any maximum amount established in the applicable municipal historic property ad valorem tax exemption ordinance. In order for the property to qualify for the exemption, any such improvements must be made on or after the effective date of this ordinance.

(Ord. No. 96-13, § 8, 1-16-96)

Sec. 118-168. - Ad valorem tax exemptions for historic properties open to the public.

If a property is used for nonprofit or governmental purposes, and is regularly and frequently open for the public's visitation, use and benefit, as defined in Chapter lA-38, F.A.C., the board of county commissioners may exempt 100 percent of the assessed value of the property as improved from ad valorem taxes levied by the board of county commissioners provided that the assessed value of the qualifying improvement is equal to at least 50 percent of the total assessed value of the property as improved. This section applies only if the qualifying improvements are made by or for the use of the existing property owner. In order for the property to qualify for the exemption provided in this section, any such improvements must be made on or after the effective date of this ordinance.

A property is considered used for nonprofit or governmental purposes if the occupant or the user of at least 65 percent of the useable space of the building is an agency of the federal, state, or local government or a nonprofit corporation whose articles of incorporation have been filed by the Department of State in accordance with F.S. § 617.0125. A property is considered regularly and frequently open to the public if public access to the property is provided not less than 52 days a year on an equitably spaced basis, and at other times by appointment. This exemption does not prohibit the owner from charging a reasonable nondiscriminatory admission fee. If a property that qualifies for this exemption is no longer regularly and frequently open to the public, or if ownership is transferred, then this exemption shall be subject to the revocation proceedings of section 118-173 of this article.

(Ord. No. 96-13, § 9, 1-16-96)

Sec. 118-169. - Application.

(a)

Preconstruction application. Any person, firm, or corporation that desires an ad valorem tax exemption for the improvement of an historic property must submit to the local historic preservation office a preconstruction application on a form prescribed by the Department of State. The preconstruction application must receive approval prior to the start of construction. An improvement or any portion thereof initiated prior to approval of the preconstruction application shall not be eligible for the exemption. The application must include the following information:

(1)

The name of the property owner and the location of the historic property; and

(2)

A description of the improvements to real property for which an exemption is requested and the anticipated date of commencement of construction of such improvements. For properties located in the unincorporated area, this includes an estimate of the cost of the improvements that will be done to the exterior of the property or documentation that no improvements to the exterior of the property are necessary; and

(3)

Proof, to the satisfaction of the local historic preservation office, that the property that is to be restored, renovated, or rehabilitated is an historic property under this ordinance; and

(4)

Proof, to the satisfaction of the local historic preservation office, that the improvements to the property will be consistent with the United States Secretary of the Interior's Standards for Rehabilitation and will be made in accordance with guidelines developed by the Department of State, Chapter 1A-38, F.A.C.; and

(5)

Other information identified in appropriate Department of State regulations; and

(6)

Other information requested by the local historic preservation office or requested by the board of county commissioners; and

(7)

If necessary under the conditions of Chapter 146, Pinellas County Land Development Code, Historic Preservation, or other applicable municipal historic preservation ordinance, a completed application for a certificate of appropriateness for the qualifying restoration, renovation, or rehabilitation. In unincorporated Pinellas County, a decision on the application for a certificate of appropriateness must occur prior to completing the review of a preconstruction application.

On completion of the review of a preconstruction application, the local historic preservation office shall notify the applicant in writing of the results of the review and shall make recommendations for correction of any planned work deemed to be inconsistent with section 118-164(b) of this article. Any changes made to the improvement after approval of the preconstruction application must receive prior approval of the local historic preservation office to ensure compliance with the criteria set forth in this ordinance. Failure to obtain prior approval may result in denial of the exemption.

(b)

Request for review of completed work application. A request for review of completed work application shall be submitted to the local historic preservation office upon completion of the improvements. The form of said application shall be prescribed by the Department of State and shall include all information referenced in subsection (a) of this section. The local historic preservation office shall review the request for review of completed work application and provide to the board of county commissioners a written recommendation of either approval or denial of the application.

The review by the local historic preservation office will be conducted in accordance with rules adopted by the Department of State, Chapter 1A-38, F.A.C. The local historic preservation office reserves the right to inspect the completed work to verify that it is in compliance with the work described in the approved preconstruction application.

In order for an improvement to an historic property to qualify the property for an exemption, the

improvement must meet the requirements of section 118-164(b) of this article.

(c)

Interior inspection. Upon receipt of a preconstruction application or a request for review of completed work application involving an improvement project in which some of the work is in the interior of the property, the local historic preservation office reserves the right to make arrangements with the applicant for an interior inspection. The purpose of the interior inspection is to ascertain the effect, if any, of the improvement project on significant historical or architectural interior features.

In order to determine the assessed value of an improvement project in which some of the work is in the interior of the property, the county property appraiser's office reserves the right to make arrangements with the applicant for an interior inspection after a tax exemption has been granted by the board of county commissioners.

(d)

Reapplication. A property owner previously granted an exemption may undertake additional improvements during the exemption period or apply for additional exemptions for additional improvements following the expiration of the exemption period. A property owner may not reapply for an exemption for an improvement which has been denied by the board of county commissioners.

(Ord. No. 96-13, § 10, 1-16-96)

Sec. 118-170. - Required covenant.

(a)

To qualify for an exemption, the property owner must enter into a covenant with the board of county commissioners for the term for which the exemption is granted. The form of the covenant must be approved by the Department of State. The covenant shall provide that the property owner shall maintain and repair the property so as to preserve and maintain the historic architectural qualities or historical or archaeological integrity of the property during the period that the exemption is granted. If the exemption is granted, the property owner shall have the covenant recorded with the deed for the property in the official records of the county prior to the effective date of the exemption and shall provide a certified copy of the recorded covenant to the county administrator, or his or her designee, within 30 days of the board of county commissioners approval or said approval by the board of county commissioners shall be void. The covenant shall be binding on the current property owner, transferees, and their heirs, successors, or assigns. Violation of the covenant results in the property owner being subject to the payment of the differences between the total amount of taxes which would have been due in March in each of the previous years in which the covenant was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in F.S. § 212.12(3).

(b)

If the property changes ownership during the exemption period, the requirements of the covenant must be transferred to the new owner. The new property owner may sign a waiver which discontinues the exemption on the property with no penalty to the property owner. The exemption may not be reinstated after the waiver has been delivered to the county administrator, or his or her designee. A copy of the waiver will be delivered to the county property appraiser's office. For waivers received prior to July 1 by the property appraiser's

office, the exemption will be discontinued in that tax year. For waivers received after July 1 by the property appraiser's office, the exemption will be discontinued in the following tax year.

(c)

For those properties located within a municipality that is also granting an historic property tax exemption, one historic property tax exemption covenant may be executed by the property owner to include both the municipality and the county. The property owner must provide a certified copy of the recorded covenant to both the municipality and to the county administrator, or his or her designee.

(Ord. No. 96-13, § 11, 1-16-96)

Sec. 118-171. - Board of county commissioners review and action.

On completion of any municipal action on an application, the local historic preservation office shall deliver a copy of the application, their recommendation to grant or deny the tax exemption and the reasons therefor, and a copy of the municipal action to the county administrator, or his or her designee, to be presented to the board of county commissioners for execution. For those properties located in the unincorporated area, the local historic preservation office shall deliver a copy of the application, their recommendation to grant or deny the tax exemption, and the reasons therefor, to the county administrator, or his or her designee, following the completion of the review of a request for review of completed work application. The recommendation and the reasons therefor shall also be provided in writing by the local historic preservation office to the applicant.

The board of county commissioners may then approve, modify, defer, or deny an application for tax exemption by resolution. If approved by the board of county commissioners, such tax exemption shall take effect on the January 1 following the resolution approving the tax exemption. Said approval shall be conditioned upon receipt by the county administrator, or his or her designee, of a certified copy of the recorded covenant. The resolution approving the tax exemption shall include but not be limited to the following:

(1)

The name of the owner and the address of the historic property for which the exemption is granted.

(2)

The period of time for which the exemption will remain in effect and the expiration date of the exemption.

(3)

A finding that the historic property meets the requirements of this ordinance.

(4)

Any conditions of approval.

(Ord. No. 96-13, § 12, 1-16-96)

Sec. 118-172. - Notice to property appraiser.

The board of county commissioners shall deliver to the county property appraiser a copy of each application for an historic property ad valorem tax exemption approved in the previous calendar year. The applications will be delivered on or before March 1 of each year. Upon certification of the assessment roll or recertification, if applicable, pursuant to F.S. § 193.122, for each fiscal year during which this ordinance is in effect, the property appraiser shall report the following information to the board of county commissioners:

(1)

The total taxable value of all property within the county for the current fiscal year.

(2)

The total exempted value of all property in the county which has been approved to receive historic preservation ad valorem tax exemption for the current fiscal year.

(Ord. No. 96-13, § 13, 1-16-96)

Sec. 118-173. - Revocation proceedings.

The board of county commissioners may revoke an exemption at any time in the event that the property owner, or any subsequent owner or successor in interest to the property, violates the covenant, fails to maintain the qualifying property according to the terms, conditions and standards of the covenant, the historic character of the property and improvements which qualified the property for the exemption are not maintained, or if the property has been damaged by accidental or natural causes to the extent that the historic integrity of the features, materials, appearances, workmanship and environment, or archaeological integrity which made it eligible for listing or designation have been lost or damaged so that restoration is not possible. The county administrator, or his or her designee, shall provide notice of such proceedings to the owner of record of the property. The board of county commissioners shall determine whether, and under what conditions the exemption shall be revoked, and whether and in what amount the property owner owes back taxes pursuant to subsection 118-170(a) of this article. The board of county commissioners shall provide written notice of the decision to the owner of record and to the county property appraiser.

If revocation proceedings are initiated by a municipality, the local historic preservation office of the municipality shall notify the county administrator's office, or his or her designee, of the proceedings and the reasons therefor.

(Ord. No. 96-13, § 14, 1-16-96)

ARTICLE V. - ADDITIONAL HOMESTEAD EXEMPTION FOR PERSONS 65 AND OLDER

Sec. 118-174. - Short title.

This article shall be known and may be cited as the "Pinellas County Additional Homestead Exemption for Persons 65 and Older Ordinance."

(Ord. No. 05-77, § 1, 11-15-05)

Sec. 118-175. - Authority and intent.

This article is adopted pursuant to the specific authority of Section 6(f), Article VII of the Florida

Constitution, and F.S. § 196.075. It is the intent of the Pinellas County Board of County Commissioners to provide additional tax relief to eligible senior citizens residing in the MSTU.

(Ord. No. 05-77, § 1, 11-15-05)

Sec. 118-176. - Definitions.

The following words, terms and phrases, as used in this article, shall have the meanings set forth below unless clearly indicated otherwise:

Board means the Pinellas County Board of County Commissioners.

County means Pinellas County, Florida.

MSTU means the municipal services taxing unit millage assessed against properties located in unincorporated Pinellas County pursuant to F.S. § 125.01(1)(q).

Department of revenue means the State of Florida Department of Revenue.

Household means a person or group of persons living together in a room or group of rooms as a housing unit, but the term does not include persons boarding in or renting a portion of the dwelling.

Household income means the adjusted gross income, as defined in § 62 of the United States Internal Revenue Code, of all members of a household.

Property appraiser means the Property Appraiser of Pinellas County, Florida.

Sixty-five (65) years of age means a person who has attained the age of 65 prior to January 1 of the tax year for which the additional homestead exemption is sought.

(Ord. No. 05-77, § 1, 11-15-05)

Sec. 118-177. - Entitlement to additional homestead exemption.

(a)

Any person 65 years of age or older who has the legal or equitable title to real estate located within the unincorporated MSTU and maintains thereon their permanent residence, which residence qualifies for and receives homestead exemption pursuant to Section 6(a), Article VII of the Florida Constitution, and F.S. § 196.031, and whose household income does not exceed $20,000.00 or such amount as is adjusted pursuant to section 118-178 herein shall be entitled to make application to the Property Appraiser of Pinellas County for an additional homestead exemption of $25,000.00 as provided in this article.

(b)

The additional homestead exemption, if granted, shall be applicable only to the MSTU millage levied by the county in the unincorporated portions of Pinellas County. Receipt of the additional homestead exemption pursuant to this article shall be subject to the provisions of F.S. §§ 196.131 and 196.161, if applicable.

(c)

The additional homestead exemption provided herein shall be available to qualified persons beginning with the 2006 tax roll, and annually thereafter to the extent permitted by law. The Pinellas County Board of County Commissioners reserves the right to amend and to repeal this article. The household income limitation shall be subject to adjustment as provided in section 118-178.

(Ord. No. 05-77, § 1, 11-15-05)

Sec. 118-178. - Annual adjustment of income.

Beginning in January 1, 2001, and annually thereafter, the $20,000.00 household income limitation shall be adjusted by the percentage change in the average cost-of-living index in the period of January 1 through December 31 of the immediate prior year compared with the same period for the year prior to that year, in accordance with F.S. § 196.075(3). The index is the average of the monthly consumer-price-index figures for the stated 12-month period, relative to the United States as a whole, issue by the United States Department of Labor.

(Ord. No. 05-77, § 1, 11-15-05)

Sec. 118-179. - Requirement for claiming additional homestead exemption.

(a)

The taxpayer claiming the exemption shall annually submit to the property appraiser, not later than March 1, a sworn statement of household income for all members of the household on a form prescribed by the department of revenue.

(b)

For the initial application for the additional homestead exemption the sworn statement shall be supported by copies of any federal income tax returns for the prior year for each member of the household, any wage and earnings statements (W-2 forms) for each member of the household, any request for an extension of time to file federal income tax returns, and any other documents the department of revenue finds necessary. Once the documents have been inspected by the property appraiser, they shall be returned to the taxpayer or otherwise destroyed.

(c)

The taxpayer's statement shall attest to the accuracy of all documentation provided, and the property appraiser shall not grant the exemption without the required documentation.

(d)

Although an application for the additional homestead exemption and sworn statement of household income for all members of the household is required to be filed with the property appraiser each year no later than march 1, supporting documentation is not required for the renewal of an exemption unless the property appraiser requests such documentation.

(e)

Failure to file the application and sworn statement by March 1 of any given year shall constitute a waiver of the additional exemption privilege for that year.

(f)

The property appraiser is authorized to generate random audits of taxpayers' sworn statements to ensure the accuracy of household income reported, as set forth in F.S. § 196.075(5).

(g)

If title to the property is held jointly with right of survivorship, the person residing on the property and otherwise qualifying may receive the entire amount of the additional homestead exemption.

(Ord. No. 05-77, § 1, 11-15-05)

Sec. 118-180. - Penalties.

If the property appraiser determines that for any year within the immediately previous ten years a person who was not entitled to the additional homestead exemption under this section was granted such an exemption, the property appraiser shall serve upon the owner a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that person in the county, and that property must be identified in the notice of tax lien. Any property that is owned by the taxpayer and is situated in this state is subject to the taxes exempted by the improper homestead exemption, plus a penalty of 50 percent of the unpaid taxes for each year and interest at a rate of 15 percent per annum. However, if such an exemption is improperly granted as a result of the property appraiser, the person who improperly received the exemption may not be assessed a penalty and interest. Before any such lien may be filed, the owner must be given 30 days within which to pay the taxes, penalties, and interest. Such a lien is subject to the provisions lien procedures and provisions set forth in F.S. § 196.161(3). This section is intended to conform with the provisions of F.S. § 196.075(9).

(Ord. No. 05-77, § 1, 11-15-05)

ARTICLE VI. - PINELLAS COUNTY ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION PROCESS

Sec. 118-181. - Enactment authority.

Fla. Const. art. VII, § 3, and F.S. § 196.1995 empower Pinellas County to grant economic development ad valorem tax exemptions to new businesses and expansions of existing businesses after the electors of the county authorize such exemptions. In a referendum held on August 26, 2014, the electors of Pinellas County authorized the board to grant economic development ad valorem tax exemptions.

(Ord. No. 2014-56, § 1, 12-16-14)

Sec. 118-182. - Definitions.

The following words, phrases and terms shall have the meanings set forth below. Except where indicated otherwise such words, phrases and terms shall have the same meanings attributed to them in the Florida Statutes and the Florida Administrative Code as amended from time to time:

Administrator means the chief administrative officer of Pinellas County, or such person's designee.

Applicant means any person, firm, partnership or corporation who files an application with Pinellas County

seeking an economic development ad valorem tax exemption.

Application means a written application for an economic development ad valorem tax exemption on the form prescribed by the department, together with any supplemental form prescribed by the administrator and any additional information requested by the administrator.

Average annual employment means the sum of the number of full-time equivalent employees as of the last day of each month of the preceding calendar year divided by 12.

Average annual wage means the sum of the wages paid to full-time equivalent employees included in the average annual employment, divided by the average annual employment.

Board means the Board of County Commissioners of Pinellas County, Florida.

Brownfield area means an area designated as a brownfield area pursuant to F.S. § 376.80.

Business means any activity engaged in by any person, firm, partnership, corporation, or other business organization or entity, with the object of private or public gain, benefit, or advantage, either direct or indirect.

Capital investment means any expenditure for an expansion of an existing business or a new business to be located in Pinellas County which can be capitalized under generally accepted accounting principles.

Community redevelopment area means an area designated as a community redevelopment area pursuant to F.S. pt. III, ch. 163.

County means Pinellas County, Florida.

Department means the Florida Department of Revenue.

Economic development ad valorem tax exemption or exemption means an ad valorem tax exemption granted by the board in its sole and absolute discretion to a qualified business pursuant to this article as authorized by Fla. Const. art. VII, § 3, and F.S. § 196.1995.

Enterprise zone means an area designated as an enterprise zone pursuant to F.S. § 290.0065.

Exemption criteria means the criteria to be applied by the board in making its determination as to whether to grant an exemption, as provided for in this article.

Exemption ordinance means the ordinance adopted by the board for each exemption granted.

Expansion of an existing business means as set forth in the chart provided in this article.

Full-time equivalent employee means a person who is employed by a business that works at least 35 hours per week and is eligible to receive benefits, including health benefits, through their employer, subject to any eligible vesting periods.

High impact office business means a business constructing an office space that is expected to have a significant effect on a brownfield or enterprise zone area as a result of its unique or substantial redevelopment impact.

Improvements means physical changes made to raw land, and structures placed on or under the land surface.

Manufacturing business means a business or organization which principally manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant.

MSTU means municipal services taxing unit.

New business means as set forth in the chart provided in this article.

New job means a full-time equivalent employee which is new to the State of Florida.

Property appraiser means the Pinellas County Property Appraiser.

Qualifying average annual wage means an average annual wage greater than the average annual wage of Pinellas County, as provided annually by the State of Florida.

Sales factor means, as defined in F.S. § 220.15(5), a fraction the numerator of which is the total sales of the taxpayer in this state during the taxable year or period and the denominator of which is the total sales of the taxpayer everywhere during the taxable year or period.

Tangible personal property shall have the meaning set forth in F.S. § 192.001(11)(d).

Target industry business means an expansion of an existing business or a new business that is engaged in a business designated as a target industry business pursuant to F.S. § 288.106.

Wages means all compensation including salaries, bonuses, commissions and the value of exercised stock options subject to federal income tax, but excluding fringe benefits; provided stock options shall be included in the calculation of wages in a manner consistent with the program established pursuant to F.S. § 288.106.

Written tax exemption agreement means the agreement executed between the applicant and the county upon approval of the board's granting of an exemption.

(Ord. No. 2014-56, § 1, 12-16-14)

Sec. 118-183. - Establishment of economic development ad valorem tax exemption process.

(a)

Incentive. There is herein established an economic development ad valorem tax exemption process from certain ad valorem taxes levied by the county, specifically county general fund and/or MSTU taxes, as authorized by law. The exemption is a local option tax incentive for a qualified new business or expansion of an existing business which may be granted or refused at the sole and absolute discretion of the board.

(b)

Ineligible improvements. The exemption shall not apply to improvements made by or for the use of a qualified new business or expansion of an existing business when such improvements have been included on the tax rolls prior to the effective date of an exemption ordinance specifically granting such new business or expansion of an existing business an exemption. Improvements made or tangible personal property added or increased before the exemption ordinance specifically granting an exemption is adopted are ineligible, unless they are added or increased following a motion or resolution of the board specifically authorizing such additions subject to an exemption ordinance adoption.

(c)

Eligible improvements. At the sole and absolute discretion of the board, the exemption may be granted for up to 100 percent of the assessed value of all improvements made by or for the use of a qualifying new business and/or of all tangible personal property of such new business, or up to 100 percent of the assessed value of all added improvements made to facilitate the qualifying expansion of an existing business and/or of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business. To qualify for this exemption, the improvements to real property must be made or the tangible personal property must be added or increased after approval by motion or resolution of the board, subject to exemption ordinance adoption or on or after the day the exemption ordinance is adopted. Property acquired to replace existing property shall not be construed to facilitate a business expansion.

(d)

Land. No exemption shall be granted for the land upon which a new business and/or expansion of an existing business is to be located.

(e)

Exemption period. The exemption may be for a period of up to ten years from the effective date of the exemption ordinance specifically granting an exemption.

(f)

Taxes applicable. The exemption shall apply only to eligible ad valorem taxes levied by the county, specifically county general fund and/or MSTU taxes. The exemption shall not apply to taxes levied by other taxing authorities, or to taxes levied for the payment of bonds or taxes authorized by a vote of the electors pursuant to Fla. Const. art. VII, § 9(b) or 12.

(g)

Exemption nontransferable. Any exemption granted for a new business or expansion of an existing business is nontransferable between businesses; provided, however, if the only change to the business is ownership and all other provisions of the original application remain in effect, the exemption may be transferred subject to compliance with this article. The county shall make the determination of whether an exemption qualifies as transferable and shall notify the property appraiser of any changes in exempt status for a property.

(Ord. No. 2014-56, § 1, 12-16-14)

Sec. 118-184. - Application for exemption.

(a)

Application. Any eligible person, firm, partnership or corporation which desires an exemption shall file with the county an application by February 1 of the year the exemption is desired to take effect.

(b)

Application requirements. The Application shall request the adoption of an ordinance granting an exemption from ad valorem taxation pursuant to F.S. § 196.1995, and shall include the following information:

(1)

The name and location of the new business or the expansion of an existing business;

(2)

A description of the improvements to real property for which an exemption is requested and the date of commencement of construction of such improvements;

(3)

A description of the tangible personal property for which an exemption is requested and the dates when such property was or is to be purchased;

(4)

Proof, to the satisfaction of the board, that the applicant is a new business or an expansion of an existing business, as defined in F.S. § 196.012;

(5)

The number of jobs the applicant expects to create along with the average annual wage of the jobs and whether the jobs are for full-time equivalent employees;

(6)

The expected time schedule for job creation;

(7)

Proof of ownership of the improvements to the real property and/or tangible personal property subject to ad valorem taxation must be demonstrated. If the applicant is not the property owner, proof of liability for the ad valorem taxation on the improvements to the real property and/or tangible personal property must be demonstrated;

(8)

Other information deemed necessary or appropriate by the county.

(c)

Review. Upon submittal of the application, the county shall notify the applicant of any insufficient information or deficiencies in the application. Once the application is completed, the county shall make an initial determination of whether to recommend to the board that the applicant qualifies as a new business or expansion of an existing business and provide the application to the property appraiser. Applications shall be scheduled for a public hearing before the board following receipt by the county of the property appraiser's report provided for in this article. The applicant shall be notified of the date and time of the public hearings(s).

(d)

Agreement. As a condition precedent to receiving an exemption, a business will be required to enter into a written tax exemption agreement with the county to ensure that the business satisfies all requirements associated with the granting and continuation of the exemption.

(Ord. No. 2014-56, § 1, 12-16-14)

Sec. 118-185. - Consideration of applications.

(a)

Property appraiser review and report. Before the board takes action on an application, a copy of the application deemed complete by the county shall be delivered to the property appraiser. The property appraiser shall provide a report to the board, which shall include the following:

(1)

The total revenue available to the county for the current fiscal year from ad valorem tax sources or an estimate of such revenue if the actual total available revenue cannot be determined;

(2)

The amount of any revenue lost to the county for the current fiscal year by virtue of exemptions previously granted, or an estimate of such revenue if the actual revenue lost cannot be determined;

(3)

An estimate of the amount of revenue which would be lost to the county during the current fiscal year if the exemption applied for were granted had the property for which the exemption is requested otherwise been subject to taxation; and

(4)

A determination as to whether the property for which an exemption is requested is to be incorporated into a new business or the expansion of an existing business, or into neither, which determination the property appraiser shall also affix to the face of the application.

(b)

Ineligibility criteria.

(1)

Any business, business owner, officer, partner or principal actor acting on behalf of the business or applicant, that has been convicted of a felony or released from custody (within the last ten years) or a misdemeanor involving crimes of violence, dishonesty or false statement (within the last five years) of any federal or state law or regulation is not eligible for an exemption.

(2)

For those qualifying Businesses located within those portions of Pinellas County comprising a tax increment finance district for which county general fund and/or MSTU ad valorem revenues have been pledged, the

board shall only consider applications for a tangible personal property tax exemption, as allowed by law.

(3)

Any business in violation of any federal, state, or local law or regulation, including, but not limited to, environmental laws or regulations, will not be eligible for an exemption.

(c)

Exemption criteria.

(1)

In making its determination as to whether to grant an exemption, the county shall consider new businesses or the expansion of existing businesses, as set forth in the chart below:

New Business	
Manufacturing	
	A business or organization establishing 10 or more new jobs to employ 10 or more full-time equivalent employees in this county, paying a qualifying average annual wage, which principally manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant.
Targeted Industry	
	A business or organization establishing 10 or more new jobs to employ 10 or more full-time equivalent employees in this county, paying a qualifying average annual wage, which is a target industry business as defined in F.S. § 288.106.
Business with Out-Of-State Sales	
	A business or organization establishing 25 or more new jobs to employ 25 or more full-time equivalent employees in this county, the sales factor of which, as defined by F.S. § 220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed.
Office	
	An office space in this county owned and used by a business or organization newly domiciled in this state; provided such office space houses 50 or more full-time equivalent employees of such business or organization; provided that such business or organization office first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business or organization.
Enterprise Zone or Brownfield Area	
	A manufacturing business, a target industry business, a business with a sales factor of less than 0.50 or a high impact office business located in an enterprise zone or brownfield area that first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business or organization and meets the following criteria:
	• Has a minimum capital investment in eligible improvements of $100,000, excluding land; and

	• Any new jobs created have an average annual wage of at least 75% of the qualifying average annual wage.
Expansion of Existing Businesses	
Manufacturing	
	A business or organization establishing 10 or more new jobs to employ 10 or more full-time equivalent employees in this county, paying a qualifying average annual wage, which principally manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant.
Targeted Industry	
	A business or organization establishing 10 or more new jobs to employ 10 or more full-time equivalent employees in this county, paying a qualifying average annual wage, which is a target industry business as defined in F.S. § 288.106.
Business with Out-Of-State Sales	
	A business or organization establishing 25 or more new jobs to employ 25 or more full-time equivalent employees in this county, the sales factor of which, as defined by as defined by F.S. § 220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; provided that such business increases operations on a site located within the county co-located with a commercial or industrial operation owned by the same business or organization under common control with the same business or organization, resulting in a net increase in employment of not less than 10 percent or an increase in productive output or sales of not less than 10 percent.
Enterprise Zone or Brownfield Area	
	A manufacturing business, a target industry business, or a business with sales factor of less than 0.50 or a high impact office business located in an enterprise zone or brownfield area, that increases operations on a site located within the same enterprise zone or brownfield area collocated with a commercial or industrial operation owned by the same business or organization under common control with the same business or organization and meets the following criteria:
	• Has a minimum capital investment in eligible improvements of $100,000, excluding land; and
	• Any new jobs created for full-time equivalent employees have an average annual wage of at least 75% of the qualifying average annual wage.

(2)

In considering any application for an exemption, the board shall take into account the following:

a.

Total number of net new jobs to be created by the applicant;

b.

The average annual wage of the new jobs;

c.

The capital investment to be made by the applicant;

d.

The type of business or operation and whether it qualifies as a targeted industry;

e.

The environmental impact of the proposed business or operation;

f.

The extent of commitment to local procurement by applicant;

g.

The project being located in a brownfield area or enterprise zone;

h.

Any other economic-related characteristics or criteria deemed necessary by the board.

(d)

Exemption ordinance. After consideration of the application, the property appraiser's report, the exemption criteria and such other information it deems relevant, the board may choose in its sole and absolute discretion to adopt an ordinance granting an exemption to the applicant. If the board decides to adopt such an ordinance, the ordinance shall be adopted in the same manner as any other general ordinance of the county, and shall include the following:

(1)

The name and address of the new business or expansion of an existing business to which the exemption is granted;

(2)

The name of the owners of the new business or the expansion of an existing business;

(3)

The total amount of revenue available to the county from the ad valorem tax sources for the current fiscal year, the total amount of revenue lost to the county for the current fiscal year by virtue of exemptions currently in effect, and the estimated revenue lost to the county for the current fiscal year attributable to the exemption of the business named in the exemption ordinance;

(4)

The period of time for which the exemption will remain in effect and the expiration date of the exemption, which may be any period of time up to ten years;

(5)

A finding that the business named in the exemption ordinance meets the requirements of F.S. § 196.012; and

(6)

Provisions for transferability of the exemption.

(e)

Precedent; standard for consideration of applications. No precedent shall be implied or inferred by the granting of an exemption. Each application shall be considered by the board in its legislative capacity, on a case-by-case basis, after considering the applicant, property appraiser's report, the exemption criteria and such other information it deems relevant.

(Ord. No. 2014-56, § 1, 12-16-14)

Sec. 118-186. - Application fees.

By resolution, the board may establish fees for processing applications and preparing, implementing and monitoring any exemption ordinance enacted by the board.

(Ord. No. 2014-56, § 1, 12-16-14)

Sec. 118-187. - Continuing performance.

(a)

Change in ownership. The business granted the exemption shall be required to inform the board in writing within ten days as to any changes in ownership of the business granted an exemption. The transferee business shall comply with all exemption requirements and shall assume in writing all of the obligations the originating business provided in the written tax exemption agreement.

(b)

Annual filings. The ability to receive an exemption for the period granted shall be conditioned upon the applicant's ability to maintain the qualified business throughout the entire period.

(1)

The applicant shall be required to submit an annual renewal statement and an annual report to the county on or before February 1 of each year during the period for which the exemption was granted.

(2)

The annual renewal statement shall certify that the information provided in the original application has not changed.

(3)

The annual report shall provide a report on the status of the business, evidencing satisfaction of the business maintenance and continued performance conditions set forth in the exemption ordinance and written tax

exemption agreement. The report shall be prepared in a form approved by the county and shall contain information the county may reasonably deem necessary for the purpose of determining continuing performance by the business.

(c)

[Compliance with state statute.] The applicant shall comply with all filings required pursuant to F.S. § 196.011.

(Ord. No. 2014-56, § 1, 12-16-14)

Sec. 118-188. - County revocation.

(a)

[Noncompliance.] Should any business granted an exemption pursuant to this article fail to comply with one or more items below, the county may, upon 30 days' written notice to the respective business, adopt an ordinance revoking the exemption or take such other action with respect to the exemption as it deems appropriate:

(1)

Fail to file the annual renewal statement and/or annual report on or before February 1 of each year during the period for which the exemption has been granted as required by this article;

(2)

Fail to continue to meet the definition of a new business or an expansion of an existing business;

(3)

Fail to timely inform the county of a change of ownership;

(4)

Fail to file a new application upon any change in the information provided in the original application;

(5)

Fail to fulfill any other representation made to the county during the application process; and/or

(6)

Fail to comply with any other requirement provided for in this article.

(b)

Notification. Upon revocation of the exemption, the county shall immediately notify the property appraiser.

(c)

Recovery of taxes. If it is determined that a business was not in fact entitled to an exemption in any year for

which the business received an exemption, the county, property appraiser or tax collector shall be entitled to recover all taxes not paid as a result of the exemption, plus interest at the maximum rate allowed by law, plus all costs of collection, including, without limitation, reasonable attorney's fees.

(d)

Reapplication. Nothing herein shall prohibit a business from reapplying for an economic development ad valorem tax exemption pursuant to state law and this article.

(Ord. No. 2014-56, § 1, 12-16-14)

Sec. 118-189. - Applicability.

This article shall be applicable in all areas within incorporated and unincorporated Pinellas County.

(Ord. No. 2014-56, § 1, 12-16-14)

Sec. 118-190. - Sunset date.

Pursuant to F.S. § 196.1995, this article shall expire at 12:01 a.m. on August 27, 2024, which is ten years after the effective date such authority to grant economic development ad valorem tax exemptions was approved by the electors of the county voting on the question in a referendum; provided that for purposes of enforcement and revocation, the terms herein shall survive such expiration date. No business shall be allowed to begin receiving an exemption after that date; however, the expiration shall not affect the operation of any exemption for which a business has qualified under this article prior to August 27, 2024.

(Ord. No. 2014-56, § 1, 12-16-14)

Chapter 122 - TRAFFIC AND VEHICLES[1]
Footnotes:
--- (**1**) ---

Charter reference— General powers of county, § 2.01.

Cross reference— Hurricane evacuation plan for recreational vehicle parks and transient accomodations, § 34-61 et seq.; additional assessment of certain traffic offenses to fund police standards council, § 74-35; combat automobile theft program, § 86-32; roads and bridges, ch. 98.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g); traffic generally, F.S. ch. 316; powers of local authorities, F.S. §§ 316.002, 316.007, 316.008.

ARTICLE I. - IN GENERAL

Sec. 122-1. - Identification of commercial vehicles.

(a)

Definitions. As used in this section:

Commercial vehicle is defined as any vehicle, commercial in its design and structure, or any other vehicle

used for commercial purposes. "Commercial purpose" means a use for compensation, including but not limited to the transport of animals, commodities, materials, solid waste, articles of trade, or the performance or tender of services. This definition does not include otherwise unmarked personal vehicles of supervisory personnel or crew.

(b)

Prohibited. It shall be unlawful to operate upon any street, highway, road, or right-of-way any commercial vehicle registered in the county, or predominantly used for commercial purposes within the county, unless such vehicle is identified as set forth in subsection (c) of this section.

(c)

Identification. Commercial vehicles as defined under this section shall be identified on both the right and left sides of the vehicle. The name and telephone number of the company or firm operating the vehicle shall be neatly and permanently painted on the vehicle, or on an attached plate, in contrasting color from the vehicle or plate, in letters not less than three inches in height and displayed in such manner that either the painting or nameplate shall be legible at all times.

(d)

Areas embraced. All territory within the legal boundaries of Pinellas County, Florida, including all incorporated and unincorporated areas, shall be embraced by the provisions of this section.

(Ord. No. 72-3, §§ 1—5, 3-7-72; Ord. No. 85-32, §§ 1, 2, 10-1-85; Ord. No. 89-24, §§ 1, 2, 6-6-89; Ord. No. 01-24, § 1, 5-8-01)

Sec. 122-2. - Bicycle lanes.

(a)

Purpose. The county recognizes that providing for a designated area to be exclusively used by bicycles increases the awareness of cyclists by the drivers of motorized vehicles. In addition, designated bicycle lanes have been shown to increase safety for the cyclists, which in turn is expected to increase the popularity of this alternate mode of transportation.

(b)

Definitions.

Bicycle means non-motorized two-wheeled cycles, having a seat, propelled solely by human power.

Designated bicycle lanes means those areas within the paved portion of the roadway set apart for exclusive bicycle use by striping, symbols, and signage.

(c)

Areas embraced. This section shall be applicable to any designated bicycle lanes previously established as of the effective date of the ordinance from which this section derives or added in the future to any county roads, as defined by F.S. § 334.03(8), whether in municipalities or in the unincorporated areas of the county.

(d)

Activities prohibited within designated bicycle lanes. It shall be unlawful for any persons to use designated bicycle lanes for any activity other than the operation of bicycles in the direction provided by F.S. ch. 316, which is in the same direction as motor vehicles. It is not prohibited for motor vehicles or pedestrians to cross bicycle lanes when necessary to ingress or egress adjacent properties or driveways, as long as reasonable care is taken not to interfere with cycling traffic.

(Ord. No. 01-49, §§ 1—4, 7-17-01)

Sec. 122-3. - Driver education safety trust fund.

(a)

Pursuant to the "Dori Slosberg Driver Education Safety Act," the clerk of the circuit court shall collect an additional $3.00 with each civil traffic penalty levied in Pinellas County, to be used for driver education safety programs.

(b)

All funds collected under this section shall be deposited into a special account entitled "Driver Education Safety Trust Fund."

(Ord. No. 06-14, § 1, 2-7-06)

Sec. 122-4. - Same—Disbursement.

(a)

Funds deposited in the driver education safety trust fund shall be used to financially assist driver education safety programs in public schools in the county. The Pinellas County School Board shall use these funds for direct educational expenses. Funds shall not be used for administrative costs.

(b)

The funds collected under section 122-3 shall be disbursed to the school board as provided by the board of county commissioners in consultation with the Superintendent of the Pinellas County Schools.

(Ord. No. 06-14, § 2, 2-7-06)

Secs. 122-5—122-24. - Reserved.

ARTICLE II. - STOPPING, STANDING AND PARKING[2]

Footnotes:

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State Law reference— Authority to regulate or prohibit stopping, standing or parking preserved, F.S. § 316.008(1)(a); stopping, standing and parking generally, F.S. § 316.194 et seq.

Sec. 122-25. - Definitions.

For the purpose of this article, the following terms, phrases, words and their derivatives shall have the following meanings:

Park or parking means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in unloading passengers or personal property.

Parking meter shall mean any mechanical or electronic device to be used for the purpose of regulating or controlling parking, which is actuated by the insertion of coins, bills, tokens or key card, and the operation of a lever or cranking devise for a mechanical meter, or automatic timing display or reading of an electronic devise.

Parking pay station shall mean any mechanical or electronic device to be used for the purpose of regulating or controlling parking, which is conveniently located to serve multiple parking spaces, with appropriate signage notifying the vehicle operator which numbered parking spaces are served by the parking pay station, or which provides a receipt or otherwise confirms legal parking upon the deposit of authorized legal tender therein for the period of time conforming to such parking limit as may be established as provided herein.

Vehicle shall mean any device in, upon or by which any person or property is or may be transported upon a street, except devices moved by human power or operated on rails or tracks.

(Ord. No. 05-15, § 1, 3-15-05)

Sec. 122-26. - Establishment of areas; time limits; installation and operation of parking meters and parking pay stations.

(a)

In accordance with the provisions of this article, the county administrator is authorized to:

(1)

Establish areas, both on-street and off-street, where fees must be paid for parking and to designate the manner in which the fees are to be collected, including designating fees for annual parking permits.

(2)

Designate time limits for parking at meter or pay station zones within the county for that part of the street or parking area upon which, or for which, such meter or pay station is placed and to designate the fee which may be deposited therein for the purpose of obtaining legal parking for such period of time so designated.

(3)

Establish no parking zones, and provide for signage notifying vehicle operators of the no parking zone areas.

(b)

Parking meters or parking pay stations shall be installed in appropriate locations relative to each fee parking space established as provided in this article. The county administrator shall provide for the regulation, control, operation and use of the parking meters and parking pay stations and shall cause such meters or pay stations to be maintained in good workable condition.

(c)

Each parking meter and parking pay station shall display a signal or otherwise notify the vehicle operator of the required fees that shall be deposited therein for a period of time conforming to the parking limit established by the county administrator for the area where such meter or pay station is placed, and indicate by a proper signal or other notification that the lawful parking period has expired.

(Ord. No. 05-15, § 2, 3-15-05)

Sec. 122-27. - Use of meters or pay stations; overtime parking.

(a)

When any vehicle shall be parked in any parking space in an established parking meter or parking pay station zone, the owner, operator, manager or driver of such vehicle shall upon entering the parking space immediately deposit the proper parking fees in the parking meter or parking pay station for the parking space, and the parking space may then be used by such vehicle during the parking time limit provided for the area in which such parking space is located.

(b)

If any vehicle shall remain parked in any parking space beyond the parking time limit designated for such parking space, and the parking meter or parking pay station establishes illegal parking, such vehicle shall be considered as parked overtime.

(c)

It shall be unlawful for any person to permit a vehicle to park overtime by remaining or being placed in any parking space for which a parking meter or parking pay station is placed while such meter or pay station shows that such vehicle has already parked beyond the period of time allotted for the parking fee required to be deposited in the parking meter or parking pay station.

(Ord. No. 05-15, § 3, 3-15-05)

Sec. 122-28. - Defacing or tampering with meters or pay stations.

It shall be unlawful for any person to deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter or parking pay station installed pursuant to the terms of this article.

(Ord. No. 05-15, § 4, 3-15-05)

Sec. 122-29. - Continuing violations; separate offenses.

The continuing violation of any of the provisions of this article shall constitute a separate offense for each time period that the violation occurs. It shall not be necessary to observe the violation continuously for each time period, but citations shall be issued not less than one hour apart. However, not more than four citations shall be issued for the same violation by the same vehicle at the same location in any 24-hour period.

(Ord. No. 05-15, § 5, 3-15-05)

Sec. 122-30. - Enforcement; issuance of parking ticket.

(1)

In addition to any other means of enforcement provided in this Code, the sheriff or parking enforcement specialist is hereby authorized to issue traffic court parking tickets for violations of the provisions herein.

(2)

The enforcement officer finding the vehicle parked, stopped or standing in violation of this article shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to the vehicle a parking ticket in writing on a form provided therefore, for the registered owner to pay the fine listed thereon within fifteen days or to answer the charge against him/her by contacting the traffic division within the time period and at the place specified on the parking ticket.

(Ord. No. 05-15, § 6, 3-15-05)

Sec. 122-31. - List of persons having certain outstanding parking violations.

(a)

Pursuant to the authority and mandates of F.S. §§ 316.1967 and 320.08 and other applicable law, the clerk of the court shall provide, in the form and at the times prescribed, a list of persons having three or more outstanding parking tickets and a list of persons who have any outstanding violations of F.S. §§ 316.1955, 316.1956, section 122-36, or any other ordinance of any similar local government within the county regulating parking in spaces designated for use by disabled persons.

(b)

The tax collector shall refuse to issue or renew automobile registrations or to issue validation stickers to any person whose name appears on the list provided for in subsection (a) of this section until such time as that person's name is removed from the state department of highway safety and motor vehicles' list of offenders or until any such person submits satisfactory evidence from the court clerk that the tickets have been fully paid.

(c)

The clerk of the court and tax collector shall be entitled to receive the fees provided for in F.S. § 320.08.

(Ord. No. 90-10, §§ 1—4, 2-13-90; Ord. No. 90-80, § 1, 10-16-90)

Sec. 122-32. - Fines.

For a violation of the prohibitions set forth in this article, the following fines shall be imposed:

(1)

All overtime parking, whether meters or pay stations, $25.00.

(2)

All improper parking, including but not limited to taking two spaces, left side to curb, parallel in diagonal space, diagonal in parallel space, backing into space, more than maximum allowed distance from curb, $25.00.

(3)

Double parking, $25.00.

(4)

No parking zone, including but not limited to parking without permit, parking at or near fire hydrant, parking in reserved space, parking in alley, parking on sidewalk, parking on or near intersection, parking in driveway, parking in loading zone, parking over curb in parkway, parking when prohibited by signage, $25.00.

(5)

Any other violation in this article, $25.00.

(6)

In addition to the other penalties provided for in this section, there is hereby imposed a surcharge of $5.00 on all parking fines to be used for funding a school crossing guard program. Funds resulting from the surcharge may be used to pay start-up costs and recurring administrative costs related to printing new tickets or other means of implementing the program. All other funds resulting from the surcharge on parking shall only be used for the school crossing guard program. This surcharge shall be placed by the clerk of the circuit court into the school crossing guard trust fund, a special revenue fund. Funds collected from this surcharge shall be distributed quarterly to fund the school crossing programs provided in F.S. § 318.21(3).

(Ord. No. 79-7, § 2, 3-6-79; Ord. No. 86-4, § 1, 1-14-86; Ord. No. 93-33, § 1, 3-30-93; Ord. No. 05-15, § 7, 3-15-05)

Sec. 122-33. - Warning notice; cancellation of parking tickets; contesting a violation.

(1)

A warning notice, in the form approved by the county court, traffic division, shall be mailed to the registered owner of a vehicle when a citation has been unpaid for a period of 15 calendar days after the issuance date. If the amount due is not paid within ten days of the date of the warning notice a summons to appear in county court, traffic division, on a date certain shall be issued by the clerk of the court.

(2)

A registered owner may seek cancellation of a parking ticket based upon the theft, custody, or control of the offending vehicle by another at the time of the violation by filing a sworn affidavit with the county court, traffic division. The registered owner shall execute said affidavit in a form approved by the county court, traffic division, which shall include the name and address of the individual who had care, custody, or control of the vehicle at the time of the parking violation or the name of the law enforcement agency to which the vehicle's theft was reported along with a report number and report date. In the event the registered owner is unable to name an individual who had care, custody, or control of the offending vehicle at the time of the violation, the court file shall be forwarded to the presiding court by the clerk of the court.

(3)

Any person who wishes to contest the validity of the violation may plead "not guilty" to any parking violation within 15 calendar days of the date of the issuance of the parking ticket, and a notice for court appearance

will be issued to confirm the time and date of the court hearing. A copy of the parking violation must be included with the request for a court hearing.

(Ord. No. 79-7, § 3, 3-6-79; Ord. No. 05-15, § 8, 3-15-05)

Sec. 122-34. - Impounding illegally parked vehicles.

The county sheriff, or such other officers or employees of the county as the board of county commissioners may designate, is hereby authorized to take up or cause to be taken up or remove to a place designated by the county administrator any vehicle parked in violation of any of the provisions of this article and is further authorized and empowered to keep such vehicle in the place so designated by the county administrator until all fines and charges assessed for moving and storage against the owner of the vehicle have been paid.

(Ord. No. 79-7, § 4, 3-6-79; Ord. No. 05-15, § 9, 3-15-05)

Sec. 122-35. - Prohibited in specified places.

Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a law enforcement officer or official traffic control device, no person shall:

(1)

Stop, stand, or park a vehicle:

a.

On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

b.

On a sidewalk;

c.

Within an intersection;

d.

On a crosswalk;

e.

Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless the county indicates a different length by signs or markings;

f.

Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

g.

Upon any bridge or other elevated structure upon a highway, road, or street;

h.

On any railroad tracks;

i.

On any bicycle path;

j.

At any place where official signs prohibit stopping;

k.

In any area containing the raised or painted traffic separator or median;

l.

On the roadway or shoulder of a limited access facility, except as provided by regulation of the department of transportation, or on the paved portion of a connecting ramp; except that a vehicle which is disabled or in a condition improper to be driven as a result of mechanical failure or accident may be parked on such shoulder for a period not to exceed six hours. This provision is not applicable to a person stopping a vehicle to render aid to an injured person or assistance to a disabled vehicle in obedience to the directions of a law enforcement officer or to a person stopping a vehicle in compliance with applicable traffic laws;

m.

For the purpose of loading or unloading a passenger on the paved roadway or shoulder of a limited access facility or on the paved portion of any connecting ramp. This provision is not applicable to a person stopping a vehicle to render aid to an injured person or assistance to a disabled vehicle.

(2)

Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

a.

In front of a public or private driveway;

b.

Within 15 feet of a fire hydrant;

c.

Within 20 feet of a crosswalk at an intersection;

d.

Within 30 feet upon the approach to any flashing signal, stop sign or traffic control signal located at the side of a roadway;

e.

Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of such entrance (when properly signposted);

f.

At any place where official signs prohibit parking or standing.

(3)

Park a vehicle, whether occupied or not, except momentarily for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers:

a.

Within 50 feet of the nearest rail of a railroad crossing;

b.

At any place where official signs prohibit parking.

(4)

Park a vehicle in such a way that said vehicle shall not be within the parking space as designated by lines or markings.

(5)

Back a vehicle into a designated parking space.

(6)

Park a vehicle without a boat trailer in a designated boat trailer parking zone.

(Ord. No. 79-7, § 1, 3-6-79; Ord. No. 05-15, § 10, 3-15-05)

State Law reference— Similar provisions, F.S. § 316.1945.

Sec. 122-36. - Public and private parking spaces for disabled persons.

(a)

Parking spaces for the exclusive use of those severely physically disabled individuals who have permanent mobility problems that substantially impair their ability to ambulate shall be specially designed and marked in accordance with the provisions of F.S. § 316.1955.

(b)

It is a violation of this section to stop, stand, or park a vehicle within any such specially designated and marked parking space pursuant to subsection (a) of this section unless such vehicle displays a parking permit issued pursuant to F.S. § 320.0848 (exemption entitlement parking permit issued to handicapped persons by the state department of highway safety and motor vehicles) or F.S. § 316.1958 (special license plate or parking permit issued to a handicapped person by any other state provided such state grants reciprocal recognition for handicapped residents of Florida), and such vehicle is transporting a person eligible for the parking permit, except that momentary parking in such a space for the purpose of unloading a disabled person is permitted.

(c)

The civil penalty for a noncriminal traffic infraction pursuant to a violation of F.S. § 316.1955 or for parking in violation of subsection (b) of this section, shall be $250.00.

(d)

All territory within the unincorporated areas of the county shall be embraced by the provisions of this section.

(Ord. No. 86-5, §§ 1—4, 1-14-86; Ord. No. 99-86, §§ 1, 2, 10-5-99)

Sec. 122-37. - Storage, parking, maintenance of prohibited vehicles and equipment in residential zoning districts.

(a)

Intent. It is the intent of this section to prohibit the storage, parking or maintenance of prohibited vehicles in residential zoning districts in order to prevent traffic and safety problems endangering the lives and property of citizens of the county, to prevent unsightly appearances in residential areas, and to prevent diminution of property values.

(b)

Definitions. The following definitions shall apply to the provisions of this section:

Commercial purpose means a use for compensation, including but not limited to the transport of persons, animals, commodities, materials, articles of trade, or the performance or tender of services.

Prohibited vehicles and equipment means and includes, but shall not be limited to, any truck, trailer or stretched and/or extended automobile or sport utility vehicle in excess of 21 feet, or any semi-trailer, tractor trailer combination, or truck tractor as defined in F.S. § 320.01(11), or any step-van, cube-van, box truck, flat bed truck, tow truck, wrecker, moving van, bus, or any construction, landscaping, or land clearing equipment. The term also includes any vehicle used as a platform for a derrick, hoist, crane, compressor, tanks, ladder racks, or similar equipment or as a means of transporting or storing a prohibited vehicle. "Construction, landscaping or land clearing equipment" as used in this section shall include, but not be limited to, any front loader, bulldozer, dragline, crane, or similar vehicle, or any tar pot, concrete mixer, trencher, stump grinder, brush shredder, or similar equipment designed to be towed behind a motorized vehicle.

Residential zoning district means the boundaries of an area of the unincorporated part of the county designated by a single zone residential classification with uniform use regulations, and includes private and public property. When streets or alleyways are used to designate boundaries, such boundaries shall be

considered to be the centerline of such streets or alleyways.

(c)

Prohibitions. No person or agent thereof shall cause or permit a prohibited vehicle to be stored, maintained or parked in a residential zoning district unless such vehicle is parked on private property in an enclosed garage or similar lawful structure, thereby eliminating its visibility from public roads and adjacent parcels of land. However, one such vehicle may be parked on a residential property for no more than 30 minutes during the normal lunch hours of 11:00 a.m. to 2:00 p.m., not to exceed one 30-minute period per 24-hour day.

(d)

Exemptions. The provisions of this section shall not apply to the temporary parking of prohibited vehicles in residential zoning districts for the purpose of delivery or receipt of goods or services at a specific residence. Additionally, for each residential dwelling unit there may be one van, pick up truck, or utility trailer, with attachments such as ladder racks, utility beds, flat beds, glass racks, side racks, or elevated tool boxes. However, the vehicle together with any and all such attachments and/or cargo and equipment shall be no more than 21 feet in length, eight feet in height, and eight feet in width. The vehicle must be parked on a prepared, inorganic, hard surfaced, non-dirt, parking area and not on the grassy or vegetated area of the yard. This section is not intended to include operable boat trailers with or without boats, or other recreational vehicles as those are addressed in chapter 138 of this Code.

(Ord. No. 83-22, §§ 1—4, 12-6-83; Ord. No. 04-54, § 1, 7-27-04)

ARTICLE II.5. - NONCONSENSUAL TOWING AND TRESPASS TOWING FROM PRIVATE PROPERTY

Sec. 122-38. - Definitions.

(a)

As used in this section, the following words and terms shall have the meanings respectively as established below:

Immobilization, immobilize or immobilizing, also known as boot or booting, shall mean the act of placing, on a parked vehicle, a mechanical device that is designed to be attached to the wheel or tire so as to prohibit its usual manner of movement.

Immobilization services shall include any person, company, corporation, or other entity, whether licensed or not, who engages in or owns or operates a business which engages, in whole or in part, in the immobilization or booting of vehicles for compensation.

Nonconsensual towing shall mean the removal and storage of wrecked or disabled vehicles from an accident scene or the removal and storage of vehicles in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker services to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle, excepting, however, all incidents of trespass towing as herein defined below.

Property owner shall mean that person who exercises dominion and control over a parcel of real property, including but not limited to the legal title holder, lessee, a resident manager, a property manager, or other

agent who has legal authority to bind the owner. A person providing a towing service may not be appointed as an agent for a property owner.

Tow shall mean to haul, carry, pull along, or otherwise transport or remove a vehicle by means of another vehicle.

Towing service shall include any person, company, corporation, or other entity, whether licensed or not, who engages in or owns or operates a business which engages, in whole or in part, in the towing or removal of vehicles for compensation.

Trespass towing shall mean towing or removal of a vehicle, without the consent of the vehicle's owner or operator, as such is authorized by F.S. § 715.07, when that vehicle is parked on private real property.

Vehicle shall mean any mobile item which normally uses wheels, whether motorized or not.

(Ord. No. 00-59, § 1, 8-8-00)

Sec. 122-39. - Towing of vehicles for compensation.

No towing service shall tow or otherwise transport a vehicle for compensation when the point of origin of the tow or transportation is within the territory of Pinellas County unless such towing service complies with the requirements of F.S. § 715.07, and the applicable provisions of this section.

(Ord. No. 00-59, § 2, 8-8-00)

Sec. 122-40. - Prerequisites to immobilization or trespass towing from private property.

(a)

Prior to the immobilization or trespass towing of any vehicle, the property owner of the real property from which such immobilization or tow is made and the immobilization or towing service shall have executed a written agreement which, at a minimum, shall contain the following provisions:

(1)

The name and address of the property owner requesting the towing services;

(2)

The location and description of the property from which the vehicle(s) will be towed;

(3)

The duration of the agreement;

(4)

The time of day that such immobilization or towing is authorized;

(5)

The days of the week that such immobilization or towing is authorized;

(6)

An enumerated list of all fees to be charged to either the property owner or vehicle owner/operator;

(7)

The address and description of the location where the vehicle will be towed/stored. Said storage site shall not be more than ten miles from where the tow originates;

(8)

The signature of both the property owner and the owner, or authorized representative of the towing service, certifying that each has read and is in compliance with the provisions of F.S. § 715.07, and the applicable provisions of this section; and

(b)

The above requirement of a written agreement shall not apply to the immobilization or removal of vehicles from property appurtenant to and obviously part of a single-family residence or where the vehicle is parked in such a way as to obstruct access to private entrances, exits, drives, or loading areas.

(c)

No immobilization or towing service shall pay or rebate money, or solicit or offer the payment or rebate of money or other valuable consideration, to property owners for the right to engage in trespass towing from any property.

(d)

Any towing service initiating a trespass tow within the territory of Pinellas County shall notify the law enforcement agencies having jurisdiction of an area of such towing within 30 minutes of the completion of any such trespass tow. Such notification to the municipal police department or Pinellas County Sheriff's Office shall relate, at a minimum, the following information concerning the subject trespass tow; the storage site to which the vehicle was towed; the time the vehicle was towed or removed; the make, model, year, color, vehicle identification number (VIN), and license plate number of the vehicle. Further, the towing service shall obtain the municipal police department or Pinellas County Sheriff's Office case number to assign to the trespass tow at the time of reporting the aforementioned trespass tow information.

(e)

All vehicles towed shall be towed directly to the storage site owned or leased by the towing service and the vehicle shall not be kept in any temporary holding area.

(f)

Each towing service shall staff or monitor its telephone at all times and immediately advise any vehicle owner or authorized representative who calls by telephone of the following:

(1)

Each and every document or other item which must be produced to retrieve the vehicle;

(2)

The exact charges as of the time of the telephone call and the rate at which charges will accumulate thereafter;

(3)

The acceptable methods of payment; and

(4)

That the vehicle can be picked up within one hour of request.

(g)

Immobilization or towing services shall provide a written bill at the request of the owner or operator of a vehicle detailing the charges to date.

(h)

Immobilization or towing services shall provide, at the time of payment, a written receipt for all charges imposed and received from the owner or operator of a vehicle resulting from the towing of a vehicle. Said receipt shall include at a minimum:

(1)

The date, time, and location of the immobilization or tow;

(2)

The total charges listed individually and specifically; and

(3)

The date and time of payment of the charges.

(4)

The following disclosure in bold capitalized letters of at least 12-point type:

IF YOU HAVE A QUESTION OR COMPLAINT, PLEASE CONTACT THE PINELLAS COUNTY DEPARTMENT OF JUSTICE AND CONSUMER SERVICES, 14250 49TH STREET NORTH, 2ND FLOOR, CLEARWATER, FLORIDA 33762. TELEPHONE: (727) 464-6200: (727) 464-6129 (fax).

(i)

The above disclosure requirement shall be posted at the place of business of any towing service subject to this ordinance, in a plainly visible location.

(j)

The immobilization or towing service shall prepare and maintain a data sheet which shall include, but not be

limited to, the following information:

(1)

The name of the immobilization or towing service and person providing the service;

(2)

The location from which the vehicle was towed regarding towing services;

(3)

Date and time the immobilization or tow was initiated;

(4)

The destination to which the vehicle was taken regarding towing services;

(5)

The description of the vehicle including make, model, year, color, vehicle identification number, and license plate number;

(6)

The time and date the municipal police department or the Pinellas County Sheriff's Office was contacted by the towing service, and the case number assigned regarding towing services;

(7)

The description of the services rendered, including an itemized list of all charges; and

(8)

The date and time the vehicle was returned to the owner and the identity of that owner regarding towing services.

(k)

All immobilization and towing services shall keep all such data sheets on file for a period of three years and shall make them available to any law or code enforcement officer or designee assigned to investigate the complaints and enforcement during normal business hours.

(l)

No towing service shall tow a vehicle when there is a person occupying the vehicle.

(Ord. No. 00-59, § 3, 8-8-00)

Sec. 122-41. - Exemptions; return of owner prior to immobilization or tow.

(a)

Exemptions. This section shall not apply to the immobilization or towing of a vehicle which occurs:

(1)

At the direction of a law enforcement or code enforcement officer of the county, or of any municipality within the county pursuant to an agreement between the county or the municipality and a towing service;

(2)

With the consent of the vehicle's owner or operator; or

(3)

At the direction of an owner/manager of rental property when the tenant has abandoned a vehicle on the real property upon vacating the residence/residential unit.

(b)

Return of owner prior to immobilization or tow. No immobilization or towing service operating within the territory of Pinellas County shall immobilize or tow a vehicle or charge for its services where the registered owner or other legally authorized person in control of the vehicle arrives at the scene prior to the immobilization or towing, unless:

(1)

The registered owner or other legally authorized person in control of the vehicle refuses to remove the vehicle; or

(2)

The vehicle has already been connected to the towing removal or immobilization apparatus and the registered owner or other person in control of the vehicle refuses to pay a service fee of not more than one-half of the rate contained herein for such immobilization or towing service.

(3)

The person immobilizing the vehicle or tow truck operator shall wait a minimum of 20 minutes to allow the vehicle's owner or operator to secure cash for the payment of the fees enumerated herein.

(Ord. No. 00-59, § 4, 8-8-00)

Sec. 122-42. - Establishment of towing rates.

(a)

The initial maximum rates, applicable until the same are changed by resolution, for towing a vehicle, for the storage of a towed vehicle, or for the rendition of other services involving the use of a wrecker or other customary towing services when the point of origin of the tow or such services is within the territory of Pinellas County shall be as follows:

(1)

Class A vehicles (gross vehicle weight through 10,000 pounds or vehicle carrying a vessel 15 feet or less in length):

a.

Trespass or noncon-
sensual tow (flat rate) $100.00

b.

Mileage rate, in addition to flat rate, for trespass tow not to exceed ten miles from the point of removal, per mile 3.00

c.

Mileage rate, in addition to flat rate for nonconsensual tow, per mile 3.00

d.

Nonconsensual tow, time beyond initial 30 minutes at scene, per 15-minute block 15.00

e.

Trespass or noncon-
sensual tow, daily storage rate 20.00

(2)

Class B vehicles (gross vehicle weight 10,000 pounds or more but less than 19,500 pounds or vehicle carrying a vessel more than 15 feet but less than 22 feet in length):

a.

Trespass or noncon-
sensual tow (flat rate) $200.00

b.

Mileage rate, in addition to flat rate for trespass tow not to exceed ten miles from the point of removal, per mile 3.00

c.

Mileage rate, in addition to flat rate for nonconsensual tow, per mile 3.00

d.

Nonconsensual tow, time beyond initial 30 minutes at scene, per 15-minute block 50.00

e.

Trespass or noncon-

sensual tow, daily storage rate 30.00

(3)

Class C vehicles (gross vehicle weight 19,500 or more pounds but less than 25,000 pounds or vehicle carrying a vessel more than 22 feet in length):

a.

Trespass and noncon-
sensual tow (flat rate) $300.00

b.

Mileage rate, in addition to flat rate, for trespass tow not to exceed ten miles from the point of removal, per mile 3.00

c.

Mileage rate, in addition to flat rate, for nonconsensual tow, per mile 3.00

d.

Nonconsensual tow, time beyond initial 30 minutes at scene, per 15-minute block 75.00

e.

Trespass or noncon-
sensual tow, daily storage rate 60.00

(4)

Class D vehicles (gross vehicle weight more than 25,000 pounds):

a.

Trespass and noncon-
sensual tow (flat rate) $400.00

b.

Mileage rate, in addition to flat rate, for trespass tow not to exceed ten miles from the point of removal, per mile 3.00

c.

Mileage rate, in addition to flat rate, for nonconsensual tow, per mile 3.00

d.

Nonconsensual tow, time beyond initial 30 minutes at scene, per 15-minute block 100.00

e.

Trespass or noncon-
sensual tow, daily storage rate 60.00

(b)

No additional charges shall be made for any fees for special equipment or services such as double hook-up, vehicle entry when locked, dropping transmission linkage, axle or drive shaft removal, dollies, trailer or flat bed, lifts, slim jims, go jacks, removing bumpers, or airing up brakes.

(c)

Storage fees as set forth above may be assessed after the first six hours beginning from the time the vehicle is delivered to the storage facility and will accrue at a rate of a fee for each 24 hours thereafter. An administrative fee of $30.00 may be charged after the first 24 hours of fee storage so long as the towing service has actually complied with the requirements of F.S. § 713.78. A filing of lien notice fee of $30.00 may also be charged to cover the execution and mailing of the lien notice so long as the towing service has actually complied with the requirements of F.S. § 713.78. Further, a tarpaulin fee in the amount of $15.00 may be assessed when the towing service reasonably finds it necessary to install and maintain tarpaulin coverage on any stored vehicle in order to protect the interior accessories or upholstery of such vehicle from damage by inclement weather.

(d)

The maximum fees set forth herein may be changed from time to time by a resolution adopted by the board of county commissioners.

(Ord. No. 00-59, § 5, 8-8-00)

Sec. 122-43. - Immobilization—Requirements for immobilizing vehicles without prior consent of vehicle owner or duly authorized driver of vehicle.

The immobilization services shall not immobilize a vehicle owned by another person which is parked on private property without permission or authority of the owner or duly authorized driver of that vehicle, unless the following requirements are satisfied:

(1)

The vehicle is unlawfully parked and notice shall be prominently posted on the property on which the vehicle is immobilized.

(2)

The vehicle is not occupied by a living natural person or animal.

(3)

The persons providing the immobilization service shall comply with sections 122-40 and 122-41 of this article.

(4)

Immobilization shall be accomplished by placing a steel boot on the front wheel of the driver's side of the motor vehicle. The steel boot may be placed on any other wheel if placement on the front wheel on the driver's side is not feasible.

(5)

Immediately after a vehicle is booted, the person booting such vehicle, the owner of the property where such vehicle was booted, or an employee or agent of such person or owner, shall affix at the rearmost portion of the window adjacent to the driver's seat of such vehicle, a sticker with a completely removable adhesive, measuring 8½ × 11 inches, containing a warning that any attempt to move the vehicle may result in damage to the vehicle, and stating the name and business address of the person who booted such vehicle as well as a business telephone number which will facilitate the dispatch of personnel responsible for removing the boot.

(6)

Any person who had booted a vehicle shall release such vehicle as soon as practical, but not to exceed 30 minutes of receiving a request for such vehicle's release; provided however that payment of any charge for booting is made at or prior to the time of such vehicle's release.

(7)

An immobilization service may not charge more than a $35.00 fee.

(Ord. No. 00-59, § 6, 8-8-00)

Sec. 122-44. - Consumer complaints.

All consumer complaints directed to Pinellas County concerning excessive charges or violations of this section shall be referred for investigation and resolution to the county department of justice and consumer services.

(Ord. No. 00-59, § 7, 8-8-00)

Sec. 122-45. - Penalties.

(a)

Each violation of this section shall constitute a separate offense punishable as provided in section 1-8 of this Code.

(b)

Any person who violates this section shall be liable to the owner or lessee of the vehicle for all costs of recovery plus attorney's fees and court costs, and in addition shall be liable to the owner or lessee of any towed vehicle for damages resulting directly or indirectly from the removal, transportation, or storage of the vehicle.

(Ord. No. 00-59, § 8, 8-8-00)

Secs. 122-46—122-60. - Reserved.

ARTICLE III. - TRUCK ROUTES

Sec. 122-61. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Deviating truck means any truck in the restricted vehicle classification which travels over a street other than a designated truck route.

Hazard material warning placard means the standard, diamond-shaped sign as required by 49 CFR 172, as part of the hazardous materials transportation act.

Truck means any vehicle designed, used or maintained for the transportation of property in the following classifications:

(1)

Unrestricted vehicles (light/medium trucks) means pickups, vans and panel trucks with a maximum length of 21 feet and a maximum gross vehicle weight (GVW) of 8,000 pounds and single-unit, single-rear-axle trucks with a maximum length of 35 feet and a maximum GVW of 35,000 pounds.

(2)

Restricted vehicles (heavy trucks) means single-unit, multi-rear-axle trucks with a maximum length of 40 feet and a GVW exceeding 35,000 pounds to a maximum GVW of 70,000 pounds (including dump trucks and concrete mixers), and all tractor-trailer and semitrailer combinations with a maximum length of 55 feet and a maximum GVW of 80,000 pounds.

Truck route means certain streets as designated on the countywide truck routing plan, attached to and made a part of the legislation from which this article is derived, over and along which trucks in the restricted vehicle classification shall operate within the county during designated hours.

(Ord. No. 82-30, § 1, 9-28-82; Ord. No. 90-3, § 1, 1-30-90)

Cross reference— Definitions generally, § 1-2.

Sec. 122-62. - Established; map; hazardous material warning placards.

(a)

There is hereby established within the county a system of truck routes as shown on a map on file in the office of the county clerk of the circuit court. The streets indicated as truck routes on the map and no others shall be used for truck traffic in the restricted classification.

(b)

All vehicles, regardless of size, that display or are required to display hazardous material warning placards shall be required to travel on the prescribed routes of the countywide truck routing plan, as amended.

(Ord. No. 90-3, § 2, 1-30-90)

Sec. 122-63. - Observance of truck routes required; exceptions.

(a)

All trucks in the restricted vehicle classification within the county shall be operated only over and along the truck routes established pursuant to this article.

(b)

This article shall not prohibit:

(1)

Operation on streets of destination, if authorized truck routes are used until reaching the intersection nearest the destination point and be proven upon request through possession of a valid and current delivery ticket or other dispatch order.

(2)

Authorized emergency vehicles.

(3)

Detoured trucks, on an officially established detour, if such trucks could lawfully be operated upon the street for which the detour is established.

(Ord. No. 82-30, § 3, 9-28-82)

Sec. 122-64. - Manner of utilization.

(a)

Truck traffic of outside origin.

(1)

To an inside destination point. All restricted trucks entering the county for a destination point in the county shall proceed only over an established truck route and shall deviate only at the intersection with the street upon which the traffic is permitted, nearest the destination point. Upon leaving the destination point, a deviating truck shall return to the truck route by the shortest permissible route.

(2)

To multiple inside destination points. All restricted trucks entering the county for multiple destination points shall proceed only over established truck routes and shall deviate only at the intersection with the street upon which truck traffic is permitted, nearest the first destination point. Upon leaving the first destination point, a deviating truck shall proceed to other destination points by the shortest direction and only over truck routes. Upon leaving the last destination point, a deviating truck shall return to the truck route by the shortest permissible route.

(b)

Truck traffic of inside origin.

(1)

To an outside destination point. All restricted trucks on a trip originating in the county and traveling in the county for a destination point outside the county shall proceed to the nearest intersection of a designated truck route and travel from that point to the county limits only over designated truck routes.

(2)

To inside destination points. All restricted trucks on a trip originating in the county and traveling in the county for destination points in the county shall proceed only over designated truck routes.

(Ord. No. 82-30, § 4, 9-28-82)

Sec. 122-65. - Hours of operation/time of day restrictions.

Trucks shall be able to travel upon truck routes at all hours of the day unless duly authorized signs are installed limiting the hours of use on a particular street or portion of street. Those streets which are designated as partially restricted truck routes shall be off limits to trucks in the restricted classification during the hours of 6:00 p.m. to 6:00 a.m. Any restricted truck attempting to utilize a partially restricted truck route during the restricted time period shall be regarded as a deviating truck.

(Ord. No. 82-30, § 5, 9-28-82)

Sec. 122-66. - Installation of signs.

The director of public works and utilities shall cause truck routes to be clearly posted, and is hereby authorized to install appropriate signs along designated roadways to control truck operations, in accordance with the provisions of this article. Signs will conform to those shown in the Manual of Uniform Traffic Control Devices, and their use shall be as designated therein.

(Ord. No. 82-30, § 6, 9-28-82)

ARTICLE IV. - GOLF CARTS

Sec. 122-67. - Permitted in Ozona and Crystal Beach communities; regulations.

Golf carts equipped in the manner prescribed by this section may travel on or cross the public roads or streets within the geographic boundaries described in this section, considering factors including the speed, volume, and character of motor vehicle traffic using these roads or streets, and the use of golf carts is hereby permitted in the Ozona and Crystal Beach communities with the stipulations to include the following provisions:

(1)

Required equipment for a golf cart shall include headlamps, stop lamps, turn signal lamps, tail lamps, reflex reflectors, parking brakes, a rearview mirror, a windshield and a standard hip restraint or hand hold.

(2)

The golf cart operators must possess a valid driver's license pursuant to F.S. § 322.03.

(3)

The areas encompassed by this authorization are the community areas of Ozona and Crystal Beach located west of U.S. Alternate 19, north of Orange Street and south of Ulelah Avenue. For the purpose of this section the southern boundary of Ozona is the intersection of Orange Street and U.S. Alternate 19, and the northern boundary of Crystal Beach is Ulelah Avenue and U.S. Alternate 19. Golf carts shall not be operated within the right-of-way of U.S. Alternate 19.

(4)

The golf carts authorized for use are incapable of exceeding 20 miles per hour.

(5)

Golf carts may be operated during the hours between sunset and sunrise as well as during daylight hours in the designated areas only.

(Ord. No. 06-12, § 1, 2-7-06)

Sec. 122-68. - Permitted in Highland Lakes; regulations.

(a)

Regulations. Golf carts equipped in the manner prescribed by this section may travel on or cross the public roads or streets within the geographic boundaries described in this section, considering factors including the speed, volume, and character of motor vehicle traffic using these roads or streets, and the use of golf carts is hereby permitted in the Highland Lakes community with the stipulations to include the following provisions:

(1)

Required equipment for a golf cart shall include efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, red reflectorized warning devices in the front and rear, an orange warning flag, and a "SLOW MOVING VEHICLE" sign in the rear.

(2)

The golf cart operators must possess a valid driver's license.

(3)

The streets encompassed by this authorization are listed in Attachment 1 to Ordinance No. 07-34.

(4)

The golf carts authorized for use are incapable of exceeding 20 miles per hour.

(5)

Golf carts may only be operated during the hours between sunrise and sunset to drive to and from the clubhouse complex located on MacGregor Drive to accommodate golf cart play on the designated streets

listed in Attachment 1 to Ordinance No. 07-34.

(b)

Penalties.

(1)

A violation of subsection (a)(1), (a)(2), or (a)(4) is a noncriminal traffic violation pursuant to F.S. § 316.212(8) punishable as a nonmoving violation.

(2)

A violation of subsection (a)(3) or (a)(5) is a noncriminal traffic violation pursuant to F.S. § 316.212(8) punishable as a moving violation.

(Ord. No. 07-34, § 1, 8-7-07)

Chapter 126 - UTILITIES[1]
Footnotes:
--- (**1**) ---

Charter reference— General powers of county, § 2.01; water distribution systems, § 2.04(n); powers relative to regional sewer systems, § 2.04(c).

Cross reference— Solid waste, ch. 106.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g); authority to provide and regulate waste and sewage collection and disposal and water supply programs, F.S. § 125.01(1)(k).

ARTICLE I. - IN GENERAL

Sec. 126-1. - Vesting of title to potable water lines, sanitary sewer lines and storm drainage facilities.

(a)

It is the intent of the legislature to quiet title and resolve any disputes which may result concerning ownership of title to all potable water lines, sanitary sewer lines and storm drainage facilities which have been placed or in the future will be placed in public rights-of-way or dedicated easements of record in the county.

(b)

The governing body, whether a municipality or the county, which shall have authority or jurisdiction over utility lines which shall be connected to its utility system at the time of the effective date of this section shall be deemed to hold absolute title to all potable water lines, sanitary sewer lines, and storm drainage facilities which have been placed in public rights-of-way or dedicated easements of record in the county.

(c)

The title to all potable water lines which are placed in public rights-of-way or dedicated easements of record in the county shall be deemed to be vested in the county or any municipality which shall have authority or jurisdiction over such lines or facilities, provided that such lines or facilities are connected to its utility system.

(d)

This section shall be retroactive in application.

(Laws of Fla. ch. 78-603, §§ 1—4)

Editor's note— The act contained in the above section assumed ordinance status pursuant to charter § 5.02.

Sec. 126-2. - Liens on properties for delinquent water and sewer charges.

(a)

Unpaid fees to constitute lien. Subject to the provisions of F.S. § 125.485, if the fees, rates or charges for the services and facilities of the county water or sewer systems shall not be paid as and when due, and shall be in default for 30 days or more, then the unpaid balance thereof, together with attorneys' fees and costs, may be recovered by the county in a civil action. If any such service charge shall not be paid as and when due, the unpaid balance thereof shall be a lien on any parcel or property affected thereby. A notice of lien in such form as the board of county commissioners shall determine may be filed in the office of the clerk of the circuit court of the county and recorded as other liens are recorded. Any such lien, upon recording, shall be constructive notice of such lien and may be foreclosed or otherwise enforced by the county by action or suit in equity as for the foreclosure of a mortgage on real property.

(b)

Interest on water and sewer liens. The principal amount of all water and sewer liens levied pursuant to this section shall bear interest at the rate provided for in F.S. § 687.01, as such section may be amended from time to time, from the date of recording such lien; and such interest as provided in this section shall also constitute a lien against the property assessed of equal dignity to that of the underlying lien.

(c)

Collection of unpaid water and sewer charges.

(1)

Subject to the provisions of F.S. § 125.485, if any rates, fees or charges for the use and services of the county water system shall not be paid within 30 days after becoming due and payable, the county may, after providing reasonable notice to the owner, tenant or occupant, discontinue furnishing water to such premises and may disconnect the same from the water system of the county until such rates, fees or charges with interest shall be paid.

(2)

Subject to the provisions of F.S. § 125.485, if any rates, fees or charges for the use and services of the county sewer system shall not be paid within 30 days after becoming due and payable, the owner, tenant or occupant of such premises shall cease to dispose of sewage or industrial waste originating from or on such premises by

discharge thereof directly or indirectly into the sewer system of the county until such rates, fees or charges with interest shall be paid; if such owner, tenant or occupant shall not cease such disposal at the expiration of such 30-day period, the county, after providing reasonable notice to such owner, tenant or occupant, may discontinue supplying water to or selling water for use on such premises.

(3)

Subject to the provisions of F.S. § 125.485, the county and any district, private corporation, municipality, board, body, or person supplying water to or selling water for use in a premises within its jurisdiction may provide by interlocal agreement or contract that it shall be the duty of such supplier or seller of water services to, after provision of reasonable notice to the owner, tenant or occupant by the county, cease supplying water to or selling water for use on any premises with a sewer or water delinquency as described in this section, within five days after receipt of notice of delinquency from the county; and provided that if such district, private corporation, municipality, board, body or person shall not, at the expiration of such five-day period, cease supplying water to or selling water for use on such premises, then the county may, unless it has theretofore contracted to the contrary, shut off the supply of water to such premises.

(4)

Subject to the provisions of F.S. § 125.485, the county, and any district, private corporation, municipality, board, body or person, providing sewer services within the county may provide by interlocal agreement or contract that the county may discontinue water service to any premises, after notice to the county of a delinquency in payment in excess of 30 days for the sewer rate, fee or charge on such premises, from such provider of sewer services and after provision of reasonable notice by such provider of sewer services of delinquency to the owner, tenant or occupant.

(5)

The county may require the owner, tenant or occupant of each lot or parcel of land within the county who is obligated to pay the rates, fees or charges for the use or services of the county water or sewer systems to make reasonable deposit with the board of county commissioners to ensure the payment of such rates, fees or charges and to be subject to application to and payment thereof if and when delinquent.

(Ord. No. 89-39, §§ 1—3, 9-12-89)

Secs. 126-3—126-35. - Reserved.

ARTICLE II. - WATER AND SEWER SYSTEMS[2]

Footnotes:
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Editor's note—The act contained in this article assumed ordinance status pursuant to charter § 5.02.

Sec. 126-36. - Construction, operation and maintenance authorized; limitations.

The board of county commissioners is hereby authorized and empowered to construct, own, operate or maintain any water system, sewage disposal system, water system improvements and sewer improvements or additions thereto, as defined in F.S. § 153.02, on property located within the corporate limits of any municipality within the county without the consent of the council, commission or body having general

legislative authority in the government of such municipality; provided, however, that such system or systems or improvements or additions thereto are constructed, owned, operated or maintained in conjunction with or as a part of a water system or sewage disposal system which is or may be otherwise constructed, owned, operated or maintained outside the corporate limits of such municipality and, further provided, such system is constructed, owned, operated or maintained on property owned by such county on June 22, 1961.

(Laws of Fla. ch. 71-867, § 1)

Sec. 126-37. - Exemption of county-owned lands, rights and interests from municipal legislation.

All lands and rights and interests therein, including lands under water and riparian rights lying within the corporate limits of a municipality, which lands are located in and are owned by the county on June 22, 1961, and which are used as described in section 126-36, shall be exempt from any ordinance, regulation, rule, law or restriction of such municipality which in any way restricts or modifies the use thereof.

(Laws of Fla. ch. 71-867, § 2)

Secs. 126-38—126-70. - Reserved.
ARTICLE III. - COUNTY WATER SYSTEM
DIVISION 1. - GENERALLY

Secs. 126-71—126-100. - Reserved.
DIVISION 2. - ENABLING LEGISLATION
Subdivision I. - In General

Secs. 126-101—126-120. - Reserved.
Subdivision II. - 1953 Act[3]

Footnotes:
--- (**3**) ---

Editor's note—The act contained in this subdivision apparently retains its status as a special act due to the covenants found in section 126-142. The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Sec. 126-121. - Authority and scope.

That Laws of Fla. ch. 20066, Acts of 1939, which is an act authorizing Pinellas County, Florida, to enlarge its water supply and distribution system and prescribing the procedure therefor and the financing thereof by

adding the terms and provisions as hereafter set out in this subdivision thereto, this subdivision being supplementary to and of cumulative effect and giving the board of county commissioners additional powers and authorities relative thereto, as provided for in said act and by the general, special and local laws of Florida, as is hereafter provided.

(Laws of Fla. ch. 29442(1953), § 1)

Sec. 126-122. - Definitions.

That whenever used in the subdivision, unless a different meaning clearly appears from the context:

(1)

The term "undertaking" shall mean the extensions or improvements of water systems and all other facilities incidental thereto.

(2)

The term "county" shall mean Pinellas County, Florida.

(3)

The term "governing body" shall mean the board of county commissioners of said county or any other board or body which may hereafter be charged with the governing of said county.

(4)

The term "bonds" shall mean bonds or revenue certificates issued pursuant to this subdivision; such bonds shall only be revenue bonds, payable as to both principal and interest, solely from the revenues derived from such water system and other special funds provided for in this subdivision. The full faith and credit of said county shall never be pledged for such revenue bonds and ad valorem taxes on real estate shall never be levied unless otherwise provided by resolution of the board of county commissioners in exercising its power and authority as provided for in Laws of Fla. ch. 20066(1939), § 7 (compiled in this Code as section 126-72) for the payment of the principal or interest on said revenue bonds, and such revenue bonds shall not constitute an indebtedness of Pinellas County within the meaning of any constitutional, statutory or other lawful limitation, or for any other purpose, and such revenue bonds shall not be or constitute general obligation bonds of said county. No referendum or election shall be required for the issuance of such revenue bonds except in such cases as such referendum or election may be required by the constitution of the State of Florida. Such revenue bonds shall not be subject to any statutory or other limitation of indebtedness of said county and such bonds shall be fully deductible in the computation of any limitation of indebtedness of said county provided by any law or laws.

(Laws of Fla. ch. 29442(1953), § 2)

Cross reference— Definitions generally, § 1-2.

Sec. 126-123. - Declaration of policy.

That the undertakings enumerated in section 126-122 constitute a proper county purpose for the benefit and welfare of the inhabitants of said county and it is hereby found and declared that in the construction, acquisition, improvement, maintenance and operation of any or all of said undertakings, said county will be

exercising a proper governmental function.

(Laws of Fla. ch. 29442(1953), § 3)

Sec. 126-124. - Powers of the county.

In addition to powers which it may now have, Pinellas County shall have power under this subdivision:

(1)

To construct, acquire, improve, maintain and operate such water system within or without the territorial boundaries of the county and to acquire by gift, purchase or the exercise of the right of eminent domain lands or rights in lands or water rights in connection therewith and any of the property, real or personal, tangible or intangible, necessary, desirable or convenient for said undertakings; to contract for sites for water and water rights and the use of land, by lease or otherwise, under such terms and conditions and for such periods and for such considerations as the board deems advisable and in the best interest of Pinellas County, this subdivision specifically validating and confirming any such contracts, conveyances or obligations heretofore entered into in connection with the accomplishment of the objectives and purposes of this subdivision.

(2)

To operate and maintain such water system for its own use and for use and benefit of its inhabitants, and also to operate and maintain such water system for use and benefit of persons, firms, corporations and public agencies or bodies located within or without the territorial boundaries of such county who shall use the facilities and services of such water system.

(3)

To issue its bonds or to use such other legal means of financing said undertakings as the board of county commissioners deems advisable to finance, in whole or in part, the cost of the construction, acquisition or improvement of such water system. The board of county commissioners, in determining such costs, may include all costs and estimated costs of the issuance of said bonds, all engineering, inspection, fiscal and legal expenses, all costs of preliminary surveys, plans, maps and specifications, interest which it is estimated will accrue during the construction period and one year thereafter on money borrowed, or which it is estimated will be borrowed, pursuant to this subdivision, the costs of the services of agents or persons, corporations, firms, partnerships or associations employed or consultants, advisors, engineers or fiscal, financial or other experts in the planning, preparation, supervision and financing of such water system. The county is hereby authorized to employ and to enter into agreements or contracts with consultants, advisors, engineers, attorneys or fiscal, financial or other experts for the planning, preparation, supervision and financing of such water system or any part thereof upon such terms and conditions as to compensation and otherwise as the board of county commissioners shall deem desirable and proper.

(4)

To prescribe, fix, establish and collect fees, rentals or other charges for the facilities and services furnished by such water system, or any part thereof, either heretofore or hereafter constructed or acquired on an equitable basis; provided however, that such fees, rentals or other charges, or any revision thereof, shall be fixed and established by resolution of the board of county commissioners in said county.

(5)

To pledge to the punctual payment of bonds pursuant to this subdivision, and interest thereon, an amount of the revenue derived from the facilities and services of such water system, including parts thereof theretofore acquired or constructed by said county, and including extensions and improvements thereof thereafter constructed or acquired, sufficient to pay said bonds and the interest thereon as the same shall become due and to create and maintain reasonable reserves therefor. Such amount may consist of all or any part of such revenue.

(6)

To use any right-of-way, easement, lands under water, or other similar property rights necessary, convenient or desirable in connection with the construction, acquisition or improvement or operation or maintenance of such undertaking held by the state or any political subdivision thereof, and the State of Florida hereby consents to such use whenever necessary to carry out the purposes of this subdivision.

(7)

To enter upon any lands, premises, waters or other property for any purposes necessary, convenient or desirable to carry out the purposes of this subdivision.

(8)

To require all lands, buildings and premises to use the facilities and services of such undertakings, except as herein otherwise noted, in all cases deemed necessary or desirable by the county.

(Laws of Fla. ch. 29442(1953), § 4)

Sec. 126-125. - Bond authorization and provisions.

(a)

The construction or acquisition or improvement of such water system, or the refunding of any bonds or other obligations heretofore or hereafter issued for such purposes, whether issued pursuant to the provisions of this subdivision, or some other law or laws may be authorized under this subdivision, and bonds may be authorized to be issued under this subdivision to provide funds for such purpose by resolution or resolutions of the board of county commissioners of Pinellas County, which may be adopted at the same meeting at which they are introduced by a majority of the members thereof then in office, and shall take effect immediately upon adoption and need not be published or posted. Said bonds shall bear interest at such rate or rates not exceeding six per centum per annum, payable semiannually, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding 40 years from their respective dates, may be made payable in such medium of payment, at such place, within or without the state, may carry such registration privileges, may be subject to such terms of redemption, with or without premium, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as such resolution or subsequent resolution may provide. Said bonds may be sold, all at one time or in blocks from time to time, at public or private sale, or if refunding bonds, may also be delivered and exchanged for the outstanding obligations to be refunded thereby, in such manner as the governing body shall determine by resolution, and at such price or prices computed according to standard tables of bond value as will yield to the purchasers or the holders of the obligations surrendered in exchange, income at a rate not exceeding six per centum per annum to the maturity dates of the several bonds so sold or exchanged, on the money paid or the principal amount of obligations surrendered therefor to the county. Pending the preparation of the definitive bonds, interim certificates or receipts or temporary bonds in such form and with such

provisions as the governing body may determine may be issued to the purchaser or purchasers of the bonds sold pursuant to this subdivision. Said bonds, and such interim certificates or receipts or temporary bonds, shall be fully negotiable within the meaning of and for all purposes of the law merchant and the negotiable instruments law of the State of Florida.

(b)

Bonds issued pursuant to this subdivision may also be delivered to the contractor or contractors constructing the undertaking or improvements thereof, to be financed by such bonds, in payment for such construction. The board of county commissioners of said county may also, in the case of undertakings, the facilities of which are to be leased as provided in this subdivision, offer said bonds for sale and provide that the successful bidder for said bonds shall also bid for the construction of such undertakings or improvements thereof and for the leasing of such facilities of such undertakings, in such manner and under such conditions as shall be determined by said board.

(Laws of Fla. ch. 29442(1953), § 5)

Sec. 126-126. - Covenants and resolutions authorizing issuance of bonds.

(a)

Any resolution or resolutions authorizing the issuance of bonds, including refunding bonds, under this subdivision, may contain covenants as to:

(1)

The purpose or purposes to which the proceeds of sale of said bonds may be applied and the securing, use and disposition thereof, including, if deemed desirable, the appointment of a trustee or depository for said funds.

(2)

The use and disposition of the revenues derived from such undertakings, including the parts thereof heretofore or hereafter constructed or acquired, and the creation and maintenance of reserve funds.

(3)

The pledging of all or any part of the gross revenues derived from the ownership, operation or control of such undertakings, including any part thereof heretofore or hereafter constructed or acquired, to the payment of the principal of and interest on bonds issued pursuant to this subdivision, and for such reserve and other funds as may be deemed necessary or desirable.

(4)

The fixing, establishing and collection of such fees, rentals or other charges for the use of the services and facilities of such water system, including any part thereof heretofore or hereafter constructed or acquired, and the revision of same from time to time, as will always provide revenues at least sufficient to provide for all expenses of operation, maintenance and repair of such undertakings, the payment of the principal of and interest on all bonds or other obligations payable from the revenues of such undertakings, and all reserve and other funds required by the terms of the resolution or resolutions authorizing the issuance of such bonds.

(5)

The transfer from the general funds of the county to the account or accounts of the undertaking of an amount equal to the cost of furnishing the county, or any of its departments, boards or agencies, with the services and facilities of such water system.

(6)

Limitations or restrictions upon the issuance of additional bonds or other obligations payable from the revenues of such undertakings and the rights and remedies of the holders of such additional bonds, or refunding bonds, issued therefor.

(7)

The procedure, if any, by which the terms of any covenant with the holder or holders of bonds issued pursuant to this subdivision may be amended, abrogated or altered.

(8)

The rank or priority, as to lien and source of security for payment from the revenues of such undertakings, including the parts theretofore or thereafter acquired or constructed, between bonds issued pursuant to this subdivision or thereafter issued.

(9)

The methods and remedies to be used and enforced by the board of county commissioners upon the failure of any user to pay for the services and facilities of such water system.

(10)

The appointment of a trustee or trustees to hold and apply any revenues derived from such undertaking.

(11)

The appointment of a trustee or trustees to act for and in behalf of bondholders and the manner and terms of such appointment and the powers of such trustee or trustees.

(12)

The manner and terms upon which all bonds or other obligations issued pursuant to this subdivision may be declared immediately due and payable upon the happening of a default in the payment of the principal of or interest thereon, or in the performance of any covenant or agreement with bondholders, and the manner and terms upon which such defaults may be declared cured and the acceleration of the maturity of such bonds or other obligations rescinded and repealed.

(13)

The amount and manner of payment, if any, from the revenues of such water system, to the general fund of the county in lieu of taxes which would otherwise be paid to the county if such water system were privately owned and operated, and the rank and priority between such payments in lieu of taxes, if any, the determination as to whether such payments shall be made being solely within the discretion of the board of

county commissioners, and other payments for the maintenance and operation of such water system, debt services and reserve or other funds required to be made pursuant to covenants with the holders of bonds issued pursuant to this subdivision.

(14)

Budgets for the annual operation, maintenance and repair of such undertakings, and restrictions and limitations upon expenditure for such purposes, and the manner of adoption, modification, repeal or amendment thereof.

(15)

The amounts of insurance to be maintained upon such undertakings, or any part thereof, and the use and disposition of the proceeds of any insurance.

(16)

The keeping of books of account relating to such water system, and the audit and inspection thereof.

(17)

Limitations upon the number or percentage of bondholders which may be required, and the manner of filing evidence of such number or percentage for the appointment of a trustee or receiver for such undertakings as provided in this subdivision.

(18)

Limitations or restrictions on the right of the county to sell, mortgage, dispose of, or otherwise encumber such water system or any part thereof.

(19)

The methods and means for the enforcement and collection of fees, rentals or other charges for the services and facilities of such water system, and rules and regulations, including reasonable penalties, for such enforcement and collection.

(20)

Such other and additional covenants as shall be deemed necessary or desirable for the security of the holders of bonds or other obligations issued pursuant to this subdivision.

(b)

All such covenants and agreements shall constitute valid and binding contracts between the county and the holders of any bonds or other obligations issued pursuant to such resolution, regardless of the time of issuance thereof, and, subject to any limitations contained in such resolution, shall be enforceable by any holder or holders of such bonds or other obligations, acting either for himself or themselves alone, or acting in behalf of all other holders of such bonds or other obligations, by appropriate proceedings in any court of competent jurisdiction.

(Laws of Fla. ch. 29442(1953), § 6)

Sec. 126-127. - Validity of bonds.

(a)

Any bonds issued pursuant to this subdivision, bearing the signature of officers in office on the date of the signing thereof, shall be valid and binding obligations, notwithstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon, or on any coupons appertaining thereto, shall have ceased to be officers of the county. The validity of said bonds, or any coupons appertaining thereto, shall not be dependent on, nor affected by, the validity or regularity of any proceedings relating to the construction, acquisition or improvement of such undertakings for which said bonds are issued, or by the validity or regularity of any proceedings relating to the establishment and collection of fees, rentals or other charges for the use of the services and facilities of said undertakings.

(b)

The resolution authorizing said bonds may provide that such bonds shall contain a recital that they are issued pursuant to this subdivision, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

(Laws of Fla. ch. 29442(1953), § 7)

Sec. 126-128. - Lien on revenues.

All bonds issued pursuant to this subdivision shall have a lien upon the revenues derived from said water system to the extent and in the manner provided in the resolution authorizing the issuance of such bonds, which lien shall be prior and paramount and over and ahead of any claims or obligation of any nature against said revenues subsequently arising or subsequently incurred, except as may be provided in the resolution or resolutions authorizing such bonds. The rank and priority of different issues of bonds issued by the county pursuant to this subdivision shall be as provided in the resolution or resolutions authorizing such bonds.

(Laws of Fla. ch. 29442(1953), § 8)

Sec. 126-129. - Maintenance of rates.

The board of county commissioners shall prescribe and collect reasonable rates, fees or other charges for the services and facilities of such water system and shall revise such rates, fees or charges prescribed from time to time whenever necessary. The rates, fees or charges prescribed shall be such as will produce revenues, together with any other pledged funds, at least sufficient:

(1)

To provide for all expenses of operation, and maintenance and renewal of such undertakings, including reserves therefor;

(2)

To pay when due all bonds and interest thereon for the payment of which such revenues are, or shall have been, pledged or encumbered, including reserves therefor; and

(3)

To provide for any other funds which may be required under the resolution or resolutions authorizing the issuance of such bonds pursuant to this subdivision.

Any refunding bonds issued pursuant to this subdivision shall be deemed to have been issued for the same purpose or purposes for which the bonds or other obligations refunded thereby were originally issued. The provisions of this section shall apply to all bonds issued pursuant to this subdivision, and this subdivision shall be construed to require the revenues from such water system, together with other special funds pledged therefor, to be sufficient to make such water system fully self-liquidating.

(Laws of Fla. ch. 29442(1953), § 9)

Sec. 126-130. - Appointment of receiver.

The resolution authorizing the issuance of said bonds may provide that in the event of a default in the payment of the principal of or interest on any bonds or other obligations issued pursuant to this subdivision, or in the performance by the county of any duties imposed upon the county by this subdivision, or by any covenants or agreements theretofore entered into between the county and the holders of such bonds or other obligations, any holder or holders of such bonds or other obligations (unless the resolution authorizing the issuance of such bonds or other obligations shall limit the right to the appointment of a receiver to a specified number or percentage of bondholders), either acting for himself or themselves alone, or also acting for all other holders of such bonds or other obligations, shall be entitled as of right to the appointment of a receiver for such undertakings, including all parts thereof heretofore or hereafter constructed or acquired, by any court of competent jurisdiction of the State of Florida. Jurisdiction is hereby conferred upon the respective circuit courts of the State of Florida in any action or proceeding for the appointment of such a receiver, and such receiver is hereby authorized and empowered in the event of such default or defaults to take over, operate, manage and control such undertakings and to collect the revenues derived from the use of the services and facilities thereof and from all other sources to the same extent and in the same manner as the county is authorized to do. Such receiver shall so operate, manage and control such water system only under the supervision and direction of the circuit courts of the State of Florida, and such operation, management and control shall be in the name of Pinellas County, Florida, and notwithstanding any provision of any other law to the contrary, such water system shall be deemed in the county's control, and management through such court, and its duly appointed receiver, for the joint protection of the county and such bondholders. After deduction of the expenses of such receivership, such receiver shall apply the funds derived from such operation, management and control to:

(1)

The cost of operation and maintenance of such undertaking.

(2)

The payment of amounts due for the principal of and interest on any bonds or other obligations heretofore issued by the county for such water system in accordance with the rights of the holders of such bonds or other obligations, and the payment into reserve of other funds of any amounts provided for in the covenants or agreements with the holders of such bonds or other obligations, and thereafter to apply all such funds in such manner as the court shall direct. The fees and other expenses of such receiver and of the person or persons making application for the appointment thereof, and all other legal and incidental expenses in connection with such receivership, subject to court approval, shall be a first lien on the revenues of such water system as long as they are in the control of such receiver. When all defaults of the county shall have been cured and

made good, such receivership shall be terminated by an order of the court which appointed such receiver.

The provisions of this section are intended to and shall be construed as insuring the efficient and economical administration of such water system, and the continuance and maintenance of such water system as a county owned undertaking, and no holder of bonds or other obligations shall ever have the right to require the sale or other disposal of such undertakings in such receivership proceedings.

(Laws of Fla. ch. 29442(1953), § 10)

Sec. 126-131. - Collection of charges.

In the event that the fees, rentals or other charges for the services and facilities of said water system shall not be paid when due, the county may discontinue and shut off the supply of the services and facilities of such water system or to the extent permitted by law, of any other undertaking, utility, or public works owned, operated and controlled by the county, to the person, firm, corporation or other body, public or private, so supplied with such services or facilities, until such fees, rentals or other charges, including interest, penalties and charges for the shutting off and discontinuance or the restoration of such services or facilities, are fully paid, and for such purposes may enter on any lands, waters and premises of such person, firm, corporation, or other body, public or private, within or without the boundaries of the county. Such delinquent fees, rentals or other charges together with interest, penalties and charges for the shutting off and discontinuance or the restoration of such services or facilities, and reasonable attorneys' fees and other expenses, may be recovered by the county by suit in a court of competent jurisdiction. The county may also enforce payment of such delinquent fees, rentals or other charges by any other lawful method of enforcement.

(Laws of Fla. ch. 29442(1953), § 11)

Sec. 126-132. - Administration of undertakings.

The board of county commissioners of Pinellas County may, if deemed desirable, designate a certain officer or certain officers of the county to have the supervision and management and control of such water system, or of any parts thereof, or to carry out any duties or acts relating to said water system, and may make all necessary rules or regulations governing the use, control, management and operation of such water system, or of any parts thereof.

(Laws of Fla. ch. 29442(1953), § 12)

Sec. 126-133. - Additional security of refunding bonds.

As additional security for any issue of refunding bonds under this subdivision, the county may, by resolution of its governing body, confer upon the holders of such refunding bonds all rights, powers and remedies which said holders would be entitled to if they were the owners and had possession of the bonds or other obligations for the refinancing of which such refunding bonds shall have been issued, including, but not limited to, the preservation of the lien of such bonds or other obligations on the revenues of such water system without extinguishment, impairment or diminution thereof. In the event the county exercises the powers conferred by this section each refunding bond shall contain a recital to the effect that the holder thereof has been granted the additional security provided for in this section, and each bond or other obligation refinanced by any such refunding bonds shall be kept intact and shall not be cancelled or destroyed until the refunding bonds, and the interest thereon, have been finally paid and discharged, and shall be stamped with a legend to the effect that such bonds or other obligation has been refinanced pursuant to this subdivision.

(Laws of Fla. ch. 29442(1953), § 13)

Sec. 126-134. - Bonds legal investments.

Notwithstanding any provision of any other law or laws to the contrary, all bonds, including refunding bonds, issued pursuant to this subdivision shall constitute legal investments for savings banks, banks, trust companies, executors, administrators, trustees, guardians and other fiduciaries, and for any board, body, agency or instrumentality of the State of Florida, or of any county, municipality or other political subdivision of said state; and shall be and constitute securities which may be deposited by banks or trust companies as security for deposits of state, county, municipal and other public funds.

(Laws of Fla. ch. 29442(1953), § 14)

Sec. 126-135. - Undertakings and revenues exempt from taxation.

So long as the county shall own such undertakings, all property of and all revenues derived from such undertakings, including all parts thereof heretofore or hereafter constructed or acquired, shall be exempt from all taxation by the State of Florida, or by any county, municipality or other political subdivision thereof. Bonds or other obligations, including refunding bonds, issued pursuant to this subdivision shall, together with the income therefrom, be exempt from all taxation by the State of Florida, or any county, municipality or other political subdivision thereof.

(Laws of Fla. ch. 29442(1953), § 15)

Sec. 126-136. - Monies of undertakings.

The monies of the county derived from such undertakings, after bonds or other obligations have been issued pursuant to this subdivision, shall be deposited in one or more banks or trust companies in a special account or accounts and shall constitute trust funds to be administered solely in accordance with the provisions of the resolution or resolutions authorizing bonds or other obligations pursuant to this subdivision, and any holder or holders of bonds or other obligations issued pursuant to this subdivision, or the coupons appertaining thereto, shall have a lien on said trust funds to the extent and in the manner provided in the resolution or resolutions authorizing the issuance of such bonds or other obligations.

(Laws of Fla. ch. 29442(1953), § 16)

Sec. 126-137. - Grants and contributions.

The county shall have power to contract with any person, private or public corporation, the State of Florida, or any agency, instrumentality, or county, municipality or political subdivision thereof, or any agency, instrumentality or corporation of or created by the United States of America, or the United States of America, with respect to such undertakings, or any part thereof, and shall also have power to accept and receive grants or loans from the same, and in connection with any such contract, grant or loan, to stipulate and agree to such covenants, terms and conditions as the governing body of the county shall deem appropriate.

(Laws of Fla. ch. 29442(1953), § 17)

Sec. 126-138. - Lease of facilities.

(a)

Subject to covenants or agreement with bondholders contained in proceedings authorizing the issuance of bonds pursuant to this subdivision, the county shall have power to lease any of such undertakings, or any part or parts thereof, to any person, firm, corporation, association or body, upon such terms and conditions and for such periods of time as shall be determined by the governing body; provided however, that no lease shall be for a period longer than the last maturity of bonds to be issued to finance the undertaking or part or parts thereof to be so leased. The county shall also, whenever desirable, have power to grant permits or licenses in connection with any of the facilities of such undertakings, and shall have full and complete power to do all things necessary and desirable for the proper and efficient administration and operation of such undertakings, and all parts thereof. The county shall also have power, whenever deemed necessary or desirable, and subject to covenants and agreements with bondholders, to lease from any person, firm, corporation, association or body, any facilities of any nature for any such undertakings.

(b)

Notwithstanding any contrary provisions of any other law or laws, all the powers contained in this section may be exercised by resolution of the governing body of the county, which resolution may be adopted at the same meeting at which it is introduced, and need not be published or posted. Such leases, permits, licenses or agreements may be entered into or granted with or without advertisement, and upon such conditions as shall be determined by the governing body of the county.

(Laws of Fla. ch. 29442(1953), § 18)

Sec. 126-139. - Services rendered to county.

That charges shall be made for any facilities or services rendered by such undertakings to the county, or to any department or works thereof, at the rate or rates applicable to other customers or users taking facilities or services under similar conditions. Revenues derived from such facilities or services furnished by the county shall be treated as all other revenues.

(Laws of Fla. ch. 29442(1953), § 19)

Sec. 126-140. - Consent of state agencies.

That it shall not be necessary for the county, in proceeding under this subdivision, to obtain any certificates of convenience or necessity, franchise, license, permit, or other authorization from any bureau, board, commission or other like instrumentality of the State of Florida in order to construct, acquire, or improve such undertakings, or to exercise any of the powers granted in this subdivision.

(Laws of Fla. ch. 29442(1953), § 20)

Sec. 126-141. - Regulation by state agencies.

That the fees, rentals, or other charges to be established and collected for the facilities and services of such undertakings, when constructed, acquired or improved as provided in this subdivision, shall not be subject to supervision, regulation or control of any bureau, board, commission or other like instrumentality of the state.

(Laws of Fla. ch. 29442(1953), § 21)

Sec. 126-142. - Covenants of state.

That the State of Florida hereby covenants with the holders of any bonds or other obligations issued pursuant to this subdivision, and the coupons appertaining thereto, that it will not in any manner limit or alter the power and obligation vested by this subdivision in the county to fix, establish and collect, in the manner provided in this subdivision, such fees, rentals, or other charges for the facilities and services of such undertakings, and to revise the same from time to time whenever necessary, as will always be sufficient, together with any other pledged funds to pay the expenses of operation, maintenance and repair of such undertakings, the principal of and interest on all bonds or other obligations issued pursuant to this subdivision for such undertakings, and to comply fully with and fulfill the terms of all agreements and covenants made by the county with holders of such bonds or other obligations, until all such bonds or other obligations, together with all interest accrued or to accrue thereon, and all costs or expenses in connection with any action or proceedings by or on behalf of the holders of such bonds or other obligations are fully paid and discharged, or adequate provisions made for the payment or discharge thereof.

(Laws of Fla. ch. 29442(1953), § 22)

Sec. 126-143. - Additional and complete authority.

That the powers conferred by this subdivision shall be in addition and supplemental to the existing powers of the county, and this subdivision shall not be construed as repealing any of the provisions of any other law, general or local, but to provide an alternative and complete method for the exercise of the powers granted in this subdivision. Such undertakings may be constructed, acquired or improved, and bonds or other obligations issued pursuant to this subdivision without regard to or necessity for compliance with the limitations or restrictions contained in any other general, special or local law, including, but not limited to, any requirement for the approval by the freeholders or voters of the county for the exercise of any of the powers provided for in this subdivision.

(Laws of Fla. ch. 29442(1953), § 23)

Secs. 126-144—126-165. - Reserved.

Subdivision III. - 1939 Act[4]

Footnotes:

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Editor's note—The act contained in this subdivision apparently retains its status as a special act as it was amended by the act in subdivision II of this division. See section 126-121. The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Sec. 126-166. - Extension of water supply system.

That Pinellas County, by and through its board of county commissioners, may at any time enlarge or extend the present water supply and distribution system in such manner as the board of county commissioners shall deem advisable.

(Laws of Fla. ch. 20066(1939), § 1)

Sec. 126-167. - Acquisition of lands and water rights.

That in order to accomplish the purpose herein authorized, said county and its board may acquire land, submerged land and water rights, including sources of supply and other assets, by purchase, gift, condemnation proceedings or otherwise and to hold and dispose of same upon such terms and conditions as such board shall deem necessary and wise.

(Laws of Fla. ch. 20066(1939), § 2)

Sec. 126-168. - Future sources.

Such county and board shall have the authority to establish and create a source or sources of water supply and additional sources from time to time within or without such county and to enlarge or otherwise improve its water treating plant and its distribution system, including the right to produce and distribute its own power and lights and dispose of any surplus thereof, in all respects whatsoever.

(Laws of Fla. ch. 20066(1939), § 3)

Sec. 126-169. - Rights and powers of the county.

That in order to accomplish the main purpose herein, said county and its board of county commissioners shall in addition thereto shall have the full and complete right to contract; exercise the right of eminent domain; to prescribe, fix, maintain, and regulate charges, tolls and rents for the use of any of its facilities for the use hereunder; to mortgage, pledge, hypothecate any of its property or assets upon terms and conditions to be decided by such board. This power shall be full and complete in all respects whatsoever in order to promote, construct, accomplish, maintain and operate said water supply and distribution system.

(Laws of Fla. ch. 20066(1939), § 4)

Sec. 126-170. - Issue and sale of bonds.

Full and complete authority is hereby given to issue, negotiate, and sell for or less than par, bonds, revenue certificates or other evidence of indebtedness in the amount and at a rate of interest in such manner and form and conditioned as shall be determined by a resolution of its governing body for any and every purpose, project or facility herein enumerated and authorized directly or indirectly and to provide for the rights of the holders of such evidence of indebtedness.

(Laws of Fla. ch. 20066(1939), § 5)

Sec. 126-171. - Rules and regulations.

[The board of county commissioners] shall have the right to adopt and enforce reasonable rules and regulations or procedure pertaining to the use, acquisition, maintenance, development, operation or disposal of any of the facilities or projects herein numerated.

(Laws of Fla. ch. 20066(1939), § 6)

Sec. 126-172. - Tax levy authorized.

That whenever it is necessary, such board may levy an ad valorem tax against all taxable property in said county for the purpose of accomplishing any of the objects herein authorized.

(Laws of Fla. ch. 20066(1939), § 7)

Sec. 126-173. - Joint authority.

To acquire, do and perform all things herein enumerated, separately or jointly and/or in conjunction with a municipality or other political subdivision of the State of Florida, whether same be within or without the territorial limits of Pinellas County.

(Laws of Fla. ch. 20066(1939), § 8)

Secs. 126-174—126-200. - Reserved.

Subdivision IV. - 1935 Act[5]

Footnotes:
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Editor's note—The act contained in this subdivision apparently retains its status as a special act due to its subject matter. The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Sec. 126-201. - County authorized to maintain water system for certain areas.

That the board of county commissioners of Pinellas County, State of Florida, are hereby authorized and empowered to construct, own, maintain and operate a water supply and distribution system for the purpose of supplying drinkable water to the inhabitants of that certain chain of islands bordering on the Gulf of Mexico in said county, extending from Pass-a-Grille to Indian Rocks, and to furnish water to other districts or communities within said county.

(Laws of Fla. ch. 17644(1935), § 1)

Sec. 126-202. - Powers of board of county commissioners.

That the board of county commissioners of Pinellas County, State of Florida, shall have the power to manage,

regulate and control in all respects the operation and management of said water supply and distribution system, including the power to fix and determine rates charged water consumers; to purchase water or otherwise establish a source of supply for such system; and the power to borrow money for such construction and maintenance work from the federal government upon the terms and conditions and in the manner prescribed by such government; and whenever necessary to pledge the assets of such system; but at no time shall such board have the power to tax any person or taxable property for the purpose herein contained or pledge the faith or credit of such county.

(Laws of Fla. ch. 17644(1935), § 2)

Sec. 126-203. - Employment of personnel.

Said board of county commissioners shall have the right and authority to employ with or without compensation suitable personnel who shall serve at the pleasure of such board, to manage and otherwise control such water supply system, and such board may delegate to such personnel all the right, powers granted hereunder pertaining to the maintenance, management and operation of such water supply system, including the right to fix charges or rates for water consumed.

(Laws of Fla. ch. 17644(1935), § 3)

Sec. 126-204. - Eminent domain.

The right of eminent domain is hereby granted to such board whenever necessary for the purpose of acquiring sites or land for the purpose of the construction, maintenance and operation of such water project.

(Laws of Fla. ch. 17644(1935), § 4)

Secs. 126-205—126-230. - Reserved.

DIVISION 3. - CROSS CONNECTION CONTROL

Sec. 126-231. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Back pressure means backflow caused by a pump, elevated tank, boiler, or other means which would create pressure within the system greater than the supply pressure.

Back siphonage means a form of backflow due to a negative or subatmospheric pressure within a water system.

Backflow means the flow of water or other liquids, mixtures or substances into the distribution pipes of a potable supply of water from any source other than its intended source.

Backflow preventer means a device or means to prevent backflow.

(1)

Double checkvalve assembly means an assembly composed of two single, independently acting, approved checkvalves, including tightly closing shutoff valves located at each end of the assembly and suitable connections for testing the watertightness of each checkvalve.

(2)

Reduced pressure principle backflow prevention device means a device containing within its structure a minimum of two independently acting, approved checkvalves, together with an automatically operating pressure differential relief valve located between the two checkvalves. The first checkvalve reduces the supply pressure a predetermined amount so that during normal flow and at cessation of normal flow the pressure between the checkvalves shall be less than the supply pressure. In case of leakage of either checkvalve, the differential relief valve, by discharging to atmosphere, shall operate to maintain the pressure between the checks less than the supply. The unit shall include tightly closing shutoff valves located at each end of the device, and each device shall be fitted with properly located testcocks.

Consumer (customer) means any person or municipality using or receiving water from the water purveyor's potable water system.

Cross connection means any physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other water, or other fluid of unknown or questionable quality.

Health department means the health authority having jurisdiction in the county.

Interconnection (direct cross connection) means any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of importing contamination.

Plumbing official means the individual, board, department, or agency established and authorized by state, county, city, or other political subdivision created by law to administer and enforce the provisions of the Standard Plumbing Code as adopted or amended.

Point of delivery (service connection) means the terminal end of service from the public potable water system at the meter installation, which shall include the backflow prevention device when such device is installed adjacent to the water meter. In other words, it is that point where the water purveyor loses jurisdiction and sanitary control over the water at its delivery to the consumer.

Water, director of means the person responsible for operation of the county water system.

Water, nonpotable means water which is not safe for human consumption, or which is of questionable potability.

Water, potable means water from any source which has been investigated by the health department, and which has been approved for human consumption.

Water purveyor means the county water system.

(Ord. No. 77-11, § 3, 5-19-77)

Cross reference— Definitions generally, § 1-2.

Sec. 126-232. - Penalty for violation of division.

Violations of this division are punishable as provided in section 1-8.

Sec. 126-233. - Intent.

The board of county commissioners does hereby find that it is necessary for the protection and promotion of the health, safety and welfare of the people within that portion of the county served by the county water system to adopt cross connection control standards which establish minimum requirements for the design, construction and maintenance of connections to the public water supply. Such standards supplement but do not supersede or modify the Standard Plumbing Code as adopted for the county by Laws of Fla. ch. 75-489 (compiled in ch. 170, art. II, div. 2 of this Code).

(Ord. No. 77-11, § 1, 5-19-77)

Sec. 126-234. - Purpose.

The purposes of this division are to:

(1)

Provide standards for the protection of the public potable water supply.

(2)

Protect the public potable water system at the service connection by isolating within the consumer's premises actual or potential pollution or contamination which may result from backflow through cross connection.

(3)

Provide means whereby the consumer may segregate his domestic and industrial uses into separate systems to prevent possible pollution or contamination of his private potable water system.

(4)

Provide a continuous program of cross connection control which will systematically and effectively prevent the contamination of the public potable water system.

(Ord. No. 77-11, § 2, 5-19-77)

Sec. 126-235. - Areas embraced.

All territory within the county served by the county water system shall be embraced by the provisions of this division.

(Ord. No. 77-11, § 13, 5-19-77)

Sec. 126-236. - Responsibilities.

(a)

Plumbing official. The plumbing official shall enforce the provisions of the Standard Plumbing Code so as to ensure the potability of the consumer's water supply from the point of entrance of the public water supply at the consumer's service connection to the extremities of the consumer's water system. The plumbing official shall have primary enforcing responsibility of new installations, alterations or repairs of water supply

systems. The plumbing official shall provide the health department and the water purveyor with the assistance required to enforce the provisions of the Standard Plumbing Code on existing water supply systems.

(b)

Water purveyor. The water purveyor shall be primarily responsible for the prevention of contamination and pollution of the public water mains. Such responsibility begins at the point of origin of the public water supply and includes adequate treatment facilities and water mains, and ends at the point of entrance to the consumer's water system, provided adequate backflow and backsiphonage protection is maintained on all water supply systems directly connected to the water purveyor's public system. The water purveyor shall have secondary supervisory responsibility to the plumbing official for new installations, alterations or repairs of water supply systems and shall have secondary supervisory responsibility to the health department for existing water supply systems.

(c)

Health department. The health department shall be responsible for supervising the prevention of contamination and pollution of the public water mains, all water supply systems and all water sources. Such responsibility extends from the point of origin of the public water supply to and including all extremities of the consumer's supply and its actual use. The health department shall have prime supervisory responsibility for administration and enforcement of those portions of this division and the Standard Plumbing Code applicable to existing water supply systems and water sources. The health department has secondary supervisory responsibility to the water purveyor for the public water system.

(d)

Consumer. The consumer shall have the prime responsibility of preventing contaminants and pollutants from entering the water supply system and from entering the public water main or water source from his water supply system. The consumer shall protect his water supply system against actual or potential cross connection, backflow or backsiphonage, as required by the Standard Plumbing Code and other applicable regulations. The consumer shall assure that all internal protective devices are tested and maintained in the working condition required. The consumer shall assure that the necessary plumbing permits are obtained for new water supply system installations and for alterations or repairs to existing systems.

(Ord. No. 77-11, § 4, 5-19-77)

Sec. 126-237. - Operational criteria.

It is the primary responsibility of the water purveyor to evaluate the hazards inherent in supplying a consumer's water system, i.e., to determine whether solid, liquid or gaseous pollutants or contaminants are or may be handled on the consumer's premises in such a manner as to possibly permit contamination of the public water system. When a hazard or potential hazard to the public water system is found on the consumer's premises, the consumer shall be required to install an approved backflow prevention device at each public water service connection to the premises in accordance with this division's requirements. The type of device shall depend on the degree of hazard involved.

(Ord. No. 77-11, § 5, 5-19-77)

Sec. 126-238. - Protective devices.

The type of protective device required shall depend upon the degree of hazard as described in AWWA Manual M-14 or as described in this section. Where more than one type of protection is possible, the actual method utilized shall be at the discretion of the water purveyor subsequent to physical inspection of the hazard.

(1)

In the case of any premises where there is an auxiliary water supply, there shall be no physical connection between such auxiliary water supply and the consumer's water system which is served by the public water system. Where such connections are found, disconnections shall be accomplished and the public water system shall be protected against the possibility of future reconnection by an approved reduced pressure principle backflow prevention device at the service connection.

(2)

In the case of any premises where there is water or a substance that would be objectionable but not hazardous to health, if introduced into the public water system, the public water system shall be protected by an approved double checkvalve assembly.

(3)

In the case of any premises where there is any material dangerous to health which is handled in such a fashion as to create an actual or potential hazard to the public water system, the public water system shall be protected by an approved reduced pressure principle backflow prevention device. Examples of premises where these conditions will exist include but are not limited to sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries and plating plants.

(4)

In the case of any premises where there are uncontrolled cross connections, either actual or potential, the public water system shall be protected by an approved reduced pressure principle backflow prevention device at the service connection.

(5)

In the case of any premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete in-plant cross connection survey, the public water system shall be protected by the installation of an approved reduced pressure principle backflow prevention device at the service connection.

(Ord. No. 77-11, § 6, 5-19-77)

Sec. 126-239. - Facilities requiring backflow protection; waiver.

(a)

The following is a partial list of facilities which will require reduced pressure principle backflow preventers at the service connection. Requirements are based upon the degree of hazard afforded the public potable water system.

(1)

Aircraft and missile plants.

(2)

Airports.

(3)

Automatic car washes.

(4)

Automotive plants.

(5)

Auxiliary water systems.

(6)

Beverage bottling plants.

(7)

Canneries, packinghouses and reduction plants.

(8)

Chemical plants.

(9)

Dairies and cold storage plants.

(10)

Exterminators.

(11)

Facilities with commercial boilers or chilled water systems.

(12)

Fertilizer manufacturing plants.

(13)

Film laboratories.

(14)

Fire systems.

(15)

Heating or cooling coils submerged in contaminants.

(16)

Hospitals, medical buildings, sanitariums, morgues, mortuaries, autopsy facilities, nursing and convalescent homes and clinics.

(17)

Irrigation systems.

(18)

Laboratories (industrial, commercial, medical and school).

(19)

Laundries and dye works.

(20)

Metal manufacturing, cleaning, plating, processing and fabricating plants.

(21)

Motion picture studios.

(22)

Nuclear and radioactive materials production facilities.

(23)

Oil and gas production, storage or transmission properties.

(24)

Paper and paper products plants.

(25)

Plating plants.

(26)

Power plants.

(27)

Radiator shops.

(28)

Radioactive materials or substances, plants or facilities handling.

(29)

Restricted, classified or other closed facilities.

(30)

Rubber plants.

(31)

Sand and gravel plants.

(32)

Travel trailer and mobile home parks.

(33)

Wastewater treatment plants, pump stations and storm water pumping facilities.

(34)

Waterfront facilities and industries.

(35)

Water treatment plants.

(36)

Others, as found with high hazards.

(b)

The following is a partial list of facilities which will require double checkvalve assemblies:

(1)

Apartments.

(2)

Beauty parlors and barbershops.

(3)

Buildings (highrise over four stories).

(4)

Doctors and dental offices.

(5)

Greenhouses and nurseries.

(6)

Hotels and motels.

(7)

Laundry and cleaners.

(8)

Major office buildings.

(9)

Restaurants and food handlers.

(10)

Service stations.

(11)

Swimming pools.

(12)

Others, as found with suspected low hazards.

(c)

Where it is found that the facilities listed in this section and other establishments are designed and constructed to eliminate all cross connections, and that no backflow potential exists or is likely to be created, the water purveyor may waive the requirement of a backflow prevention device at the service connection.

(Ord. No. 77-11, § 7, 5-19-77)

Sec. 126-240. - Discontinuance of service; notice of violation; consent to entry.

(a)

In emergency situations when the public potable water supply is being contaminated or is in immediate danger of contamination, water service will be discontinued by the water purveyor.

(b)

No water service connection shall be installed on the premises of any consumer unless the public potable

water system is protected as required by this division.

(c)

Delivery of water to the premises of any consumer may be discontinued by the water purveyor if any protective device required by this division has not been installed, or is defective, or has been removed or bypassed. Discontinued water service shall not be resumed until conditions at the consumer's premises have been abated or corrected to the satisfaction of the water purveyor.

(d)

Upon discovery of a violation which does not present an immediate hazard to the public potable water system, written notice thereof shall be given to the consumer. The notice shall be given by delivering such notice to the premises and mailing a copy thereof to the billing address as it appears on the water purveyor's billing records. The notice shall state:

(1)

Date and time violation was noted.

(2)

The condition or defect which must be corrected.

(3)

The manner in which the stated conditions are to be corrected.

(4)

Recommended date for reinspection.

(5)

The date on or after which delivery of water will be discontinued, which shall not be less than 15 days nor more than 90 days following the date of delivery or mailing of the notice. The water purveyor may grant the consumer an extension of an additional period not to exceed 90 days if the water purveyor determines that the consumer, for justifiable reasons, has been unable to comply with the notice within the time originally allowed.

(e)

For the purpose of making any inspections or discharging the duties imposed by this division, the water purveyor, the health department and the plumbing official shall have the right to enter upon the premises of any consumer. Each consumer, as a condition of the continued delivery to his premises of water from the public water supply, shall be considered as having stated his consent to the entry upon his premises of the water purveyor, the health department and the plumbing official, for the purpose stated in this section.

(Ord. No. 77-11, § 9, 5-19-77)

Sec. 126-241. - Backflow prevention devices—Approval of.

Any backflow prevention device required in this division shall be of a type approved by the water purveyor and the state department of environmental protection.

(Ord. No. 77-11, § 8, 5-19-77)

Sec. 126-242. - Same—Ownership.

The water purveyor shall purchase, own and maintain all backflow prevention devices installed at the point of delivery to the consumer's water system.

(Ord. No. 77-11, § 10, 5-19-77)

Sec. 126-243. - Same—Installation costs.

Customers of the county water system requiring backflow prevention devices shall pay the costs associated with the type and size of device needed in accordance with the fee schedule approved by the board of county commissioners. Approved backflow prevention devices which meet county specifications will be stocked at the county water system's warehouse, located at 11700 Indian Rocks Road, Largo, Florida. Devices up to and including two inches shall be installed by the county water system, while devices larger than two inches may be installed by the applicant's contractor, if desired. Devices installed under private contract will require inspection, for which provision can be made when obtaining the device from the water system's warehouse. New connectors requiring backflow prevention devices will pay the associated fees at the time of application for water service, while existing customers will be allowed up to 90 days from the date of installation of the backflow prevention device.

(Ord. No. 77-11, § 11, 5-19-77)

Sec. 126-244. - Same—Testing and maintenance.

The water purveyor will be responsible for the testing and maintenance of backflow prevention devices. The consumer on whose premises any such device is installed shall permit access to the water purveyor to test each such device. If tests by the water purveyor's inspector disclose failures in the operation of any device, the device shall be repaired by the water purveyor. Records of such inspections and repairs shall be kept by the water purveyor and made available to the county health department.

(Ord. No. 77-11, § 12, 5-19-77)

Secs. 126-245—126-275. - Reserved.

ARTICLE IV. - COUNTY SEWER SYSTEM[6]

Footnotes:

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Editor's note—Ord. No. 12-41, § 2, adopted Oct. 16, 2012, repealed the former Art. IV, §§ 126-276—126-413, and enacted a new Art. IV as set out herein. The former Art. IV pertained to similar subject matter and derived from Ord. No. 98-60, § 2, adopted June 23, 1998; and Ord. No. 06-18, §§ 1—4, adopted Feb. 21, 2006.

DIVISION 1. - IN GENERAL

Sec. 126-276. - Abbreviations and definitions.

The following abbreviations, when used in this article, shall have the designated meanings:

BMP—Best Management Practices.

BOD—Biochemical Oxygen Demand.

CFR—Code of Federal Regulations.

CIU—Categorical Industrial User.

COD—Chemical Oxygen Demand.

EPA—U.S. Environmental Protection Agency.

FAC—Florida Administrative Code.

FDEP—Florida Department of Environmental Protection.

g.p.d.—Gallons Per Day.

mg/l—Milligrams Per Liter.

NPDES—National Pollutant Discharge Elimination System. POTW—Publicly Owned Treatment Works (a.k.a. WWF).

RCRA—Resource Conservation and Recovery Act.

SIC—Standard Industrial Classification.

SlU—Significant Industrial User.

TRC—Technical Review Criteria.

TSS—Total Suspended Solids.

TTO—Total Toxic Organics.

U.S.C.—United States Code.

WRF—Wastewater Reclamation Facility

WWF—Wastewater Facility.

The following words, terms and phrases, when used in this article, shall have the definitions ascribed to them in this section, except where the context clearly indicates a different meaning or the provision explicitly states otherwise.

(1)

Act or the Act. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33

U.S.C. § 1251 et seq.

(2)

Approval authority. The Florida Department of Environmental Protection is the designated approval authority.

(3)

Batch discharge. A non-continuous industrial user discharge to the POTW which contains a specific volume of treated wastewater and occurs over a specific period of time.

(4)

Best management practices or BMPs. Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in subsections 62-625.400(1)(a) and (2), F.A.C. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, industrial sludge or waste disposal, or drainage from raw materials storage.

(5)

Biochemical oxygen demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20° centigrade, usually expressed as a concentration (e.g., mg/l).

(6)

Building sewer. The conduit or pipe which conveys wastewater from the plumbing drain system of a building to a public sewer or other place of disposal.

(7)

Categorical industrial user. An industrial user subject to categorical pretreatment standards under Rule 62-625.410, F.A.C., including 40 CFR Chapter I, Subchapter N, Parts 405 through 471, as of July 1, 2009, hereby adopted and incorporated by reference.

(8)

Categorical pretreatment standard or categorical standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

(9)

Chemical oxygen demand (COD). A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

(10)

Chlorine requirement. The amount of chlorine, in milligrams per liter (mg/l), which must be added to

wastewater to produce specified residual chlorine content, or to meet some other standard.

(11)

Composite sample. A sample collected on a time or flow proportional basis over a designated period of time. For compliance purposes, the normal composite period will be 24 hours, or during the operational hours of the facility being monitored, including all periods of time when there is any discharge from the facility other than from domestic waste.

(12)

Control authority. The county is the control authority for all activities related to control of industrial wastewater discharges into the county sewer system. The control authority refers to the director or his duly authorized representative(s). The control authority for the pretreatment program is the monitoring and laboratories section, industrial pretreatment program.

(13)

Connected systems. A publicly or privately owned wastewater collection system that connects to and discharges into the county sewer system for purposes of treatment and disposal.

(14)

County. Pinellas County, Florida, or any department of Pinellas County, Florida within this article.

(15)

Daily maximum. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

(16)

Director. The county administrator or his/her designee.

(17)

Discharge or indirect discharge. Dispose of, deposit, place, emit, unload, release, or cause or allow to be disposed of, deposited, placed, emitted, unloaded, released or otherwise introduce pollutants into the county sewer system from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

(18)

Daily maximum limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

(19)

Domestic waste. Any superfluous solid, liquid, or gaseous material derived principally from the use of

sanitary conveniences of residences (including apartments and hotels), office buildings, industrial plants, or institutions.

(20)

Duplicate samples. Samples which are collected from the same source at the same time, either simultaneously or consecutively, using identical collection methods, containers and preservatives, in order to assess the precision of the sampling system.

(21)

Environmental Protection Agency (EPA). The U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, or other duly authorized official of said agency.

(22)

Existing source. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

(23)

Florida Department of Environmental Protection (FDEP). The State of Florida Department of Environmental Protection or, where appropriate, the term may also be used as a designation for the secretary or other duly authorized official of such agency.

(24)

Food service establishment. Establishments which prepare and/or package food or beverages for sale or consumption, on- or off-site, with the exception of private residences.

(25)

Food waste. Any superfluous solid material produced either from the domestic or commercial preparation, cooking, consumption, or dispensing of food, or from the handling, storage, or sale of produce.

(26)

Four-day average. The arithmetic average calculated from the independent results of four consecutive sampling days. These sampling days are not necessarily consecutive calendar days, but reflect the sampling frequency.

(27)

Grab sample. A grab sample includes all sub samples or aliquots (e.g. individual containers for specific analytes or analyte groups), sample fractions (e.g. total and filtered samples), and all applicable field quality control samples (e.g. field sample duplicates or split samples) collected at the same locations within a time not exceeding 15 minutes.

(28)

Grease interceptor, grease trap, or grease removal device. An appurtenance designed to separate grease, oils, and fats from wastewater flow with a containment area designed to collect, contain, or remove food wastes prior to discharge to the sewer system.

a.

Grease interceptor. A large separator/containment box with a rated flow of more than 50 g.p.m. and a minimum capacity of 750 gallons, normally installed underground, outside of a food service establishment.

b.

Grease trap is a smaller separator/containment box with a rated flow of 50 g.p.m. or less located inside or outside the facility. These are sometimes called undersink interceptors.

c.

Grease removal device. A grease trap that has an automatic mechanism to remove the separated grease, oils, and fats.

(29)

Industrial user. Any user discharging or having the potential to discharge industrial waste into the county sewer system or a connected system.

(30)

Industrial waste. Food waste, other waste, or any superfluous solid, liquid, or gaseous material resulting from manufacturing or commercial processes, or from natural resource development, recovery or processing.

(31)

Industrial waste surcharge. An additional service charge assessed against industrial users whose wastewater characteristics exceed the county's established limits.

(32)

Industrial wastewater discharge permit. Written authorization from the director to discharge industrial wastewater to the county sewer system or a connected system, setting certain conditions and/or restrictions on such discharge.

(33)

Instantaneous limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(34)

Interference. A discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

a.

Inhibits or disrupts the WWF, its treatment processes or operations, or its domestic wastewater residuals processes, use or disposal; and

b.

Is a cause of a violation of any requirement of the WWF's permit (including an increase in the magnitude or duration of a violation) or prevents use or disposal of domestic wastewater residuals in compliance with local regulations or rules of the department and Chapter 403, F.S.

(35)

Local limit. Specific discharge limits developed and enforced by the county upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

(36)

Maximum allowable industrial loading. The total mass of a pollutant that all industrial users and other controlled sources may discharge without causing pass through or interference.

(37)

Medical waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

(38)

Method detection limit or "MDL." An estimate of the minimum amount of a substance that an analyte process can reliably detect. A MDL is analyte and matrix-specific and is laboratory dependent.

(39)

Monthly average. The arithmetic average calculated from the results of all sampling events performed during a calendar month.

(40)

New source means:

a.

Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

1.

The building, structure, facility, or installation is constructed at a site at which no other source is located; or

2.

The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

3.

The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

b.

Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of a 2. or 3. above but otherwise alters, replaces, or adds to existing process or production equipment.

c.

Construction of a new source as defined under this chapter has commenced if the owner or operator has:

1.

Begun, or caused to begin, as part of a continuous onsite construction program:

(a)

Any placement, assembly, or installation of facilities or equipment; or

(b)

Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

2.

Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(41)

Non-contact cooling water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(42)

Non-significant categorical industrial user. An industrial user that discharges 100 gallons per day (gpd) or less of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and:

a.

Has consistently complied with all applicable categorical pretreatment standards and requirements;

b.

Annually submits the certification statement required in subsection 62-625.600(17), F.A.C., together with any additional information necessary to support the certification statement; and

(c)

Never discharges any untreated categorical process wastewater.

(43)

NPDES permit. A permit issued pursuant to section 402 of the Act (33 U.S.C. 1342).

(44)

Other waste. Municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, oil, tar, chemicals, and all other substances as distinct from domestic waste, industrial waste or food waste.

(45)

Pass-through. A discharge which exits the WWF into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the WWF's permit (including an increase in the magnitude or duration of a violation).

(46)

Person. Any individual, corporation, firm, company, joint venture, partnership, sole proprietorship, association, or any other business entity, any state or political subdivision thereof, any municipality, any interstate body and any department, agency, or instrumentality of the United States and any officer, agent or employee thereof, and any organized group of persons, whether incorporated or not.

(47)

pH. A measure of the acidity or alkalinity of a solution, expressed in standard units. Determined as the logarithm of the reciprocal of the hydrogen ion concentration. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of 10_{-7}.

(48)

Pinellas County Sewer System. All facilities for collecting, pumping, treating, and disposing of wastewater which are owned and controlled by the county, along with any connected systems.

(49)

Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and wastewater with characteristics exceeding any applicable limits or meeting the definition of a hazardous waste (e.g., pH, temperature, TSS, color, BOD, COD, toxicity, or odor).

(50)

Pollution. The manmade or man-induced alteration of chemical, physical, biological or radiological integrity of water.

(51)

Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the county sewer system. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants (as prohibited by FAC 62-625.410. 403.6(d) unless specifically allowed by an applicable pretreatment standard.

(52)

Pretreatment requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

(53)

Pretreatment standards. The county's prohibited discharge standards for any specified pollutant as set forth in this article, the state's pretreatment standards, or the national categorical pretreatment standards, whichever standard is the most stringent.

(54)

Processed groundwater. Groundwater which has been pretreated.

(55)

Responsible corporate officer.

a.

A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or

b.

The manager of one or more manufacturing, production, or operating facilities, provided, the manager:

1.

Is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations;

2.

Is authorized to initiate and direct other comprehensive measures to assure one-term environmental compliance with environmental laws and regulations;

3.

Can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements;

4.

Has been assigned or delegated the authority to sign documents in accordance with corporate procedures.

c.

Or a general partner or proprietor of a partnership or sole proprietorship.

(56)

Prohibited discharge. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 126-327 of this article.

(57)

Sanitary sewer. A sewer carrying domestic, commercial, and/or industrial wastes, to which storm, surface, and ground waters are not intentionally admitted.

(58)

Septic tank waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

(59)

Sewer. A pipe or conduit designed for carrying wastewater.

(60)

Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

(61)

Significant industrial user (SIU) means, except as provided in paragraphs c and d below, the following:

a.

Categorical industrial users; and

b.

Any other industrial user that discharges an average of 25,000 gallons per day or more of process wastewater to the WWF (excluding domestic wastewater, noncontact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the treatment plant; or is designated as such by the control authority on the basis that the industrial user has a reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirement in accordance with paragraph 62-625.500(2)(e), F.A.C.

c.

The control authority may determine that an industrial user subject to categorical pretreatment standards under Rule 62-625.410, F.A.C., including 40 CFR Chapter I, Subchapter N, Parts 405 through 471, is a non-significant categorical industrial user.

d.

Upon a finding that an industrial user meeting the criteria in paragraph b above has no reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirement, the control authority may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with paragraph 62-625.500(2)(e), F.A.C., determine that such industrial user is not a significant industrial user.

(62)

Significant noncompliance (SNC). The term significant noncompliance shall mean:

a.

Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude), a numeric pretreatment standard or requirement, including instantaneous limits.

b.

Technical review criteria (TRC). Violations, defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

c.

Any other violation of a pretreatment standard or requirement (daily maximum, long term average, instantaneous limit, or narrative standard) that the control authority believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of WW personnel or the general public;

d.

Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the control authority's exercise of its emergency authority to halt or prevent such a discharge;

e.

Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

f.

Failure to provide within 45 days after the due date, any required reports;

g.

Failure to accurately report noncompliance; or

h.

Any other violation(s), including violation of best management practices, which the control authority determines will adversely affect the operation or implementation of the local pretreatment program.

(63)

Sludge. Any solid or semisolid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, exclusive of treated effluent from a WW.

(64)

Slug discharge. A discharge of a non-routine, episodic nature, which has a reasonable potential to cause interference or pass through, or in any other way violate the WWF's regulations, local limits or permit conditions.

(65)

Split samples. Subsets of the same sample, which are collected by collecting a large volume of sample, mixing it, and subdividing it into identical containers.

(66)

Standard industrial classification code (SIC). A numeric classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

(67)

Storm water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation.

(68)

Total metals. The sum of the concentration or mass of copper, chromium, nickel and zinc measured in a sample.

(69)

Total suspended solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

(70)

Total toxic organic standard. The sum of the concentrations of individual toxic organic compounds listed in a categorical pretreatment standard when they are present in a regulated waste stream in a concentration greater than 0.01 mg/l.

(71)

Transported liquid waste. Domestic liquid sewage wastes removed from septic tanks and portable chemical toilets, and liquid and solid food wastes removed from grease interceptors or grease traps at food service establishments.

(72)

User. Any person who discharges, causes, or allows the discharge of wastewater into the county sewer system or any connected system.

(73)

Wastewater. Liquid and water-carried domestic or industrial waste, together with any other water that may be present, from residential dwellings, commercial buildings, industrial, groundwater remediation projects, manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the WW.

(74)

Wastewater facility or WWF means any facility which discharges wastes into waters of the state or which can reasonably be expected to be a source of water pollution and includes any or all of the following: the collection and transmission system, the wastewater treatment works, the reuse or disposal system, and the residuals management facility.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-277. - Intent.

Except as otherwise provided herein, the director shall administer, implement, and enforce the provisions of this article. Any powers granted to or duties imposed upon the director may be delegated by the director to other qualified county personnel.

This article sets forth uniform requirements for users of the county sewer system and enables the county to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (FAC 62-625, 40 CFR 403).

This article is adopted by the county for the purpose of maintaining efficient, economic and safe operation of the county sewer system and for the protection of the health, safety and general welfare of the public within all of Pinellas County. This article is intended to prevent and abate pollution through the regulation and control of connections to the county sewer system and to limit the use of the sewer system to the collection, conveyance, treatment and disposal of wastewater through appropriate regulation and enforcement. The prohibitive discharge standards contained in this article were developed under the authority of section 307(b)

of the Act, 40 CFR 403.5, and FAC 62-625.400. The specific objectives of this article are:

(1)

To prevent the introduction of pollutants into the WWF that will interfere with its operation;

(2)

To prevent the introduction of pollutants into the WWF that will pass through the WWF, inadequately treated, into receiving waters, or otherwise be incompatible with the WWF;

(3)

To protect the health of the general public and of county personnel who may be affected by wastewater and residuals in the course of their employment;

(4)

To promote reuse and recycling of industrial wastewater and sludge from the WWF;

(5)

To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the WWF; and

(6)

To enable the county to comply with its National Pollutant Discharge Elimination System permit conditions, residuals use and disposal requirements, and any other federal or state laws to which the WWF is subject.

This article shall apply to all users of the WWF. The article authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-278. - Wastewater disposal requirements.

It shall be unlawful for any person to dispose of wastewater or any other polluted waters or to allow wastewater or other polluted waters to be disposed of in any unsanitary manner on any property, public or private, in the county.

It shall be unlawful to discharge to any watercourse, pond, ditch, lake, or other body of surface water or groundwater any wastewater or other polluted waters, unless specifically authorized by the county or State of Florida.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-279. - Regulation of septic tanks.

Except as provided by state law or county ordinance or rules and regulations adopted pursuant thereto, it shall

be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the treatment or disposal of wastewater.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-280. - Areas embraced.

All territory within the legal boundaries of Pinellas County, Florida, including all incorporated and all unincorporated areas, shall be embraced by the provisions of this article.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-281. - Powers and authority of inspectors.

The control authority, the FDEP, and the EPA shall have the right to enter the premises of any user of the Pinellas County sewer system or connected systems without prior notification for the purposes of inspection, observation, measurement, sampling, testing, or investigation as may be necessary to determine whether the user is complying with all requirements of this article and any wastewater discharge permit or order issued hereunder. Users shall allow the control authority ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties. Entry shall be made during normal operating hours unless abnormal or emergency circumstances require otherwise.

(1)

Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the control authority will be permitted to enter without delay for the purposes of performing specific responsibilities.

(2)

Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the control authority and shall not be replaced. The costs of clearing such access shall be borne by the user.

(3)

Unreasonable delays in allowing the control authority access to the user's premises shall be a violation of this article.

If the control authority has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the county designed to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the control authority may seek issuance of a search warrant from the appropriate court.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-282. - Damage to structures or equipment prohibited.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper, with any structure, appurtenance, or equipment which is a part of the county sewer system, or which is owned or being utilized by the county in the performance of activities required or allowed by this article.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-283. - Confidentiality.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the control authority inspection and sampling activities, shall be available to the public or other governmental agencies to the extent permitted by state law, unless the user specifically requests, and is able to demonstrate to the satisfaction of the control authority, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-284. - Public notice of users violating pretreatment standards.

The control authority shall publish annually, in the daily newspaper with the largest circulation published in the municipality where the WWF is located, a list of the users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements.

(Ord. No. 12-41, § 2, 10-16-12)

Secs. 126-285—126-300. - Reserved.

DIVISION 2. - APPLICATIONS, CONSTRUCTION AND CONNECTIONS

Sec. 126-301. - Compliance with plans and specifications.

No person shall construct a new wastewater collection system that is to be connected to the county sewer system or substantially alter or improve any wastewater collection system that is connected to the county sewer system until the control authority has first determined such construction to be in conformance with Pinellas County standard technical specifications, the long range Pinellas County plans as approved by the board of county commissioners, the water quality management plan for the Tampa Bay region, and the north and central Pinellas County 201 Facility Plans.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-302. - Connection to Pinellas County sewer system required.

The owner or occupant of any house, building or property used for human occupancy, employment, recreation, or other purposes situated within the county and abutting on any street, alley, easement, or right-

of-way in which there are located available sanitary sewers is hereby required, at his expense, to install suitable toilet facilities therein and to connect such facilities directly with the available sanitary sewer in accordance with the provisions of this article, within 180 days after sewer service is available, provided that the available sewer is within 100 feet of the property line. In those cases where there is an available sewer within 100 feet of the property line, but connection would cause undue hardship for such reasons as the topography of the property or the length of pipe necessary to connect with the sewer, the board of county commissioners is authorized to grant exceptions to this requirement provided that the property meets applicable federal, state and local regulations for the alternate wastewater disposal method to be used. At such time as a sanitary sewer becomes available to a property served by a private individual wastewater disposal system (such as a septic tank or sand filter), a direct connection shall be made to the sewer in compliance with this article within 180 days and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be abandoned and their further use for any purposes prohibited. An abandoned septic tank, when declared to be a hazard by the county health department, shall be pumped out; have the bottom suitably opened or ruptured so as to prevent the tank from retaining water; and be filled with clean sand or other suitable material; the actions being taken in the order listed.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-303. - Independent building sewer required.

A separate and independent building sewer connection shall be provided for every building, except where one building stands at the rear of another on an interior lot, and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway. In that case, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-304. - Design and construction.

The size, slope, alignment, and construction materials of a building sewer, and the methods to be used in excavation, placing of the pipe, jointing, testing and backfilling the trench shall conform to section 170-36. The connection of the building sewer to the county sewer system shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations adopted by the county. All such connections shall be made gas tight and watertight. Any deviation from the prescribed procedures and materials must be approved by the director before installation.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-305. - Public safety and property.

All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the county.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-306. - Unauthorized usage prohibited.

No unauthorized person shall disturb, use, alter, or make connection to the county sewer system or any connected system.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-307. - Application and fees.

The owner of any building or his agent shall make application on a form furnished by the county prior to making a connection to the county sewer system. The application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the director. A connection fee, plumbing permit fee and any other applicable fees shall be paid to the county before such connection is approved.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-308. - Nondomestic user application for discharge.

All commercial and industrial users requesting to discharge wastewater to the county sewer system or connected system shall be required to complete an application for discharge which shall contain information including, but not limited to, the principal business activities to be performed at the site, the hours of operation, the number of employees, the amount of water used, chemicals used or stored at the site, and a description of all waste disposal methods in use at the facility. The application shall be completed and submitted on a form provided by the control authority, and shall be supplemented with a complete set of plumbing diagrams showing all lines and clearly identifying all points of discharge to the sewer system. Nondomestic users shall be evaluated to determine whether they fall under the definition of a SIU, and whether an industrial wastewater discharge permit will be issued.

Users classified as SIU shall be subject to permitting as provided in section 126-352. Users that are not classified as SIU must comply with the provisions of this article, and shall be responsible for following the best management practices of their industry, including housekeeping, pretreatment, and liquid and solid waste management procedures, as applicable. These businesses may also be permitted under the provisions of other sections included within this article.

The owner of a leased property shall be responsible for notifying the control authority of any changes in tenancy, and ensuring that a nondomestic user application for discharge is completed by all tenants prior to initiation of any discharge to the sewer system.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-309. - Owner's responsibilities.

All costs and expenses incident to the installation and connection of a building sewer shall be borne by the owner. The owner shall indemnify the county from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-310. - Runoff connections prohibited.

No person shall make connection of roof down spouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which is connected directly or indirectly to the county sewer system. Upon determination that such a connection exists, the property owner shall be responsible for severing such connection within ten days of notification. Prohibited connections and

failure to correct such connections are subject to enforcement under the provisions of section 126-403 of this article.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-311. - Interceptors required.

Grease, oil, and other solids interceptors, or grease traps shall be provided when, in the opinion of the control authority, they are necessary for the proper handling of wastewater containing excessive amounts of grease, oil, sand or other solids, or other harmful ingredients; except that such interceptors and grease traps shall not be required for residential users. Businesses requiring interceptors shall include, but are not limited to: food manufacturers, food packagers, restaurants, grocery stores, all other food service facilities, hospitals, nursing homes, automotive repair facilities, bakeries, laundries, lounges, churches, schools, animal kennels and grooming establishments. These businesses may also be subject to regulation under the provisions of Chapter 126, Article VI, Grease Waste Management.

All interception units shall be of the type and capacity specified in Chapter 126, Article VI, Grease Waste Management, or other applicable building codes and approved by the control authority, and shall be located so as to be easily accessible for inspection and maintenance. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense. Interceptor wastes shall be pumped by a Pinellas County permitted or otherwise authorized liquid waste hauler, and must be disposed of at a disposal site that is permitted for the type of waste being discharged. All interceptor installation, maintenance, and cleaning must be conducted in accordance with Chapter 126, Article VI, Grease Waste Management. Provisions for grease waste hauler permitting and approved grease waste disposal procedures are also provided in Chapter 126, Article VI, Grease Waste Management.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-312. - Monitoring site required.

In accordance with section 126-330 of the Pinellas County Code, all categorical, non-significant categorical, and non-categorical significant industrial users are required to provide a suitable sampling point. A suitable sampling point must meet the following minimum criteria, unless otherwise determined by the control authority:

(1)

The sample site shall provide a means to obtain representative samples of the industrial user's process wastestream.

(2)

The sample site shall be designed in such a manner that flow proportional samples may be obtained where required by the control authority in accordance with the provisions of the sample point protocol.

(3)

The sample site shall be readily accessible, safe and secure. The equipment must be removed from public, personnel and vehicle traffic areas, or isolated so that there will be no contact. Personnel hazards shall be minimized.

(4)

The sample site shall be covered in such a manner as to prevent rainwater infiltration into the sewer system. This covering shall not interfere with access to the site or discharge flow or with sampling activities at the site.

(5)

The sample site shall be large enough to accommodate the wastewater monitoring equipment for simultaneous use by the control authority and the industrial user. Control authority equipment may include up to two automatic samplers and one flow meter. Equipment sizes may vary depending upon the type of meter in use; however, composite samplers are commonly up to 30 inches in height and up to 24 inches in diameter. Flow meters are normally smaller than the samplers.

All sample site proposals submitted to the control authority by an industrial user shall be approved by a professional engineer. Proposals shall include the following information, along with a certification statement to the effect that the proposed sample site has been designed in accordance with standard practices for open channel flow measurements for the type and quantity of wastewater discharged from the business:

(1)

Flow constituent characteristics;

(2)

Expected average, maximum and minimum flows (hourly and total);

(3)

Length, grade/slope and size of pipe;

(4)

Design criteria for any primary or secondary devices;

(5)

Existing and proposed layout features, with cross sectional and plan views; and

(6)

Certification statement.

The sample site shall be inspected by the engineer who submitted the proposal after installation to ensure that the specifications provided in the proposal were met. A letter shall be provided to the control authority stating that the sample site has been suitably installed and tested for accuracy.

(Ord. No. 12-41, § 2, 10-16-12)

Secs. 126-313—126-325. - Reserved.

DIVISION 3. - DISCHARGE PROHIBITIONS AND LIMITATIONS

Subdivision I. - In General

Sec. 126-326. - Compliance required.

No user shall discharge any waste into the county sewer system or any connected system unless in accordance with this article. The county may apply "no net increase" standards and develop best management practices (BMPs) to implement the pretreatment standards and requirements of sections 126-327, 126-328, and 126-329.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-327. - Prohibited discharges.

No user shall introduce or cause to be introduced into the WWF any pollutant or wastewater which causes pass-through or interference, or which could cause or contribute to blockages or damage to the county sewer system. These general prohibitions apply to all users of the WWF whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

No user shall introduce or cause to be introduced into the WWF the following pollutants, substances, or wastewater:

(1)

Toxic or poisonous substances, chemical elements or compounds, phenols or other taste or odor-producing substances, or any other pollutants, including oxygen-demanding pollutants, released at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, are not amenable to treatment or reduction by the wastewater treatment processes employed by the county, or which are amenable to treatment only to such degree that the substances may interfere with the biological processes or efficiency of the WWF, or that may pass through a WWF and cause the effluent there from, or any other product from the plant, or the water or groundwater into which it is discharged to fail to meet applicable state or federal standards, or which shall cause the county to be in noncompliance with sludge use or disposal criteria, guidelines or regulations applicable to the sludge management method being used.

(2)

Pollutants which result in the presence of toxic, noxious, or malodorous solids, liquids or gases within the WWF or county sewer system, which either singly or by interaction with other waste or wastewater:

a.

Are capable of creating a public nuisance or causing acute worker health and safety problems or hazard to human or animal life;

b.

Are or may be sufficient to prevent entry into a sewer for its maintenance, inspection or repair;

c.

May create any hazard in receiving waters of the county; or

d.

Which will cause corrosive structural damage to the WWF, but in no case discharges with pH lower than 5.0 unless the WWF is specifically designed to accommodate such discharges.

e.

Which are in noncompliance with Pinellas County's local limits.

(3)

Liquids, solids, or gases which by reason of their nature or quantity are sufficient to cause fire or explosion or be injurious in any other way to the county sewer system or to its operation, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21, or any other substance which the county, the state or any federal agency had determined is a fire hazard or a hazard to the county sewer system and which is discharged in concentrations that would cause an exceedance of the closed-cup flashpoint standard at the point of entry to the county sewer system or connected system.

(4)

Wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by regulations within the Florida Administrative Code issued by the state department of health and rehabilitative services and which will or may cause damage or hazards to the county sewer system or its operating personnel.

(5)

Storm water, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the control authority. However, if the user was discharging non-contact cooling water to the county sewer system or a connected system prior to the effective date of this ordinance [Ordinance No. 12-41] or a preceding ordinance, then such user may continue to discharge noncontact cooling water in amounts that are not harmful to the operation of the county sewer system.

(6)

Domestic wastes from septic tanks, portable toilets, or other similar facilities, unless at a site approved by the director or their designee in writing.

(7)

Petroleum oil, non-biodegradable cutting oil, or other products of mineral oil origin in amounts that may cause interference or pass through or may cause obstruction to the flow in the county sewer system or damage to the WWF.

(8)

Animal or vegetable fats, waxes, grease or oils in amounts that may cause interference or pass through or may cause obstruction to the flow in the sewer collection system or damage to the WWF, whether emulsified or not; or any substances which may solidify or become viscous at temperatures lower than or equal to 150°F

(65.5°C).

(9)

Solid or viscous substances in such quantities or of such size as to be capable of causing obstruction to the flow in a sewer, or other interference with the proper operation of any connected system or the WWF, such as but not limited to grease, food wastes, human or animal entrails or tissue, whole blood, paunch manure, bones, hair, hides or fleshings, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains or hops, wastepaper, wood, plastics, rubber stoppers, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, gasoline, naphtha, and similar substances. In no case shall solids greater than one-half inch in any dimension be discharged. The control authority may allow discharges in excess of the surcharge local limit as a permit condition; such discharges may be subject to surcharge in accordance with subsection 126-354(1)c.

(10)

Inert suspended solids, such as but not limited to, fuller's earth, lime slurries, and lime residues, or dissolved solids, such as, but not limited to, sodium chloride and sodium sulfate, in such concentrations as to pass through or interfere with the operations of the county sewer system.

(11)

Any waste or wastewater having a pH lower than 5.0 or higher than 11.0, or exhibiting any corrosive property which either singly or by interaction with other wastes is capable of causing damage or hazard to structures, equipment, or personnel of the county sewer system.

(12)

BOD, COD, or chlorine in such concentration and/or flow as to constitute a significant load on or shock to the county sewer system, or which cause or contribute to interference at the WWF. The control authority may allow discharges in excess of the surcharge local limit as a permit condition; such discharges may be subject to surcharge in accordance with subsection 126-354(1)c.

(13)

Any wastewater discharged at a volume of flow or concentration of wastes constituting a slug discharge as defined in this article.

(14)

Wastewater having a temperature greater than 150°F (65.5°C), except where higher temperatures are required by law, or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C).

(15)

Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the county's NPDES permit.

(16)

Sludges, screenings, or other residues from the pretreatment of industrial wastes.

(17)

Trucked or hauled pollutants, except at discharge points designated by the control authority.

(18)

Medical wastes, except as specifically authorized by the control authority in a wastewater discharge permit.

(19)

Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.

(20)

Detergents, surface-active agents, or other substances which may cause excessive foaming in the WWF.

(21)

Wastewater which meets the definition of a hazardous waste as set forth in 40 CFR Part 261 and Chapter 62-730, FAC.

(22)

Heat in amounts which will inhibit biological activity in the WWF resulting in interference, but in no case heat in such quantities that result in the discharge from the treatment plant having a temperature that exceeds 40 degrees C (104°F) unless approved by the Florida Department of Environmental Protection.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the WWF.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-328. - Compliance with national, state and local standards.

It shall be unlawful for any person to discharge any pollutant into the county sewer system or a connected system except when such discharge is in compliance with the federal standards promulgated pursuant to the Act, and any other more stringent state and local standards. The categorical pretreatment standards found at 40 CFR Chapter 1, Subchapter N, Parts 405—471 are hereby incorporated. Wastes containing concentrations in excess of the National Categorical Pretreatment Standards are prohibited. New sources shall be subject to proposed standards which are thereafter promulgated in accordance with the Act.

(1)

Concentration and mass limits.

a.

Pollutant discharge limits in categorical pretreatment standards will be expressed either as concentration or mass limits. Wherever possible, where concentration limits are specified in pretreatment standards,

equivalent mass limits will be provided so that local, state or federal authorities responsible for enforcement may use concentration or mass limits. Limits in categorical pretreatment standards shall apply to the effluent of the process regulated by the pretreatment standard, or as otherwise specified by the pretreatment standard.

b.

When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the control authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.

c.

When calculating equivalent mass-per-day limitations under paragraph b. above, the control authority shall calculate such limitations by multiplying the limits in the pretreatment standard by the industrial user's average rate of production. This average rate of production shall be based not upon the designed production capacity but rather upon a reasonable measure of the industrial user's actual long-term daily production, such as the average daily production during a representative year. For new sources, actual production shall be estimated using projected production.

d.

When calculating equivalent concentration limitations under paragraph b. above, the control authority shall calculate such limitations by dividing the mass limitations derived under paragraph c. above, by the average daily flow rate of the industrial user's regulated process wastewater. This average daily flow rate shall be based upon a reasonable measure of the industrial user's actual long-term average flow rate, such as the average daily flow rate during a representative year.

e.

When the limits in a categorical pretreatment standard are expressed only in terms of pollutant concentrations, an industrial user may request that the control authority convert the limits to equivalent mass limits. The control authority may convert to equivalent mass limits only if the industrial user meets all the following conditions:

1.

Employs, or demonstrates that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its control mechanism;

2.

Currently uses control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard, and not have used dilution as a substitute for treatment;

3.

Provides sufficient information to establish the industrial user's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, and the industrial user's long-term average production rate, if applicable. Both the actual average daily flow rate and the long-term

average production rate must be representative of current operating conditions;

4.

Does not have daily flow rates, production rates, or pollutant levels that vary more than 20 percent so that equivalent mass limits are not appropriate to control the discharge; and

5.

Has consistently complied with all applicable categorical pretreatment standards during the period prior to the industrial user's request for equivalent mass limits.

f.

An industrial user subject to equivalent mass limits based on paragraph e. above must:

1.

Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

2.

Record the facility's flow rates through the use of a continuous effluent flow monitoring device;

3.

Record the facility's production rates and notify the control authority when the production rates are expected to vary more than 20 percent from its baseline production rates determined in subparagraph e.3. above; and

4.

Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to subparagraph e.1. above.

g.

If the control authority chooses to establish equivalent mass limits it:

1.

Must calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the industrial user by the concentration-based daily maximum and monthly average standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor;

2.

Must reassess the equivalent mass limit and recalculate the limit, as necessary, to reflect changed conditions at the facility upon notification from the industrial user of a revised production rate; and

3.

May retain the same equivalent mass limit in subsequent control mechanism terms if:

i.

The industrial user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies,

ii.

The actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to subsection j. below, and

iii.

The industrial user is in compliance with Rule 62-625.860, F.A.C.

h.

The control authority may not express limits in terms of mass for pollutants such as pH, temperature, radiation, or other pollutants which cannot appropriately be expressed as mass.

i.

The control authority may convert the mass limits of the categorical pretreatment standards in 40 CFR parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual industrial users under the following conditions:

1.

When converting such limits to concentration limits, the control authority must use the concentrations listed in the applicable subparts of 40 CFR Parts 414, 419, and 455, and

2.

Document that dilution is not being substituted for treatment as prohibited by subsection j. below.

j.

Equivalent limitations calculated in accordance with paragraphs (1)c., d. and e. above, are deemed pretreatment standards for the purposes of section 307(d) of CWA and this chapter. The control authority must document how the equivalent limits were derived and make this information available in the industrial user's file for public review. Once incorporated into its control mechanism, the industrial user must comply with the equivalent limitations in lieu of the categorical pretreatment standards from which the equivalent limitations were derived.

k.

Many categorical pretreatment standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average, or four-day average limitations. Where such standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitations.

l.

Any industrial user operating under a control mechanism, as described in subparagraph 62-625.500(2)(a)2., F.A.C., incorporating equivalent mass or concentration limits calculated from a production based standard shall notify the control authority within two business days after the industrial user has a reasonable basis to know that the production level will change more than 20 percent within the next calendar month. Any industrial user not notifying the control authority of such anticipated change will be required to meet the mass or concentration limits in its control mechanism that were based on the original estimate of the long-term average production rate.

(2)

Combined waste stream formula. Where process effluent is mixed prior to treatment with wastewaters other than those generated by the regulated process, fixed alternative discharge limits may be derived by the control authority or by the industrial user with the written concurrence of the control authority. When the department is acting as the control authority, the department shall allow the development of fixed alternative discharge limits when direct sampling of the regulated waste stream is not technically feasible. These alternative limits shall be applied to the mixed effluent. When deriving alternative categorical limits, the control authority or industrial user shall calculate both an alternative daily maximum value using the daily maximum values specified in the appropriate categorical pretreatment standards and an alternative consecutive sampling day average value using the monthly average values specified in the appropriate categorical pretreatment standards. The industrial user shall comply with the alternative daily maximum and monthly average limits fixed by the control authority until the control authority modifies the limits or approves an industrial user modification request. Modification is authorized whenever there is a material or significant change in the values used in the calculation to fix alternative limits for the regulated pollutant. An industrial user must immediately report any such material or significant change to the control authority. Where appropriate new alternative categorical limits shall be calculated within 30 days.

a.

Alternative limit calculation. For purposes of these formulas, the "average daily flow" means a reasonable measure of average daily flow for a 30-day period of production during a representative year. For new sources, flows shall be estimated using projected values. The alternative limit for a specified pollutant shall be derived by the use of either of the following formulas:

1.

Alternative concentration limit.

$$C_T = \left(\frac{\sum_{i=1}^{N} C_i F_i}{\sum_{i=1}^{N} F_i} \right) \left(\frac{F_T - F_D}{F_T} \right)$$

2.

Alternative mass limit.

$$M_T = \left(\sum_{i=1}^{N} M_i\right)\left(\frac{F_T - F_D}{\sum_{i=1}^{N} F_i}\right)$$

3.

The terms used in the equations in 1. and 2. above are defined as follows:

C_T = The alternative concentration limit for the combined waste stream.

C_i = The categorical pretreatment standard concentration limit for a pollutant in the regulated stream i.

M_T = The alternative mass limit for a pollutant in the combined waste stream.

M_i = The categorical pretreatment standard mass limit for a pollutant in the regulated stream i (the categorical pretreatment mass limit multiplied by the appropriate measure of production).

F_i = The average daily flow (at least a 30-day average) of stream i to the extent that it is regulated for such pollutant.

F_D = The average daily flow (at least a 30-day average) from waste streams identified in subsection (7), below.

F_t = The average daily flow (at least a 30-day average) through the combined treatment facility (includes F_i, F_d and unregulated streams).

N = The total number of regulated streams.

b.

Alternative limits below detection limit. An alternative pretreatment limit shall not be used if the alternative limit is below the analytical detection limit for any of the regulated pollutants.

c.

Self-monitoring. Self-monitoring required to ensure compliance with the alternative categorical limit shall be conducted in accordance with the requirements of Rule 62-625.600, F.A.C.

d.

Choice of monitoring location. Where a treated regulated process waste stream is combined prior to treatment with wastewaters other than those generated by the regulated process, the industrial user may monitor either the segregated process waste stream or the combined waste stream for the purpose of determining compliance with applicable pretreatment standards. If the industrial user chooses to monitor the segregated process waste stream, it shall apply the applicable categorical pretreatment standard. If the industrial user chooses to monitor the combined waste stream, it shall apply an alternative discharge limit calculated using the combined waste stream formula as provided in paragraph (a) above. The industrial user may change monitoring points only after receiving approval from the control authority. The control authority shall ensure that any change in an industrial user's monitoring points will not allow the industrial user to substitute dilution for adequate treatment to achieve compliance with applicable standards.

(3)

For the purposes of the combined waste stream formula, dilute waste streams include:

a.

Boiler blowdown streams, noncontact cooling streams, storm water streams, and demineralizer backwash streams; unless such streams contain a significant amount of a pollutant and are combined with the regulated process waste stream prior to treatment, and the treatment will result in a substantial reduction of that pollutant. The control authority shall determine whether such streams are classified as diluted or unregulated. The industrial user shall provide engineering, production, sampling and analysis, and such other information so that the control authority can make its determination;

b.

Sanitary waste streams where such streams are not regulated by a categorical pretreatment standard;

c.

Any process waste streams which were or could have been entirely exempted from categorical pretreatment standards for one or more of the following reasons:

1.

The pollutants of concern are not detectable in the effluent from the industrial user;

2.

The pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects;

3.

The pollutants of concern are present in amounts too small to be effectively reduced by known technologies; or

4.

The waste stream contains only pollutants which are compatible with the WWF.

d.

Waste streams from the list of industrial user subcategories identified in subsection 62-625.880(1), F.A.C.

Pretreatment requirements and general and specific prohibitions contained in 40 CFR 403 and FAC 62-625 are also hereby incorporated.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-329. - Local limits.

Local limits shall be adopted by resolution by the Pinellas County Board of County Commissioners.

No person shall discharge wastewater containing pollutants in excess of the local limits for those pollutants which have been established for Pinellas County's WWFs using standard procedures, calculations and methods acceptable to FDEP to protect against pass through, interference, protection of WWF employees, and adverse affects on wastewater residuals disposal. No industrial user shall discharge process waste streams, unregulated waste streams, or dilute waste streams in excess of the concentrations set forth by the director. Local limits shall be included as permit conditions and attached to each SIU wastewater permit issued.

The established local limits are subject to change and shall be modified as needed based on regulatory requirements and standards, WWF operation, performance and processes, the industrial user base, potable water quality and domestic wastewater characteristics. Modifications to established local limits must be reviewed and approved by FDEP prior to implementation. Implementation shall be effective 30 days from the notice of acceptance of the modified limits by FDEP. Permitted SIUs shall also be issued an addendum to their wastewater discharge permit containing the new local limits.

The established local limits apply at the point where the wastewater is discharged to the WWF. All concentrations for metallic substances are for total metal unless indicated otherwise. At their discretion, the director may impose mass limitations in addition to or in place of the concentration-based limitations. Local limits may be adjusted to reflect the presence of pollutants in the industrial user's intake water in accordance with this chapter. Any industrial user wishing to obtain credit for intake pollutants must make application to the control authority.

The control authority reserves the right to establish more stringent standards or requirements on discharges to the WWF consistent with the purpose of this article.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-330. - Sampling and analytical requirements.

All sample collection and analytical activities required by this article, by a permit issued pursuant to this article, or which are to be submitted as part of a discharge permit application or any other report, shall be performed in accordance with the techniques prescribed in FAC 62-160 and 40 CFR part 136, unless otherwise specified in an applicable categorical pretreatment standard. If FAC 62-160 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA. Where a user will be contracting sample collection or analysis to an outside source, the contract laboratory must hold National Environmental Laboratory Accreditation Program (NELAP) Certification from the Florida Department of Health's Environmental Laboratory

Certification Program (DOH ELCP). The control authority shall have the right to set up on the user's property such devices as are necessary to conduct sampling and/or metering of the user's operations. The control authority may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. Such installations shall be readily accessible to the control authority at all times and without limitation. All devices used to measure wastewater flow and quality shall be calibrated at a frequency determined by the control authority to ensure their accuracy.

The reports required in sections 126-377, 126-379, and section 126-380 shall be based upon data obtained through sampling and analysis performed during the period covered by the report. These data shall be representative of conditions occurring during the reporting period. The control authority shall require a frequency of monitoring necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements. For all sampling required by this chapter, grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the control authority. Where time-proportional composite sampling or grab sampling is authorized by the control authority, the sample must be representative of the discharge and the decision to allow the alternative sampling must be documented in the industrial user file for that facility. Using protocols (including appropriate preservation) specified in Chapter 62-160, F.A.C., and DEP-SOP-001/01, multiple grabs collected during a 24-hour period may be composited prior to analysis as follows:

(1)

Samples for cyanide, total phenols, and sulfides may be composited in the laboratory or in the field;

(2)

Samples for volatile organics and oil and grease may be composited in the laboratory; and

(3)

Composite samples for other parameters unaffected by the compositing procedures as allowed in the DEP's approved sampling procedures and laboratory methodologies may be authorized by the control authority, as appropriate.

Except as indicated below, 24-hour composite wastewater samples must be collected using flow proportional composite collection techniques. The control authority may authorize the use of time proportional sampling in accordance with section 126-312 or allow for a minimum of four grab samples to be collected over a 24-hour period where the user demonstrates that this will provide a representative sample of the effluent being discharged. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds shall be obtained using grab sample collection techniques.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-331. - Dilution prohibited.

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment, to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The control authority shall

impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-332. - Right of revision.

The county reserves the right to establish, by article or in wastewater discharge permits, more stringent standards or requirements on discharges to the WWF.

(Ord. No. 12-41, § 2, 10-16-12)

Secs. 126-333—126-350. - Reserved.

Subdivision II. - Industrial Monitoring and Pretreatment

Sec. 126-351. - Wastewater analysis report.

When requested by the control authority, a user must submit information on the nature and characteristics of its wastewater discharge within 30 days of the request. The control authority is authorized to prepare a form for this purpose and may require users to periodically update this information.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-352. - Wastewater discharge permit requirement.

All significant industrial users (SIU) shall apply for an industrial wastewater discharge permit, the cost of which is to be incurred by the industrial user, prior to discharge to the county sewer system. Except that an SIU has filed a timely application pursuant to this section may be authorized to discharge for the time period specified herein. The control authority may require other industrial users to obtain industrial wastewater discharge permits as necessary to carry out the purposes of this article.

Any industrial user required to obtain an industrial wastewater discharge permit who was discharging wastewater into the county sewer system prior to the effective date of this article or any preceding ordinance, and who wishes to continue such discharges in the future, may temporarily continue to discharge in compliance with the codes, regulations and policies of the control authority. This temporary authority shall expire 60 days after the date of notification through registered mail by the director of the requirement for an industrial user to make application. If, prior to the expiration date, the user has filed an application for an industrial wastewater discharge permit pursuant to this section, then its temporary authority to discharge will continue until the date that the industrial wastewater discharge permit is issued or denied. Any industrial user discharging pursuant to the temporary authority provided in this section is subject to all provisions of this article and such authority may be suspended or revoked in accordance with the terms and procedures set forth in this article.

Any industrial user required to obtain an industrial wastewater discharge permit who proposes to begin or recommence discharging into the county sewer system must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with section 126-353 of this article, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence.

Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of

this article and subject the wastewater discharge permittee to the sanctions set out in sections 126-400 through 126-406 of this article.

Obtaining and complying with the conditions of a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, or local law.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-353. - Wastewater discharge permit application contents.

All industrial users required to obtain a wastewater discharge permit must submit a wastewater discharge permit application on a form provided by the control authority. The following information shall be submitted as part of an application:

(1)

The name and address of the facility (physical and mailing), including the name of the owner, operator, authorized representative and any additional facility contacts. For leased facilities, the name, address, email address (if applicable), and telephone number of the property owner shall also be included.

(2)

A statement as to whether the facility is an existing facility or proposed new facility, and the year established on site for existing facilities.

(3)

A list of any environmental control permits held by or for the facility.

(4)

A detailed description of the nature of the operation(s) carried out by such user and all applicable standard industrial classification codes and categorical standards, including:

a.

Hours of operation, and number and type of employees per shift; including identification of any scheduled shutdowns or peak production periods;

b.

Each product produced by type, amount, process or processes, and rate of production;

c.

Type and amount of raw materials processed (average and maximum per day); and

d.

Schematic process flow diagram for each major activity in which water is used or wastewater is generated, including average daily volume and maximum daily volume of each waste stream.

(5)

Site plans, floor plans, mechanical and plumbing plans, and plan details to show all water flow into and out of the facility, including water meter locations, water lines, sewer lines, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.

(6)

A listing of all raw materials and chemicals used or stored at the facility, the storage location(s) and the average quantity stored on site.

(7)

A description of all water supply source(s) and average quantities used, with a breakdown by flow of how the water is used within the facility (i.e., sanitary usage, process, cooling, irrigation, etc.). A description of any water treatment or water recycling operations shall also be included.

(8)

Information showing the measured average daily and maximum daily discharge flow, in gallons per day, to the WWF from regulated process streams and all other waste streams, including time and duration of discharges. This listing shall be broken down by each process.

(9)

Detailed process flow diagrams for any wastewater treatment systems in use at the facility, including identification of which waste streams are treated, flows treated, by products generated, and disposal methods for all treated wastewater and byproducts.

(10)

The results of sampling and analysis identifying the nature and concentration of priority pollutants, as well as any other regulated pollutants, in the discharge from the facility. The sample(s) shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 126-330 of this article. Sampling must be performed in accordance with procedures set out in section 126-330 of this article.

(11)

If the results of facility sampling show any noncompliant results, a description of what operational and maintenance procedures or additional treatment technology are being considered to bring the facility into compliance, along with a schedule for bringing the facility into compliance must be submitted.

(12)

Describe waste disposal practices for any liquid or solid waste generated at the facility that is not discharged to the sewer system, including frequencies and quantities generated.

(13)

The location for monitoring all wastes covered by the permit.

(14)

The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 126-330 of this article. Where the standard requires compliance with a BMP or pollution prevention alternative, the industrial user shall submit documentation as required by the control authority or the applicable standards to determine compliance with the standard.

(15)

Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on section 126-377 [40 CFR 403.12(e)(2)].

(16)

Any other information as may be deemed necessary by the control authority to evaluate the wastewater discharge permit application.

(17)

All wastewater discharge permit applications must be signed and certified by the responsible corporate officer of the facility as required by section 126-364.

All industrial wastewater discharge permit applications shall be typed or printed in black ink, and submitted on the form provided by the control authority.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision. All wastewater discharge permit applications shall be updated as necessary when changes occur in the chemicals or treatment processes used, or when other changes in facility operations occur, including significant changes in water usage and number of employees.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-354. - Wastewater discharge permit decisions.

The control authority will evaluate the data furnished by the user and may require additional information. Within 60 days of receipt of a complete wastewater discharge permit application, the control authority will determine whether or not to issue an industrial wastewater discharge permit. If any wastes or wastewaters are discharged, or are proposed to be discharged to the county sewer system or any connected system which contain the substances or possess the characteristics enumerated in sections 126-327 or 126-329 of this article, and which may have a deleterious effect upon the county sewer system, its processes, equipment or receiving water, or which otherwise create a hazard to life or constitute a public nuisance, the director may:

(1)

Approve the industrial wastewater discharge permit, with one or more of the following conditions:

a.

Require the industrial user to demonstrate that in-plant improvements will modify the discharge to such a degree as to be acceptable;

b.

Require pretreatment of the industrial user's discharge to ensure compliance with this article; or

c.

Require payment of an industrial waste surcharge to cover the added cost of handling and treating excess loads imposed on the county sewer system by such discharge. These special surcharges shall be at rates as approved by the board of county commissioners and published in the Schedule of Rates and Fees for Pinellas County Sewer System. Approval of industrial waste surcharges for the recovery of treatment costs does not replace or supersede the requirements for pretreatment facilities, should they be found necessary by the director.

(2)

Deny the application for a wastewater discharge permit.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-355. - Wastewater discharge permit duration.

A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. An industrial wastewater discharge permit may be issued for a period less than five years, at the discretion of the control authority. Each industrial wastewater discharge permit will indicate a specific date upon which it will expire. The permit fee shall be based upon the permit type and duration, as provided in the Pinellas County Utilities Schedule of Rates and Fees.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-356. - Wastewater discharge permit contents.

An industrial wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the control authority to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the WWF.

(1)

All industrial wastewater discharge permits contain the following information:

a.

A statement that indicates wastewater discharge permit duration and expiration date, which in no event shall exceed five years;

b.

References to applicable portions of this article regarding procedures for permit application, renewal, transfer, modification, and revocation; right of entry; allowable waste disposal; discharge prohibitions; definitions of terms used in the permit; and record keeping;

c.

Effluent limits, including best management practices based on applicable pretreatment standards;

d.

Self monitoring, sampling, and analysis requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;

e.

Reporting, notification, and record-keeping requirements, including the types, contents and frequency of reports to be submitted; spill and violation notification requirements; and the type and contents of internal records and documentation that must be maintained;

f.

Process for seeking a waiver for a pollutant neither present or expected to be present in the discharge in accordance with paragraph 62-625.600(4)(b), F.A.C., or a specific waived pollutant in the case of an individual control mechanism;

g.

Approval of the monitoring waiver by the control authority;

h.

A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements;

i.

Any applicable compliance schedule(s). Such schedules may not extend the time for compliance beyond that required by applicable federal, state, or local law;

j.

A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

k.

Requirements to control slug discharges.

(2)

The control authority has the right to require additional pretreatment measures, as necessary, to meet the intent of this article as provided in section 126-277. These measures shall be included as special conditions of the wastewater discharge permit. Wastewater discharge permits shall be voidable upon cessation of

operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-357. - Wastewater discharge permit appeals.

The control authority shall provide the affected industrial user prior notice of the issuance of any new industrial wastewater discharge permit, or of significant changes in permit conditions for permit renewals. Any user may petition the control authority to reconsider the terms of a wastewater discharge permit within 30 days of notice of its issuance.

(1)

Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(2)

In its petition, the user must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(3)

The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

(4)

If the control authority fails to act within 60 days, a request for reconsideration shall be deemed to be approved. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(5)

Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a writ for common law certiorari in the Circuit Court in Pinellas County, Florida.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-358. - Wastewater discharge permit modification.

The control authority may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1)

To incorporate any new or revised federal, state, or local pretreatment standards or requirements.

(2)

To address significant alterations or additions to the users operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance. It is the user's responsibility to notify the

county when any such changes occur.

(3)

A change in the WWF that requires either a temporary or permanent reduction or elimination of the authorized discharge.

(4)

Information indicating that the permitted discharge poses a threat to the county's WWF, county personnel, or the receiving waters.

(5)

Violation of any terms or conditions of the wastewater discharge permit.

(6)

Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.

(7)

Revision of or a grant of variance from categorical pretreatment standards pursuant to FAC 62-625.700 (40 CFR 403.13).

(8)

To correct typographical or other errors in the wastewater discharge permit.

(9)

To reflect a transfer of the facility ownership or operation to a new owner or operator.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-359. - Wastewater discharge permit transfer.

Industrial wastewater discharge permits are issued to a specific industrial user for a specific operation. Industrial wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 60 days' advance notice to the control authority. This notice must be a written certification by the prospective new owner which:

(1)

States that the new owner and/or operator has no immediate intent to change the facility's operations and processes.

(2)

Identifies the specific date on which the transfer is to occur.

(3)

Acknowledges full responsibility for complying with the existing industrial wastewater discharge permit.

A permit shall not be reassigned, transferred, or sold to a new owner, new facility, different premises, or a new operation without the prior written approval of the director. If transfer or reassignment is approved, any succeeding owner or user shall also comply with the terms and conditions of the existing permit. Failure to provide advance notice of a transfer renders the industrial wastewater discharge permit void as of the date of facility transfer.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-360. - Wastewater discharge permit reissuance.

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with section 126-356 of this article, a minimum of 60 days prior to the expiration of the user's existing wastewater discharge permit.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-361. - Continuation of expired permit.

An expired permit will continue to be effective and enforceable until the permit is reissued if:

(1)

The permittee has submitted a complete permit application at least 60 days prior to the expiration date of the permittee's existing permit.

(2)

The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the permittee.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-362. - Revocation of authorization to discharge.

Authorization to discharge industrial wastewater into the county sewer system or any connected system shall continue in effect unless or until rescinded by the director in writing. The control authority may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1)

Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.

(2)

Failure to complete a wastewater survey or the wastewater discharge permit application, including an application for renewal.

(3)

Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.

(4)

Knowingly making any false statement on any report or other document required by this permit.

(5)

Refusing to allow the control authority timely access to the facility premises and records.

(6)

Rendering any monitoring device or method inaccurate.

(7)

Failure to pay sewer charges or fines, including permit fees.

(8)

Failure to meet compliance schedules.

(9)

Failure to provide advance notice of the transfer of business ownership of a permitted facility.

(10)

Failure to notify the control authority of significant changes to the wastewater prior to the changed discharge.

(11)

Failure to provide prior notification to the control authority of changed conditions pursuant to section 126-381 of this article.

These actions may also result in other administrative penalties for violation of the Pinellas County Code, as well as being subject to civil penalties and relief.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-363. - Appeal of revocation of authorization to discharge.

In the event the director revokes the authorization of any industrial user to discharge wastes into the county sewer system or any connected system in accordance with section 126-362, notification of such revocation shall be delivered to the user by certified mail or by hand delivery. Any industrial user whose authorization to discharge has been revoked may appeal the decision of the director to the board of county commissioners. The appeal shall be sent in writing by certified mail, return receipt requested, to the board within 14 days of receipt of the director's notification to cease discharge. Following receipt of the appeal, the board will conduct a public hearing concerning the revocation order of the director after giving notice to the user of the time and place for such hearing. At the public hearing, the industrial user, either individually or by counsel,

shall have to opportunity to be heard, to present evidence, and to cross-examine witnesses. The board may affirm, reverse, or modify the order of the director and shall issue its decision in writing. The director's order to cease discharge of wastes into the county sewer system or any connected system shall not become effective until the period for appeal to the board has expired, or in the event that an appeal has been filed, until the board has rendered a decision, unless the director has made a finding that continued discharge by the industrial user into the county sewer system or any connected system constitutes a clear and present danger to the operation of the county sewer system, to the health of the public, or to the environment. Any such finding shall be included in the directors' notification to cease discharge, and in such event, the revocation of authorization to discharge wastes shall become effective immediately.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-364. - Application signatories and certification.

All industrial wastewater discharge permit applications and user reports must be signed by a responsible corporate officer of the user and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person and persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including possibility of fine and imprisonment for knowing violations."

If the designation of a responsible corporate officer is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the director or their designee prior to or together with any reports to be signed by an a responsible corporate officer.

An industrial user determined to be a non-significant categorical industrial user in accordance with paragraph 62-625.200(25)(c), F.A.C., must annually submit the following certification statement. The certification must accompany any alternative report required by the control authority: "Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical pretreatment standards under 40 CFR [specify applicable national pretreatment standard part(s)], I certify that, to the best of my knowledge and belief that during the period from [month, day, year] to [month, day, year]:

(1)

The facility described as [industrial user name] met the definition of a non-significant categorical industrial user as described in paragraph 62-625.200(25)(c), F.A.C.;

(2)

The facility complied with all applicable pretreatment standards and requirements during this reporting period; and

(3)

The facility never discharged more than 100 gallons of total categorical wastewater on any given day during

this reporting period. This compliance certification is based upon the following information: [documentation of basis to continue exemption].

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-365. - Pretreatment facilities.

Users shall provide wastewater treatment as necessary to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in sections 126-327, 126-328, and 126-329 of this article within the time limitations specified by EPA, the state, or the control authority, whichever is more stringent. If the director requires pretreatment prior to discharge into the sewer system, the plans, specifications and other pertinent data or information relating to such wastewater pretreatment facilities, as prepared by a professional engineer, shall be subject to review and acceptance by the director in accordance with the Pinellas County Utilities industrial Pretreatment Program Standard Operating Procedures and Enforcement Response Plan, adopted by reference herein. The review of such plans and operating procedures shall in no way exempt the discharge from such facilities from compliance with any applicable code, ordinance or law, or relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the county under the provisions of this article. Any subsequent alterations or additions to such pretreatment or flow control facilities shall not be made without due notice to the director.

Where preliminary treatment is required, the pretreatment facilities shall be constructed and effectively operated and maintained by the owner at his expense, subject to the requirements of this article. The director may require the development of a compliance schedule by each industrial user for the installation of technology required to meet applicable pretreatment standards and requirements.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-366. - Additional pretreatment measures.

Whenever deemed necessary, the control authority may require industrial users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions be necessary to protect the WWF and determine the user's compliance with requirements of this article.

The control authority may require any person discharging into the WWF to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An industrial wastewater discharge permit may be issued solely for flow equalization.

Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-367. - Hauled wastewater.

(a)

Septic tank waste may be introduced into a WWF only at locations designated by the plant manager, and at

such times as are established by the plant manager. Such waste shall not violate the discharge standards of this ordinance [Ordinance No. 12-41] or any other requirements established by the county. The control authority may require septic tank waste haulers to obtain individual wastewater discharge permits.

(b)

The control authority may require haulers of industrial waste to obtain individual wastewater discharge permits. The control authority may require generators of hauled industrial waste to obtain individual wastewater discharge permits. The control authority also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance [Ordinance No. 12-41].

(c)

Industrial waste haulers may discharge loads only at locations designated by control authority. No load may be discharged without prior consent of control authority. The control authority may collect samples of each hauled load to ensure compliance with applicable standards. The control authority may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(d)

Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(Ord. No. 12-41, § 2, 10-16-12)

Secs. 126-368—126-374. - Reserved.

Subdivision III. - Reporting Requirements

Sec. 126-375. - Timing.

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-376. - Record keeping.

Industrial users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, including documentation associated with Best Management Practices Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the county, or where the user has been specifically notified of a longer retention period

by the control authority.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-377. - Baseline monitoring reports.

Within either 180 days after the effective date of a local or categorical pretreatment standard, or the final administrative decision on a category determination under FAC 62-625. 410(2)(d) F.A.C. (40 CFR 403.6(a)(4), whichever is later, existing industrial users subject to such local or categorical pretreatment standards and currently discharging to or scheduled to discharge to the county sewer system shall submit to the control authority a report which contains the information listed below. At least 90 days prior to commencement of their discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable local or categorical standard, shall submit to the control authority a report which contains the information listed below. A new source shall report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source also shall give estimates of the information listed in paragraphs (4) and (5) below.

Industrial users described above shall submit the information set forth below on the form provided by the control authority.

(1)

Identifying information. The name and address of the facility, including the name of the operator and owner.

(2)

A list of any pollution control permits held by or for the facility.

(3)

Description of operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the WWF from the regulated processes.

(4)

Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the WWF from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in FAC 62-625.410 (40 CFR 403.6(e).

(5)

Measurement of pollutants.

a.

The industrial user shall identify the pretreatment standards applicable to each regulated process.

b.

In addition, the industrial user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the pretreatment standard or control authority) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the pretreatment standard requires compliance with a best management practice or pollution prevention alternative, the industrial user shall submit documentation as required by the control authority or the applicable standards to determine compliance with the standard.

c.

The industrial user shall take a minimum of one representative sample to demonstrate data is in compliance with these requirements.

d.

Samples shall be taken immediately downstream from pretreatment facilities, if such exist, or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the industrial user shall measure the flows and concentrations necessary to allow use of the combined waste stream formula of subsection 62-625.410(6), F.A.C., in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with subsection 62-625.410(6), F.A.C., this adjusted limit, along with supporting data, shall be submitted to the control authority.

e.

All activities related to sampling and analysis shall comply with paragraphs 62-625-600(6)(d) and (e) F.A.C., and 62-160 F.A.C., and section 126-330 P.C.C.

1.

Sampling activities shall be performed according to procedures specified in "The Department of Environmental Protection Standard Operating Procedures for Field Activities," DEP-SOP-001/01, March 31, 2008, hereby adopted and incorporated by reference. A copy of this document is available for inspection at the department's district offices and 2600 Blair Stone Road, MS 3540, Tallahassee, Florida 32399-2400 and is also available on the department's internet site.

2.

Analytical tests shall be performed in accordance with applicable test procedures identified in 40 CFR Part 136, as of July 1, 2009, hereby adopted and incorporated by reference. If a test for a specific component is not listed in 40 CFR Part 136, or if the test procedure has been determined to be inappropriate for the analyte in question (e.g., insufficient sensitivity) the laboratory, with the approval of the industrial user and control authority, shall identify and propose a method for use in accordance with Rules 62-160.300 and 62-160.330, F.A.C.

3.

If a sampling procedure is not available or none of the approved procedures are appropriate for collecting the samples, the sampling organization, with the approval of the industrial user and control authority, shall identify and propose a method for use in accordance with Rule 62-160.220, F.A.C.

f.

The industrial user may submit a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

g.

The baseline report shall indicate the time, date and place, of sampling; methods of analysis; and test results for each component and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the WWF.

h.

Sampling must be performed in accordance with procedures set out in section 126-330 of this article.

(6)

Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7)

Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 126-378 of this article.

(8)

Signature and certification. All baseline monitoring reports must be signed and certified in accordance with section 126-364 of this article.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-378. - Compliance schedule progress reports.

The following conditions shall apply to consent orders and/or compliance schedules required by sections 126-365, 126-377, or 126-401(a) of this article:

(1)

The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation).

(2)

No increment referred to above shall exceed nine months.

(3)

The industrial user shall submit a progress report to the control authority every 30 days including, as a minimum, whether or not it complied with any scheduled increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule. A final progress report shall be submitted within 14 days of the final compliance date.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-379. - Reports on compliance with categorical pretreatment standard deadline.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the WWF, any industrial user subject to such pretreatment standards and requirements shall submit to the control authority a report containing the information described in section 126-377 of this article. For users subject to equivalent mass or concentration limits established in accordance with the procedures in FAC 62-625.410 (40 CFR 403.6(c)), this report shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the industrial user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 126-364 of this article.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-380. - Periodic compliance reports.

All significant industrial users, except a non-significant categorical industrial user, shall, at a frequency determined by the control authority but in no case less than twice per year (June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the required flow data for the reporting period. All reports must be in compliance with 62-625.600(4) F.A.C., and must be signed and certified in accordance with section 126-364 of this article.

All wastewater samples must be representative of the user's discharge. Sample collection and analysis shall be performed as specified in section 126-330. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.

If an industrial user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the control authority, using the procedures prescribed in section 126-330 of this article, the results of this monitoring shall be included in the report.

The control authority may authorize the industrial user subject to a categorical pretreatment standard to waive sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user demonstrates the following through sampling and other technical factors:

(1)

The pollutant is neither present nor expected to be present in the discharge, or the pollutant is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user; and

(2)

The pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.

Industrial users that have an approved monitoring waiver based on section 126-380 must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the industrial user. Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under section 126-380.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-381. - Reports of changed conditions.

Each industrial user must notify the control authority in writing of any planned changes to the industrial user's operations or system which might alter the nature, quality or volume of its wastewater at least 60 days prior to such change.

(1)

The control authority may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of an industrial wastewater discharge permit application under section 126-353 of this article.

(2)

The control authority may issue an industrial wastewater discharge permit under section 126-354 of this article or modify an existing industrial wastewater discharge permit under section 126-358 of this article in response to changed conditions or anticipated changed conditions.

(3)

For purposes of this requirement, significant changes include, but are not limited to, changes in flow or production volume of 20 percent or greater, the addition or deletion of any process or process line, and the discharge of any previously unreported pollutants.

Each industrial user must submit a closure plan to the control authority upon becoming aware of plans to close a permitted facility, but in no case less than 60 days prior to initiation of closure activities. A closure plan shall be prepared following the outline provided by the control authority.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-382. - Slug control plan.

The control authority requires that each significant industrial user develop, submit for approval, and implement a slug control plan. Detailed plans showing facilities and operating procedures to provide for accidental spill protection shall be submitted to county sewer system for review before construction of the facility. Any new user who begins discharge to the county sewer system after the effective date of this article shall not be permitted to introduce pollutants into the sewer until a slug control plan has been approved. Slug control plans shall be submitted every two years for evaluation. A slug control plan shall address, at a minimum, the following:

(1)

Description of discharge practices, including nonroutine batch discharges.

(2)

Description of stored chemicals.

(3)

Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(4)

Detailed site maps showing the facility, piping diagrams, site flow patterns (both internal and external), runoff control devices, the locations of all process, treatment, and chemical storage areas, the location of emergency response equipment and evacuation routes.

(5)

Spill reporting procedures as provided in section 126-383.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-383. - Accidental discharge reporting procedures.

Each industrial user shall provide protection from accidental discharge of prohibited materials and other substances regulated by this article as provided in section 126-382. Facility modifications to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, a slug discharge, or facility changes which could potentially cause a slug discharge, the user shall meet the following requirements:

(1)

Telephone notification. Any industrial user causing or suffering any discharge, whether accidental or not, which presents or may present an imminent or substantial endangerment to the health and welfare of persons, to the environment, or which is likely to cause interference with the county sewer system, shall notify the director, or his previously designated representative immediately by telephone. In the absence or

unavailability of the director or his representative, notification shall be given to the county employee then in charge of the treatment plant that accepts the industrial user's wastes. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(2)

Written report. Within five business days following an accidental discharge, the industrial user shall provide the director with a detailed written report describing the cause of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the county sewer system, natural resources, fish kills, or any other damage to persons or property, nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law. Furthermore, the industrial user shall control its production (or all its discharges) to the extent necessary to maintain compliance with all applicable local, state and federal regulations upon reduction, loss or failure of its pretreatment facility, and until the facility is completely restored or an alternative and equally effective method of pretreatment is provided. This requirement applies in but is not limited to the situation where the primary source of power of the treatment facility is reduced or lost or fails.

(3)

Notice. A notice provided by the county shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees who to call in the event of a discharge described above. Employers shall ensure that all employees who may cause or suffer such a discharge to occur are advised of the emergency notification procedure.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-384. - Toxic organic management plan.

For those significant industrial users subject to categorical pretreatment standards with limits for toxic organic compounds (Total Toxic Organics), for which there is provision for submittal of a toxic organic management plan in lieu of monitoring. This substitution must be approved by the control authority. This plan shall include the following information, at a minimum:

(1)

A complete inventory of all toxic organic chemicals in use or identified through sampling and analysis of the wastewater from regulated process operations (organic constituents of trade-name products should be obtained from the appropriate suppliers as necessary).

(2)

The methods of disposal used for the inventoried compounds, such as reclamation, contract hauling, or incineration.

(3)

The procedures for assuring that toxic organic compounds do not routinely leak or spill into the wastewater

discharge, floor drains, noncontact cooling water, etc., or any other location which allows discharge of the compounds.

(4)

Determinations or best estimates of the identities and approximate quantities of toxic organic pollutants used, as well as discharged from the regulated manufacturing processes. Compounds present in waste streams that are discharged to sanitary sewers may be a result of regulated processes or disposal, spills, leaks, rinse water carryover, air pollution control, and other sources.

(5)

A certification statement in accordance with section 126-364.

The permittee may submit a toxic organic management plan and request that TTO monitoring requirements be discontinued upon approval and implementation of the plan. The certification statement must be made by a responsible corporate officer of the company both at the time of submission and with periodic reports (i.e. compliance report).

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-385. - Notice of violation/repeat sampling.

If sampling performed by a user indicates a violation, the industrial user must notify the control authority within 24 hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within 30 days after becoming aware of the violation. The industrial user is not required to resample if the control authority or industrial user has sampled between the user's initial sampling and when the industrial user received the results of this sampling.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-386. - Reports from unpermitted users.

All users not required to obtain an industrial wastewater discharge permit shall provide appropriate reports to the control authority as required by section 126-308 and/or section 126-351.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-387. - Signatory requirements for industrial user reports.

Industrial user reports shall be signed as follows:

(1)

By a responsible corporate officer. Is the industrial user submitting the reports is a corporation;

(2)

By a general partner or proprietor, if the industrial user submitting the reports is a partnership or sole proprietorship respectively;

(3)

By a duly authorized representative of the individual designated in paragraph (1) or (2) above if:

a.

The authorization is made in writing by the individual described in paragraph (1) or (2) above,

b.

The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates, (such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility) or having overall responsibility for environmental matters for the company, and

c.

The written authorization is submitted to the control authority;

d.

If an authorization under paragraph c. above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of paragraph c. above must be submitted to the control authority prior to or together with any reports to be signed by an authorized representative; or

e.

By a duly authorized municipal official. if the industrial user submitting the reports is a municipal department.

(Ord. No. 12-41, § 2, 10-16-12)

Secs. 126-388—126-399. - Reserved.
Subdivision IV. - Enforcement

Sec. 126-400. - Penalty for violation of article.

Failure to comply with the requirements of this article or any permit or approval granted or authorized under this article shall constitute a violation of this article. Violations of the provisions of this article shall be punishable by the administrative remedies provided in section 126-401, and the civil remedies and/or the ordinance violation penalties provided in sections 126-402 through 126-406. If a violation is continued, each day of such violation shall constitute a separate offense.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-401. - Administrative remedies.

The board of county commissioners is hereby authorized to institute any appropriate action or proceeding, including suit for injunctive relief, in order to prevent or abate violations of this article. The board of county commissioners is also authorized, in accordance with the Pinellas County Environmental Enforcement Act

(Pinellas County Code, sections 58-26 through 58-34), to impose and recover a civil penalty for each violation of this article in an amount of at least $1,000.00 per day for each offense.

(1)

Notice of violation. When the control authority finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the control authority may serve upon that user a written notice of violation. This notice may be issued in conjunction with a civil penalty as described in section 126-401(7) below, or by an ordinance violation citation as described in section 126-403. Within ten days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the control authority. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the control authority to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(2)

Consent order. The control authority may enter into consent orders, compliance agreements, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific actions to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to this article and shall be judicially enforceable.

A consent order may include, but shall not be limited to, the following items:

a.

Review and acceptance by the control authority of plans for installation or upgrade of pretreatment system;

b.

A schedule for achieving compliance, including reporting requirements and allowable time frames for preparation of plans, acquisition of necessary equipment, initiation of construction (including time for permit approval, where required), completion of construction, and a date for achievement of final compliance with the provisions of this article; and

c.

Payment of a monetary settlement as provided in the Pinellas County Environmental Enforcement Act (sections 58-26 through 58-34).

(3)

Administrative orders. When the control authority finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit issued hereunder, or any other pretreatment standard or requirement, the control authority may issue an administrative order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Administrative orders also may

contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer system. Administrative orders may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does an administrative order relieve the user of liability for any violation, including any continuing violation. Issuance of an administrative order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(4)

Cease and desist orders. When the control authority finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the control authority may issue an order to the user directing it to cease and desist all such violations and directing the user to:

a.

Immediately comply with all requirements; and

b.

Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(5)

Emergency suspension. The control authority may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The control authority may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the WWF, or which presents, or may present, an endangerment to the environment.

a.

Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the control authority may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the WWF, its receiving stream, or endangerment to any individuals. The control authority may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the control authority that the period of endangerment has passed, unless the termination proceedings in section 126-401(6) of this article are initiated against the user.

b.

A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the control authority prior to the date of any show cause or termination hearing under section 126-401 of this article.

(6)

Termination of service. In addition to the provisions in section 126-401 of this article, any user who violates the following conditions is subject to discharge termination:

a.

Violation of wastewater discharge permit conditions;

b.

Failure to accurately report the wastewater constituents and characteristics of its discharge;

c.

Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

d.

Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or

e.

Violation of the pretreatment standards in sections 126-327, 126-328 or 126-329 of this article.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under subsection (8) of this section why the proposed action should not be taken. Exercise of this option by the control authority shall not be a bar to, or a prerequisite for, taking any other action against the user.

(7)

Civil penalty. When the control authority finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the control authority may institute a civil action in court or competent jurisdiction to penalize such user in at least the amount of $1,000.00. Such penalties shall be assessed on per violation, per day basis. In the case of monthly or other long term average discharge limits, penalties may be assessed for each day during the period of violation. Civil penalties may be issued in conjunction with other administrative enforcement actions. In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires. The control authority may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the county in accordance with the Pinellas County Environmental Enforcement Act. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(8)

Show cause hearing. The control authority may order a user which has violated, or continues to violate, any

provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the control authority and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 14 days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(9)

Permit revocation. The control authority may revoke an approved permit under the conditions specified in section 126-362. An industrial user whose permit has been revoked is no longer authorized to discharge process wastewater to the county sewer system.

(10)

Notice of significant noncompliance. As provided in section 126-284, and as required by FAC 62-625.500 (40 CFR 403.8(f)(2)(vii)), the control authority shall publish annually, in the largest daily newspaper published in the municipality where the WWF is located, a list of the users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements, as defined in section 126-276.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-402. - Injunctive relief.

When the control authority finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the control authority may petition the appropriate court through the county's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this article on activities of the user. The control authority may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-403. - Ordinance violation.

Violation of this article will be punishable, upon conviction, by a fine not to exceed $1,000.00 per day or by imprisonment in the county jail not to exceed 60 days, or by both such fine and imprisonment pursuant to the provisions of F.S. § 125.69. If a violation is continued, each day of violation shall constitute a separate offense.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-404. - Remedies nonexclusive.

The remedies provided for in this article are not exclusive. The control authority may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the control authority's enforcement response plan. However, the control authority may take other action against any user when the circumstances warrant. Further, the control authority is empowered to take more than one enforcement action against any noncompliant user.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-405. - Water supply severance.

Whenever a user has violated or continues to violate any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-406. - Affirmative defenses to discharge violations.

(a)

Upset. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(1)

An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (b) below, are met.

(2)

A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

a.

An upset occurred and the user can identify the cause(s) of the upset;

b.

The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

c.

The user has submitted the following information to the control authority within 24 hours of becoming aware

of the upset:

1.

A description of the indirect discharge and cause of noncompliance;

2.

The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

3.

Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance. If this information is provided orally, a written submission must be provided within five days.

(3)

In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(4)

Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(5)

Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(b)

Prohibited discharge standards. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section 126-327 of this article or the specific prohibitions in sections 126-329 of this article if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(1)

A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(2)

No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the county was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(c)

Bypass. For the purposes of this section, "bypass" means the intentional diversion of waste streams from any portion of a user's treatment facility. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (1) and (2) of this section. The control authority may approve an anticipated bypass, after considering its adverse effects, if the control authority determines that it will meet the three conditions listed in paragraph (3) of this section.

(1)

If a user knows in advance of the need for a bypass, it shall submit prior notice to the control authority, at least ten days before the date of the bypass, if possible.

(2)

A user shall submit oral notice to the control authority of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass, a written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The control authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(3)

Bypass is prohibited, and the control authority may take an enforcement action against a user for a bypass, unless:

a.

Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b.

There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c.

The user submitted notices as required under paragraphs (1) and (2) of this section.

(Ord. No. 12-41, § 2, 10-16-12)

Secs. 126-407—126-410. - Reserved.
Subdivision V. - Other Miscellaneous Provisions

Sec. 126-411. - Regulation of waste received from other jurisdictions.

Where another municipality, or user located within another municipality, contributes wastewater to the WWF, the control authority shall enter into an inter-municipal agreement with the contributing municipality. Prior to entering into an inter-municipal agreement, the control authority shall request the following information from the contributing municipality:

(1)

A description of the quality and volume of wastewater discharged to the WWF by the contributing municipality.

(2)

An inventory of all users located within the contributing municipality that are discharging to the WWF, including a description of the type of business and average monthly water usage for each user.

(3)

Such other information as the control authority may deem necessary.

Where required, an inter-municipal agreement shall contain the following conditions:

(1)

A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this article and local limits which are at least as stringent as those set out in section 126-329 of this article. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the county code article or local limits.

(2)

A provision specifying which pretreatment implementation activities, including user inventory, wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the control authority; and which of these activities will be conducted jointly by the contributing municipality and the control authority.

(3)

A requirement for the contributing municipality to provide the control authority with access to all information that the contributing municipality obtains as part of pretreatment activities.

(4)

Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the WWF.

(5)

A provision ensuring the control authority access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspect sampling, and any other duties deemed necessary by the control authority.

(6)

A provision ensuring the control authority the right to take legal action to enforce the terms of the contributing municipality's ordinance or to impose and enforce pretreatment standards and requirements directly against noncompliant dischargers in the event the contributing jurisdiction is unable or unwilling to take such action.

(7)

A schedule of rates and fees for wastewater discharges from the contributing municipality, based on both quality and quantity, and fees for any pretreatment activities which will be conducted by the control authority, either routinely or under the provision of subsections (5) and (6) above.

(8)

A provision specifying remedies available for breach of the terms of the inter-municipal agreement.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-412. - Processed groundwater.

The discharge of groundwater to the county sewer system sewer or connected systems is prohibited under section 126-327 of this article, unless specifically authorized by the control authority. The control authority may approve the discharge of processed groundwater generated from groundwater remediation activities under the conditions outlined below or otherwise described in the authorization to discharge. The fees for collection, transmission, treatment, disposal and monitoring of processed groundwater to the county sewer system are provided in the Schedule of Rates and Fees for Pinellas County Sewer System. In no case will any processed groundwater be discharged to the county sewer system prior to the receipt of written authorization from the control authority. Groundwater discharges may be subject to the permitting requirements in section 126-352 and fees set forth in the Pinellas County Utilities Schedule of Rates and Fees.

(1)

The authorized discharger will assume responsibility for any damage to county sewer system facilities or operations resulting from the discharge of processed groundwater to the county sewer system.

(2)

The authorized discharger will immediately cease discharge of processed groundwater to the county sewer system upon notice by the county that such discharge is adversely affecting the biological treatment process or efficient operation of the wastewater treatment facility, or sewer collection system receiving the processed groundwater.

(3)

The authorized discharger will monitor the quality of processed groundwater being discharged to the county sewer system as specified in the permit or other authorization to discharge and will provide control authority

with a laboratory analysis of the discharge upon initiation of discharge and on a monthly basis for the duration of groundwater discharge activities. The control authority reserves the right to collect samples independently of the authorized discharger for verification of compliance.

(4)

The processed groundwater discharge flow rate to the county sewer system shall not exceed ten gallons per minute. This flow rate may be adjusted by the control authority depending upon the location of the discharge, and based upon the capacity of the sewer system at the point of discharge;

(5)

Processed groundwater discharged to the county sewer system shall contain a concentration of no more than 50 parts per billion Total Volatile Organic Aromatics (V.O.A.), as determined using EPA Method 602 for analysis. It shall also meet all other federal, state and local discharge standards. All sampling and analysis must be performed in accordance with section 126-330 of this article.

(6)

A continuous, non-resettable flow meter shall be installed on the discharge line to the county sewer system. Monthly meter readings for volume of processed groundwater discharged to the county sewer system shall be provided by the authorized discharger to Pinellas County for billing purposes.

(Ord. No. 12-41, § 2, 10-16-12)

Sec. 126-413. - Pretreatment charges and fees.

The county shall establish reasonable fees for reimbursement of the costs of setting up and operating the county's pretreatment program in the Schedule of Rates and Fees for Pinellas County Sewer System, which may include but are not limited to:

(1)

Fees for wastewater discharge permits, which include the cost of processing such applications;

(2)

Fees for any additional non-routine monitoring, inspection, surveillance procedures, and other investigative costs resulting from noncompliance including the cost of collecting samples and analyzing a user's discharge, and reviewing monitoring reports submitted by users. These charges will be billed in accordance with the actual time and costs incurred by the control authority as a result of these activities; and

(3)

Fees for excessive loading on the system (surcharge fees). These fees shall be applicable to municipalities contributing flow to the county sewer system under the provisions of section 126-411, as well as to industrial users discharging to the county sewer system or any connected system.

(4)

Fees for groundwater remediation, which include meter processing and volume.

(Ord. No. 12-41, § 2, 10-16-12)

Secs. 126-414—126-500. - Reserved.

ARTICLE V. - RECLAIMED WATER SYSTEM

Sec. 126-501. - Intent.

It is the intent of this article to establish the use of reclaimed water within the county in accordance with all environmental regulations. It is the intent of the county to minimize the use of potable water supplies for nonpotable uses. It is the intent of the county to establish a reclaimed water system within the county's retail water service area in a manner which benefits the community.

(Ord. No. 97-103, § 1, 12-9-97)

Sec. 126-502. - Reclaimed water service area.

There is hereby established in Pinellas County a reclaimed water service area (RWSA) which is the same as the county's retail water service area, except for the Largo Sewer Service Area, but also including the area known as Sand Key. This area shall be served exclusively by the county.

Reclaimed water shall be extended within the RWSA where the county determines reclaimed water will result in the reduction of the use of potable water for irrigation. All properties in the readiness to serve zone in the reclaimed water service area that receive the option of obtaining reclaimed water through the installation of reclaimed water service mains to the property shall be charged an availability charge. If a customer connects to the reclaimed water system, they will also be charged a user fee as determined in the current reclaimed water rate schedule.

(Ord. No. 97-103, § 1, 12-9-97)

Sec. 126-503. - Definitions.

As used in this article:

(1)

Availability charge shall mean the fee established by the board of county commissioners for properties in the Readiness to Serve Zone. The availability charge is mandatory on all properties as described in section 126-517 in the Readiness to Serve Zone. The availability charge will only be charged for those lines not paid for by other sources and shall end when the construction costs are recovered.

(2)

Commercial shall mean property zoned for commercial use.

(3)

County shall mean County of Pinellas, Florida.

(4)

Cross connection shall mean any physical connection or arrangement which could allow the movement of

fluids between the potable water system and any other piping system, such as reclaimed water.

(5)

Department shall mean the utilities department of the county.

(6)

Director shall mean the director of the utilities department, or his designee.

(7)

Distribution main shall mean a conduit used to supply reclaimed water to a service connection from a transmission line.

(8)

Dual check device shall mean a backflow prevention device composed of two single independently active check valves.

(9)

Duplex means a residential two-family dwelling unit.

(10)

Dwelling unit means a building or portion thereof providing independent residential living facilities for one family including provisions for living, sleeping and complete kitchen facilities.

(11)

FAC shall mean the Florida Administrative Code.

(12)

Hose bib means a special connection installed and provided by the county at certain points of delivery of reclaimed water that will enable the customer to attach a hose with a customized adaptor to use reclaimed water for nonpotable purposes.

(13)

Industrial/commercial reclaimed water use means reclaimed water that is provided and used by the nonresidential customer for nonpotable uses other than irrigation.

(14)

Irrigation control valve means the manually operated valve located on the property owner's irrigation system which the property owner can use to manipulate the reclaimed water in order to service the property owner's irrigation system. The valve shall be located on the customer side of the county's master control valve.

(15)

Irrigation system means the customer's underground piped system which delivers water to spray or drip-type irrigation devices located throughout the property. The system may be equipped with a hose connection providing irrigation by hose and/or portable sprinkler devices.

(16)

Master control valve shall mean the county's manually operated valve placed on the end of the county service line which controls the total reclaimed water flow to the customer's property located at the point where the reclaimed water service line crosses the private property line. This valve is for the sole use of the county.

(17)

Meter shall mean a flow measuring device to monitor the total reclaimed water flow to the customer's property.

(18)

Multi-family means a detached building designed for four or more dwelling units.

(19)

Open space means a large portion of mostly vacant property.

(20)

Point of delivery or service connection means the terminal end of a service line from the county reclaimed water system on the customer side of the meter set, master control valve or other device installed and maintained by the county.

(21)

PVC pipe shall mean polyvinyl chloride pipe.

(22)

Readiness to serve zone means those areas in the reclaimed water service area (RWSA), designated by the director, where reclaimed water lines are to be installed and where the cost of the distribution lines are to be reimbursed through the availability charge.

(23)

Reclaimed water shall mean water that has received at least secondary treatment with high level disinfection pursuant to Chapter 62-610, FAC.

(24)

Service line shall mean that conduit to convey reclaimed water from the distribution main to the customer's property line.

(25)

Single-family means a detached building or a portion thereof designed for one to three dwelling units.

(26)

Transmission main shall mean a conduit that conveys reclaimed water from the treatment plant to booster pumping stations and distribution mains.

(27)

User fee means the fee established by the board of county commissioners for reclaimed water service.

(Ord. No. 97-103, § 1, 12-9-97)

Sec. 126-504. - Extension of reclaimed water service.

Reclaimed water service may be provided to properties located within the boundaries of the county reclaimed water service areas which comply with the provisions for such service as set forth in this article. Reclaimed water may be extended to properties within the county reclaimed water service area as the distribution system is extended and reclaimed water becomes available.

(Ord. No. 97-103, § 1, 12-9-97)

Sec. 126-505. - Service outside county reclaimed water service area.

Reclaimed water may be provided to cities outside of the county's reclaimed water service area on a wholesale basis. Terms of such service will be as defined in an interlocal agreement with that city.

(Ord. No. 97-103, § 1, 12-9-97)

Sec. 126-506. - Availability of service.

The existence of a reclaimed water transmission main adjacent to or near the premises of an applicant for the service does not necessarily mean that service is available to that location. Service in areas where only transmission mains exist will normally require the installation of a distribution main. The availability of reclaimed water shall be determined by the department. Those properties that are in the readiness to serve zone and are determined by the department to have reclaimed water service available shall pay the availability charge.

(Ord. No. 97-103, § 1, 12-9-97)

Sec. 126-507. - Right to refuse service.

No payment of costs, submittal of an application, or other act to receive reclaimed water service shall guarantee such service. The county shall have the right, at all times, to refuse to extend service on the basis of a use detrimental to the system, inadequate supply of reclaimed water, lack of payment of required fees, or for any other reason which, in the judgement of the director, applying sound engineering principles, will cause the extension not to be of benefit to the county.

(Ord. No. 97-103, § 1, 12-9-97)

Sec. 126-508. - Maintenance by the customer.

The property owner and the customer shall be responsible for the proper connection to and maintenance of all

irrigation lines or appurtenances on the customer side of the service connection on property served by the county. The county reserves the right to disconnect service to any property on which an irrigation system or other system using reclaimed water is not properly maintained, or if such system operates in violation of Chapter 62-610, F.A.C. In addition, should the customer require reclaimed water at different pressures, or different quality, or in any way different from that normally supplied by the county, the customer shall be responsible for the necessary devices to make these adjustments; provided, however, that such devices shall not be detrimental to the county reclaimed water system as determined by the director.

(Ord. No. 97-103, § 1, 12-9-97)

Sec. 126-509. - Tapping and connection.

(a)

Authority to perform; title to property. Tapping of all existing and new reclaimed water mains and installation of service lines from the mains to the service connection shall be done by the county. Title to all service lines from the main to the service connection is vested in the county, and the same shall at all times be the sole property of the county, and shall not be trespassed upon or interfered with in any respect. Such property shall be maintained by the county and may be removed or changed by it at any time. The customer shall give to the county the perpetual right to install, operate and maintain the service line and point of connection if located on privately owned property, as a pre-condition of receiving reclaimed water service from the county.

(b)

Furnishing equipment; charge. The county shall furnish and install equipment for reclaimed water service and may charge for such furnishing and installation according to a schedule of fees to be established by the county commission. All charges according to the schedule shall be paid when applying for service.

(c)

Irrigation control valve. Every customer shall have an irrigation control valve installed at their point of delivery or the service connection.

(d)

Liability for escaping water. The county shall not be responsible for maintenance of or for damage caused by reclaimed water escaping from the service pipe or any other pipe or fixture on the customer side of the service connection.

(e)

Adjustment for high bill complaints on metered accounts. In the event excessive reclaimed consumption is used on metered accounts due to leaks on the customer's property, the utility bill will be adjusted in accordance with the billing adjustment section of the Pinellas County Utilities Policy Manual as approved by the board of county commissioners.

(Ord. No. 97-103, § 1, 12-9-97)

Sec. 126-510. - Discontinuing service by county.

The county may discontinue reclaimed water service to any customer due to an infraction of this article or

regulations of the utility department, nonpayment of bills, for tampering with any service, for cross-connections with another water source, for a violation of 62-610, F.A.C., or for any reason that may be detrimental to the system. The county has the right to cease service until the condition is corrected and all costs due the county are paid. These costs may include delinquent billings, connection charges, and payment for any damage caused to the system. Should discontinued service be turned on without authorization, the department may remove the service connection and make an additional charge.

(Ord. No. 97-103, § 1, 12-9-97)

Sec. 126-511. - Service interruptions.

The director shall have the authority to establish schedules which restrict the use of the reclaimed water system at certain times in order to reduce maximum pressure demands on the system and to regulate usage during periods of limited reclaimed water availability.

(Ord. No. 97-103, § 1, 12-9-97)

Sec. 126-512. - Distribution main extension; use of potable water.

(a)

All potable water service through lawn irrigation meters shall be discontinued within the readiness to serve zone.

(b)

The county will reasonably attempt to deliver an adequate supply of reclaimed water of good quality at all times. The county makes no assurances or guarantees to customers or to others regarding the quantity or quality of the water due to circumstances beyond the county's control.

(Ord. No. 97-103, § 1, 12-9-97)

Sec. 126-513. - Applications for reclaimed water service.

Applications for reclaimed water service shall be filed in the county utilities department, upon forms provided for such purpose.

(Ord. No. 97-103, § 1, 12-9-97)

Sec. 126-514. - Location.

Applications for reclaimed water service within rights-of-way maintained by the county, city or state shall include a dimensional plan showing the desired location of the requested service line relative to the nearest street intersection or identifiable property boundary shown on the plan, as required by the agency which issues the right-of-way construction permit.

(Ord. No. 97-103, § 1, 12-9-97)

Sec. 126-515. - Customer responsibility.

Any irrigation system provided by the customer shall consist of an underground system with permanently

placed sprinkle devices or hose bibs meeting the following requirements. Except as specifically allowed in this paragraph, above ground hose bibs (spigots or other hand-operated connections) shall not be present. Hose bibs shall be located in locked vaults, service boxes, or compartments which shall be clearly labeled as being of nonpotable quality. Hose bibs which can only be operated by a special tool may be placed in nonlockable vaults, services boxes, or compartments clearly labeled as nonpotable water. Vaults, service boxes, and compartments may be located above or below grade. No system with a cross-connection to the potable water system shall be approved for connection to the reclaimed water system.

(Ord. No. 97-103, § 1, 12-9-97)

Sec. 126-516. - Cross-connection control.

(a)

In all premises where reclaimed water service is provided, the public potable water supply shall be protected by a backflow prevention control assembly as required in Pinellas County Ordinance 77-11 or any subsequent revisions. The customer will immediately disconnect any cross-connection. The potable water service will be turned off until the cross connection is removed. Before reconnection of the potable service, additional backflow prevention devices may be required as specified by the director and installed at the customer's expense.

(b)

To determine the presence of any potential hazards to the public potable water system, the Pinellas County Public Health Unit and the county shall have the right to enter upon the premises of any customer receiving reclaimed water. Each customer of reclaimed water service shall, by application or by use of service, be deemed to have given implied consent to such entry upon the premises.

(Ord. No. 97-103, § 1, 12-9-97)

Sec. 126-517. - Availability charge.

The utility account of any property in the readiness to serve zone where reclaimed lines are installed shall include a mandatory monthly availability charge to pay the costs for extending the new reclaimed water distribution lines to the property. The availability charge will be charged only for distribution system improvements. The amount and length of term of the availability charge shall be determined by the board of county commissioners. The term of the availability charge shall end when the construction costs are recovered. Notwithstanding the foregoing, there shall not be an availability charge on properties with usable irrigation wells in operation as of the effective date of this article, unless such property connects to the reclaimed water system.

(Ord. No. 97-103, § 1, 12-9-97)

Sec. 126-518. - Reclaimed water deposits, fees, charges and other rates.

Reclaimed water deposits, fees, charges and other rates shall be established by resolution of the board of county commissioners.

(Ord. No. 97-103, § 1, 12-9-97)

Sec. 126-519. - Lien for charges, assessments; authority of county.

The county shall have a lien on the premises served as security for the collection of any utility rates, assessments or charges due or to become due, for the use or consumption of utilities supplied to such premises, except to the extent prohibited by F.S. § 125.485, amended from time to time, relating to unpaid utility charges by former tenants.

(Ord. No. 97-103, § 1, 12-9-97)

Sec. 126-520. - County to make authorized assessments if any availability charge used for capital expenditure is held invalid.

If any availability charge is made under the provisions of this article to defray the whole or any part of the expense of any said improvement shall be either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the county shall be satisfied that any such charge is so irregular or defective that the same cannot be enforced or collected, the board of county commissioners may take all necessary steps to cause an assessment to be made for the whole or any part of any improvement or against any property benefitted by any improvement, following as nearly as may be the provisions of F.S. ch. 153, or any special assessment ordinance adopted by the county, and in case any such assessment shall be annulled, said governing authority of the county may obtain and make other assessments until a valid assessment shall be made.

(Ord. No. 97-103, § 1, 12-9-97)

Sec. 126-521. - Irrigation well assistance program.

The utilities department is authorized to establish an irrigation well assistance program to reduce the demands on the potable water supplies. The utilities department may offer assistance for the development of shallow wells as an alternative source of water for irrigation to county utilities potable water customers who will not have reclaimed water service. The alternative source of water would be obtained from the shallow water aquifer and other sources as approved by the Southwest Florida Water Management District. The district's participation will be requested to designate this source as an alternate water source enjoying the same use restrictions as reclaimed water. The county's assistance would include coordination of a large number of installations, water system grants, and other programs to help reduce the unit cost to customers who are putting in wells. The utilities department is authorized to apply for grants to further reduce the cost of the program.

(Ord. No. 97-103, § 1, 12-9-97)

Secs. 126-522—126-599. - Reserved.

ARTICLE VI. - GREASE WASTE MANAGEMENT[7]

Footnotes:
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Editor's note—Ord. No. 11-08, § 1, adopted March 22, 2011, amended Art. VI in its entirety to read as herein set out. Former Art. VI, §§ 126-600—126-629, pertained to similar subject matter and derived from Ord. No. 04-32, § 1, adopted June 7, 2005.

Sec. 126-600. - Intent.

This article provides regulations governing grease waste generators and grease waste haulers in order to manage grease wastes generated within the county in an environmentally sound manner. It provides for permitting and monitoring to ensure that the regulations are followed and provides for the establishment of fees governing all regulated activities. Grease waste generators and grease waste haulers may also be subject to regulation under the Pinellas County Code, Chapter 126, Article IV, which governs connection and discharge to the county sewer system.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-601. - Applicability.

The conditions of this article are applicable to all food service establishments located within the legal boundaries of the county, including all incorporated and unincorporated areas. The conditions of this article are also applicable to businesses providing grease waste collection and disposal services to customers located within the county. However, the conditions of this article will not apply within the sewer service area of a municipality which has adopted its own local ordinance regulating the generation, hauling, and disposal of grease. Facilities located outside of the county sewer service area should consult their sewer service provider to determine the applicability of this article to their facility.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-602. - Definitions.

The following are definitions specific to this article:

(1)

County. Pinellas County, Florida, or any department of Pinellas County, Florida. Within this article, county normally refers to department or division of the county, or the director or manager of any department or division of the county. The county may assign responsibility for implementation of this article to other county employees.

(2)

Food service establishment (FSE). Establishments which prepare and/or package food or beverages for sale or consumption, on- or off-site, with the exception of private residences. Food service establishments shall include, but are not limited to: food manufacturers, food packagers, restaurants, grocery stores, bakeries, lounges, hospitals, nursing homes, churches, schools and all other food service establishments not listed above.

(3)

FOG. Fats, oils, and grease.

(4)

Grease interceptor, grease trap, or grease removal device. An appurtenance designed to separate grease, oils, and fats from wastewater flow with a containment area designed to collect, contain, or remove food wastes prior to discharge to the sewer system.

a.

A grease interceptor shall mean a large separator/containment box with a rated flow of more than 50 g.p.m. and a minimum capacity of 750 gallons, normally installed underground, outside of the food service establishments.

b.

A grease trap is a smaller separator/containment box with a rated flow of 50 g.p.m. or less located inside or outside the food service establishments. These are sometimes called undersink interceptors.

c.

A grease removal device is a grease trap that has an automatic mechanism to remove the separated grease, oils, and fats.

(5)

Grease waste. Wastes removed from grease interceptors, including grease traps, or grease removal devices at food service establishments.

(6)

Grease waste hauler. A business which collects and transports grease waste to a disposal facility that is in compliance with all applicable federal, state and local laws and ordinances. A grease waste hauler may also provide other services to a food service establishment related to grease interceptor or grease trap maintenance.

(7)

Plumbing official. Plumbing official shall mean the individual, board, department, or agency established and authorized by state, county, city or other political subdivision created by law to administer and enforce the provisions of the Florida Building Code—Plumbing, Chapter 10. The plumbing official shall enforce the provisions of the Florida Building Code—Plumbing within the property lines of the premises.

(8)

Wastewater treatment facility (WWTF). A "treatment works," as defined by Section 212 of the Act (33 U.S.C. § 1292). This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-603. - Administration and enforcement.

The administration and enforcement of this article is vested in the county administrator or his designee.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-604. - Grease waste disposal.

(a)

Grease waste generated within the county may be disposed at private or public facilities designed for treating grease wastes. County facilities shall only accept grease waste generated in the county from grease waste haulers permitted under this section, in accordance with the terms and conditions of the permit. Grease waste haulers may dispose of grease wastes generated outside of the county if specifically authorized and provided the county facility has adequate processing capacity.

(b)

A sample of the contents of any vehicle discharging into a county facility may be collected and analyzed at the discretion of the county (sampling may be on a random basis). Sampling shall be conducted for the purpose of determining the presence of industrial or other prohibited wastes and for evaluation of plant loading. The county may also require the grease waste hauler to provide a waste analysis of any load prior to discharge. All Pinellas County Code, Chapter 126 discharge standards shall be enforced, with the exception of the limits for BOD, TSS, and animal or vegetable oil and grease.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-605. - Fee for disposal at Pinellas County facilities.

A service fee has been established in the Pinellas County Sewer System Schedule of Rates and Fees to cover treatment, disposal and associated administrative costs for grease waste disposal services at county-owned facilities. Fees may be adjusted periodically so as to reflect changes in the cost of providing treatment, disposal and associated administrative services.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-606. - Permit requirement for food service establishments.

(a)

Any food service establishment generating grease waste within the retail and wholesale sewer service area of Pinellas County must obtain a food service establishment permit from the county. The county shall approve, deny, or approve with special conditions, all applications for such authorization within 30 days of receipt, in accordance with the policies and regulations established herein. Each food service establishment permit approved by the county shall be effective for a period of one year, and may include special conditions as required by the county. Food service establishments will be subject to permit fees for the amount specified in the Pinellas County Sewer System Schedule of Rates and Fees.

(b)

The food service establishment permit required by the county shall be in addition to any other permits, registrations, or occupational licenses which may be required by federal, state, or local agencies having lawful jurisdiction.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-607. - Food service establishment permit application.

All food service establishments within the retail and wholesale sewer service area of Pinellas County must

submit an application on a form provided by the county. Each application shall include the following information:

(1)

Name of applicant. If the applicant is a partnership, corporation or other business entity, the name of the individual who is able to legally act on behalf of the organization, must be provided.

(2)

Applicant address and phone number, including information of person(s) to be contacted at times other than regular business hours.

(3)

Number of employees, number and times of shifts, and hours and days of operations.

(4)

A description of the activities, facilities, and processes on the premises.

(5)

A drawing of sufficient detail to show the location of all fixtures that introduce fats oils, or grease into the sewer system, and all sewers, floor drains, sewer connections and grease interceptors and appurtenances if known.

(6)

The applicant must submit a copy of any other permits, registrations, or occupational licenses which may be required by federal, state, or local agencies having lawful jurisdiction.

(7)

A signed statement that the information provided is accurate, and that the applicant agrees to abide by the regulations contained in this article, as well as all applicable federal, state, and local regulations governing their activities.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-608. - Food service establishment permit contents.

All approved food service establishment permits shall include a statement of the duration of the permit, including the expiration date, standard conditions relating to permit renewal and recision. A statement that the permit is not transferable under any circumstances, a statement that service records must be retained at the facility for a period of three years, and any applicable special conditions.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-609. - Food service establishment permit renewal.

An application for permit renewal shall be submitted at least 60 days prior to the expiration date of the

existing permit by each applicant wishing to discharge grease wastes from facilities located in the retail and wholesale sewer service area of Pinellas County. Operating a food service establishment generating grease wastes within the retail and wholesale sewer service area of Pinellas County without a permit is a violation of this article. Food service establishments will be subject to permit fees for the amount specified in the Pinellas County Sewer System Schedule of Rates and Fees.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-610. - Food service establishment permit revocation.

(a)

Any food service establishment permit approved by the county may be revoked in the event the applicant fails to abide by conditions established in this article, or within their approved permit. Authorization to discharge may be withdrawn for the following reasons:

(1)

Falsifying information on any record or document required by the county; or

(2)

Failure to service a grease interceptor by a grease hauler permitted by the county; or

(3)

Failure to comply with any permit condition; or

(4)

Violation of any federal, state, or local regulation governing the handling of grease wastes; or

(5)

Failure to pay any invoices, fees, or fines required by the county.

(b)

The revocation of authorization to operate in the retail and wholesale sewer service area of Pinellas County shall be in addition to any penalties applied for violation of this article.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-611. - Grease interceptor and grease trap requirements.

All food service establishments are required to have a grease interceptor or grease trap, with the exception of private residences. The requirements in this article supplement those provided in the Florida Building Code—Plumbing, Chapter 10. Food service establishments may share a common grease interceptor. All food service establishments sharing a grease interceptor shall be jointly and severably liable for all grease interceptor maintenance requirements as provided for in section 126-613.

(1)

All fixtures which may introduce fats, oil or grease into the sewer system must be connected through the grease interceptor or grease trap, including sinks, dishwashers, automatic hood wash units, floor drains in food preparation and storage areas, and any other fixture which is determined to be a source of fats, oil or grease. In no case shall sanitary wastewater be introduced to the grease interceptor or grease trap.

(2)

Existing food service establishments which do not have a grease interceptor or grease trap shall be required to install an interceptor or trap in compliance with design specifications of section 126-612 within 180 days of approval of this article.

(3)

Existing food service establishments which have a grease interceptor or grease trap which is not in compliance with design specifications in section 126-612 shall be required to upgrade or replace the existing interceptor or trap upon a significant change in the determinative factors for grease interceptor or grease trap sizing, including seating capacity increases, as stated in this article and/or the Florida Building Code—Plumbing, Chapter 10. All interceptor units shall be of the type and capacity specified by a plumbing contractor or design professional as required by the Florida Building Code—Plumbing, Chapter 1 Administrative, and approved by the plumbing official. All existing food service establishments shall notify Pinellas County of any changes in the grease interceptor or grease trap sizing factors described above within 60 days of the change(s). Interceptor upgrades may also be required if a grease waste discharge causes the accumulation of grease downstream of the food service establishment, reduces the capacity of the sewer system, or causes adverse impacts on the operation of the sewer system.

(4)

New food service establishments shall have a grease interceptor or grease trap of the type and capacity specified by the project design professional and approved by the plumbing official. Interceptors shall be located and designed so as to be easily accessible for inspection and maintenance to assure compliance with subsection 126-613(c). Grease interceptor design shall be as provided in section 126-612, except where otherwise required or authorized by this article or the county. Grease traps are prohibited in new construction except where specifically authorized by the plumbing official.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-612. - Grease interceptor and grease trap design.

(a)

Grease interceptor and grease trap design is based upon the requirements found in FAC 64E-6 (Department of Health), the Florida Building Code—Plumbing, Chapter 10 and must meet the requirements of subsection 126-611(3). Interceptor design and installation must be approved by the plumbing official and shall be in accordance with any other federal, state or local regulation.

(b)

Interceptor and trap sizing shall be in accordance with the Florida Building Code—Plumbing, Chapter 10.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-613. - Grease interceptor maintenance.

(a)

All food service establishments are required to utilize a grease waste hauler permitted by the county to pump out the grease interceptor, with the exception of grease traps and grease removal devices. The facility manager or designee must sign a service record provided by the grease waste hauler, verifying that the grease interceptor was serviced in accordance with the requirements of this article. The service record will also document grease interceptor condition. The food service establishment shall provide proof of ongoing service by a permitted grease waste hauler upon request by the county.

(b)

Grease interceptor cleaning and maintenance shall include pumping the interceptor until empty, and cleaning the side walls, baffle walls and cross-pipes, and inlet and outlet pipes. Decanting, skimming, or backflushing is prohibited. A full pump-out is required. Pipes shall be immediately restored to their original design configuration should any damage occur. No emulsifiers, grease cutters or other chemicals which could cause grease to pass through the interceptor may be used in the maintenance of grease interceptors or drain lines.

(c)

Grease interceptors shall be pumped at a frequency such as to maintain a grease layer of less than six inches on top of the interceptor and a solids layer of less than eight inches on bottom of the interceptor. The measurement point for determination of the grease and solids layer shall be adjacent to the outlet pipe. All grease interceptors shall be pumped at a minimum frequency of once for every 30 days, unless an alternate frequency is approved by the county. In no instance shall a variance exceed 180 days. An approved variance will be null and void if the variance pumping frequency is not adhered to, and shall revert to the 30-day frequency. More frequent pumping may be required to meet the article requirements above. The county may also mandate more frequent pumping based on inspection results and sewer system capacity. Pumping frequency variances are not transferable.

(4)

Grease traps or grease removal devices shall be cleaned at a minimum frequency of once per week, or more often as necessary to prevent pass-through of grease and other food solids. The minimum cleaning frequency may be modified upon authorization by the county. The date and time of this cleaning shall be recorded in a bound logbook, which shall be made available for review upon request by the county.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-614. - Permit requirement for grease waste haulers.

(a)

Any person, firm, or business desirous of collecting, pumping or hauling grease wastes from businesses located within the county must obtain a grease waste hauler permit from the county. The county shall approve, deny, or approve with special conditions, all applications for such authorization within 30 days of receipt, in accordance with the policies and regulations established herein. Each grease waste hauler permit approved by the county shall be effective for a period of three years, and may include special conditions as required by the county. Grease waste haulers will be subject to permit and vehicle fees for the amount

specified in the Pinellas County Sewer System Schedule of Rates and Fees. A permit number will be assigned to each grease waste hauler business, and vehicle decals shall be provided by the county which must be prominently displayed on the drivers' side door of each vehicle. Only permitted vehicles with a properly displayed decal may be used to collect grease in the county.

(b)

The grease waste hauler permit required by the county shall be in addition to any other permits, registrations, or occupational licenses which may be required by federal, state, or local agencies having lawful jurisdiction.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-615. - Grease waste hauler permit application.

Prior to providing grease waste hauling services within the county, each grease waste hauler must submit a permit application on the form provided by the county. Each application shall include the following information:

(1)

Name of applicant. If the applicant is a partnership, corporation or other business entity, the name of an individual who is able to legally act on behalf of the organization must be provided.

(2)

Applicant address and phone number, including information for person(s) to be contacted at times other than regular business hours.

(3)

The type, license tag number, and capacity of each vehicle which will be used to pump or haul grease wastes. New or replacement equipment acquired subsequent to the application shall be reported to the county prior to use. The applicant must provide proof of insurance for all listed vehicles.

(4)

The applicant must provide a copy of a current State of Florida Health Department license if they will be pumping or hauling septic tank or potable toilet wastes.

(5)

Each applicant must provide financial assurance in the amount of $10,000.00 in a form acceptable to the county. Such assurance shall remain in effect for the life of the permit. This assurance shall be used to guarantee disposal costs, fees, fines, and the costs of any damages that may result from a grease waste hauler discharging in violation of this article.

(6)

The applicant must list all disposal facilities or sites that they intend to use and the estimated yearly gallons of grease waste to be disposed of at each location.

(7)

Each application must include a signed statement that the information provided is accurate, and that the applicant agrees to abide by the regulations contained in this article, as well as any other applicable federal, state or local regulations governing their activities.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-616. - Grease waste hauler permit contents.

All approved grease waste hauler permits shall include a statement of the duration of the permit, including the expiration date; identification of all approved vehicles; standard conditions relating to permit renewal and permit recision; and any other applicable special conditions. All permits shall also indicate that the permit is not transferable under any circumstances. Special provisions may include, but are not limited to:

(1)

All grease interceptors shall be serviced in accordance with the requirements of this article. Excessive solids shall be scrapped from the walls and baffles, and inlet, outlet and baffle ports will be cleared.

(2)

The requirement to inspect and document structural integrity and compliance with grease trap design and operational criteria, and note any deficiencies on the service record.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-617. - Grease waste hauler permit renewal.

An application for permit renewal shall be submitted at least 60 days prior to the expiration date of the existing permit by each applicant wishing to haul wastes from facilities located in the county. A grease waste hauler shall be ineligible to make application for a new or renewal permit for a period of six months following revocation. Providing hauling services within the county without a permit is a violation of this article. Grease waste haulers will be subject to permit fees for the amount specified in the Pinellas County Sewer System Schedule of Rates and Fees.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-618. - Grease waste hauler permit revocation.

(a)

Any grease waste hauler permit approved by the county may be revoked in the event the applicant fails to abide by conditions established in this article, or within their approved permit. Authorization to operate may be withdrawn for the following reasons:

(1)

Falsifying information on any record or document required by the county; or

(2)

Discharging wastes other than those authorized by the approved permit to a Pinellas County WWTF or FOG Facility or a connected system, including wastes which are prohibited under section 126-327 and 126-329 of the Pinellas County Code; or

(3)

Discharging any waste into a non-authorized location; or

(4)

Failure to maintain financial assurance as required under section 126-615; or

(5)

Failure to pay any invoices, fees or fines required by the county; or

(6)

Collection of grease using a vehicle which is not permitted, or which does not display a valid decal in the proper location; or

(7)

Failure to comply with any other permit condition; or

(8)

Violation of any other federal, state, or local regulation or ordinance pertaining to the collection, transport and disposal of grease or other regulated wastes.

(b)

The revocation of authorization to operate in county areas shall be in addition to any penalties applied for violation of this article.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-619. - Grease waste service record.

(a)

A separate service record shall be completed for each food service establishment served. The county will provide an example service record format with each grease waste hauler permit. The service record shall contain the following information:

(1)

Origin of waste. Customer name, address served, telephone number, and amount of waste removed from interceptor; and

(2)

Interceptor condition. Condition of walls, inlet and outlet pipes and baffles. Thickness of grease cap and bottom solids; and

(3)

Hauler information. Hauler name and the county permit number; and

(4)

Disposal information. Date, time, facility name, address, phone number, and contact name for the location where the waste was disposed, including the receipt or ticket number provided by the disposal facility for billing purposes; and

(5)

Certification statement, worded exactly as provided below:

"This is to certify that the above information is accurate and that the subject wastes contain only food wastes, and there are no sanitary wastes, industrial wastes or toxic substances present. I further certify that the interceptor was serviced in accordance with section 126-613. I understand that falsification of this information is a violation of the Pinellas County Code, and is subject to enforcement in accordance with the Code.

(b)

Upon completion of service, the service record must be signed by both the customer and the grease waste hauler, documenting that the information contained in the service record is accurate.

(c)

The grease waste hauler is responsible for distribution of the service record. One copy of the service record is retained by the generator and the other is retained by the grease waste hauler. All service records shall be retained onsite for a period of not less than three years by both the generator and hauler.

(d)

All grease waste service record information shall be entered into the computerized online grease waste tracking system no later than five business days after a food service establishment's grease interceptor or grease trap has been serviced.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-620. - Spill reporting.

Upon knowledge or awareness of any accident, spill, or other discharge of grease wastes in excess of 20 gallons which has occurred within the county, the grease waste hauler shall notify the county within 24 hours, following the procedures contained in the approved grease waste hauler permit. The hauler shall be responsible for all clean-up activities for any spill for which he was responsible. Cleanup activities shall be performed in a manner approved by federal, state and local agencies having jurisdiction.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-621. - Record keeping.

Grease waste haulers and food service establishments subject to the requirements of this article shall retain, and provide for audit, all records of information related to interceptor maintenance and grease disposal. These records shall remain available for a period of at least three years. The county may require additional recordkeeping and reporting, as necessary, to ensure compliance and meet the intent of this article.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-622. - Permit transfers.

Permits issued under this article are not transferable under any circumstances.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-623. - Penalty for violation of article.

Failure to comply with the requirements of this article or with the provisions of any permit or approval granted or authorized under this article shall constitute a violation of this article. Violations of the provisions of this article shall be punishable by the administrative remedies provided in section 126-625 and/or the penalties provided in section 126-626. If a violation is continued, each day of such violation shall constitute a separate offense.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-624. - Administrative remedies.

(a)

The board of county commissioners is hereby authorized to institute any appropriate action or proceeding, including suit for injunctive relief, in order to prevent or abate violations of this article. The board of county commissioners is also authorized, in accordance with the Pinellas County Environmental Enforcement Act (Pinellas County Code, sections 58-26 through 58-34), to impose and recover a civil penalty for each violation of this article in an amount of not more than $5,000.00 for each offense.

(1)

Notice of violation. When the county finds that a business has violated any provision of this article, the county may serve upon that business a written notice of violation. This notice may be issued in conjunction with an administrative penalty as described in section 126-625 below, or by penalties as described in section 126-626. Within ten days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof shall be submitted to the county. Submission of this plan in no way relieves the business of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the county to take any other enforcement action without first issuing a notice of violation.

(2)

Administrative penalty. When the county finds that a business has violated any provision of this article, the county may institute a civil action in court of competent jurisdiction to penalize such business in an amount not to exceed $5,000.00. Such penalties shall be assessed on a per violation, per day basis. Civil penalties

may be issued in conjunction with other administrative enforcement actions. In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the business's violation, corrective actions by the business, the compliance history of the business, and any other factor as justice requires. Enforcement guidelines are provided in the Pinellas County Utilities Enforcement Response Guide. Depending upon the nature and severity of the violation, penalties may be waived for the first instance.

(3)

Consent order. The county may enter into consent orders, compliance agreements, assurances of voluntary compliance, or other similar documents establishing an agreement with any business responsible for noncompliance. Such documents will include specific actions to be taken by the business to correct the noncompliance within a time period specified by the document. Such documents shall be judicially enforceable. A consent order may include, but shall not be limited to, the following items:

a.

Required corrective actions, including but not limited to submittal of service records for interceptor maintenance, immediate pumpout of the grease interceptor, or establishment of an ongoing contract with a permitted grease waste hauler. When required by the county, the facility manager and/or other designated employee shall attend an educational program approved by the county. This program will cover kitchen practices, food handling and waste disposal procedures to minimize loading on the grease interceptor, as well as explaining grease interceptor design, operation and maintenance.

b.

Requirement for submittal of plans for installation or upgrade of grease interceptors, including time frames for preparation of plans, acquisition of necessary equipment, initiation of construction (including time for permit approval, where required), completion of construction, and a date for achievement of final compliance with the provisions of the consent order and of this article; and

c.

Payment of a monetary settlement as provided in the Pinellas County Environmental Enforcement Act (sections 58-26 through 58-34).

(4)

Permit revocation. The county may revoke an approved grease waste hauler permit or food service establishment permit under the conditions specified in section 126-618 or section 126-610.

(b)

The county may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the county in accordance with the Pinellas County Environmental Enforcement Act.

(c)

Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-625. - Article violation.

Violation of this article will be punishable, upon conviction, by a fine not to exceed $500.00 per day or by imprisonment in the county jail not to exceed 60 days, or by both such fine and imprisonment pursuant to the provisions of F.S. § 125.69.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-626. - Remedies nonexclusive.

The remedies provided for in this article are not exclusive. The county may take any, all, or any combination of these actions against a noncompliant business. Enforcement of violations will generally be in accordance with Pinellas County Utilities Enforcement Response Plan. However, the county may take other action against any business when the circumstances warrant. Further, the county is empowered to take more than one enforcement action against any noncompliant business.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-627. - Appeal of permit denial or revocation.

(a)

Any permit denial under this article may be appealed by hearing before a staff member appointed by the county administrator or his designee. Notification of a permit denial under this article shall be delivered via certified mail, return receipt requested, or hand delivery. The permit applicant shall have 14 days from the date notification of the permit denial is received to send a written appeal to the designated staff member via certified mail, return receipt requested. Following receipt of the appeal, the designated staff member shall schedule a public hearing concerning the appeal and shall notify the permit applicant of the time and place at which the hearing will be held. Public hearings conducted under this article shall be conducted in accordance with the procedures set forth in Code section 2-28. The permit applicant, either individually or by counsel, shall have the opportunity to be heard, to present evidence, and to cross-examine witnesses during the public hearing on the appeal. The staff member may affirm, reverse or modify the decision of the county administrator or his designee regarding the permit denial.

(b)

In the event of a permit revocation, notice of such revocation and the appeal of the decision to revoke a permit granted under this article shall follow the same procedures outlined in subsection (a) above. A permit revocation will not be effective until the period for pursuing an appeal expires or the conclusion of such appeal, if requested, whichever is sooner. The county administrator or his designee may immediately revoke a permit upon a finding that allowing continued operation under the permit constitutes a clear and present danger to the health, safety or welfare of the public, the environment, or a WWTF operated by Pinellas County. Any such finding shall be included in the notification sent to the permittee and shall result in the immediate revocation of the permit.

(Ord. No. 11-08, § 1, 3-22-11)

Sec. 126-628. - Powers and authority of inspectors.

The county shall have the right to enter the premises of any user of the Pinellas County Sewer System or connected systems without prior notification for the purposes of inspection, observation, measurement, sampling, testing, or investigation as may be necessary to determine whether the user is complying with all requirements of this article and any wastewater discharge permit or order issued hereunder. Users shall allow the control authority ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties. Entry shall be made during normal operating hours unless abnormal or emergency circumstances require otherwise.

(1)

Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the control authority will be permitted to enter without delay for the purposes of performing specific responsibilities.

(2)

Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the control authority and shall not be replaced. The costs of clearing such access shall be borne by the user.

(3)

Unreasonable delays in allowing the control authority access to the user's premises shall be a violation of this article.

If the county has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the county designed to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the control authority may seek issuance of a search warrant from the appropriate court.

(Ord. No. 11-08, § 1, 3-22-11)

Chapter 130 - WATERWAYS[1]
Footnotes:
--- (**1**) ---

Charter reference— General powers of county, § 2.01.

Cross reference— Fresh water conservation board, § 2-251 et seq.; game and fish, § 14-86 et seq.; environment, ch. 58; stormwater pollution, § 58-236 et seq.; parks and recreation, ch. 90.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g).

ARTICLE I. - IN GENERAL

Sec. 130-1. - Grant of submerged lands by state.

(a)

The State of Florida hereby grants for itself and the trustees of the internal improvement fund to Pinellas County, a political subdivision of the State of Florida, for public recreational purposes, right-of-way for state and county roads and for navigational purposes only, all its right, title and interest insofar as same can be granted to all submerged and partly submerged lands and islands described as follows:

Beginning at the NW corner of the SW¼ of SW¼ of Section 11, Township 32, Range 16 East, run S. 0° 05′ W. 626.72 feet to a point designated as point "section" in deed no. 19885 (Trustees of the Internal Improvement Fund of State of Florida to state road department of State of Florida) thence N. 89° 48′ 55″ W. 2000 feet to the west line of aforesaid deed no. 19885, for a point of beginning; thence S. 0° 11′ 05″ W. along said west line 2137.29 feet; thence continuing along said west line by a curve to the left radius 7,729.65 feet, arc 341.28 feet, chord S. 1° 04′ 49″ E. 341.21 feet; thence S. 2° 20′ 42″ E. 16,123.09 feet; thence by a curve to the left, radius 7720.65 feet, arc 3189.97 feet, chord S. 14° 10′ 04″ E. 3167.38 feet; thence S. 25° 59′ 15″ E. 4325.66 feet; thence S. 64° 00′ 45″ W. 21,592.38 feet; thence west 2,500.00 feet; thence N. 5° 54′ 42″ W. 14,655.67 feet to the centerline of Bunces Pass; thence S. 75° E. along said centerline 6,000 feet; thence continue along said centerline N. 71° 21′ 38″ E. 6,541.85 feet; thence N. 2° 20′ 42″ W. 19,544.77 feet on a line parallel to and 10,800.00 feet west from the centerline of the lower Tampa Bay bridge and causeway; thence N. 87° 39′ 18″ E. 8,901.93 feet to the point of beginning.

Less the following: A parcel of submerged land in Section 34, Township 32 South, Range 16 East and Section 3, Township 33 South, Range 16 East, described as follows: Starting at the NW corner of the SW¼ of SW¼ of Section 11, Township 32 South, Range 16 East, run thence S. 0° 11′ 05.5″ E. 2764.01 feet along the westerly line of said Section 11, Township 32 South, Range 16 East and the westerly line of said Section 11, Township 32 South, Range 16 East extended; thence by a curve concave to the easterly arc 252.98 feet, chord S. 1° 5′ 48″ E. 252.95 feet; radius 5729.65 feet; thence S. 2° 20′ 41.6″ E. 14895.09 feet; thence S. 65° 39′ 18.5″ W. 2157.07 feet to a point of beginning; thence S. 65° 39′ 18.4″ W. 1615.77 feet; thence by a curve concave to the easterly arc 2971.09 feet, chord S. 12° 43′ 26″ E. 2958.28 feet, radius 9229.65 feet; thence N. 65° 39′ 18.4″ E. 1501.56 feet; thence by a curve concave to the easterly arc 2580.05 feet, chord N. 11° 54′ 25.6″ W. 2568.08 feet, radius 7729.65 feet; thence N. 2° 20′ 41.6″ W. 419.95 feet to the point of beginning. All lying in and being a part of Section 34, Township 32 South, Range 16 East and Section 3, Township 33 South, Range 16 East, Pinellas and Hillsborough counties, Florida. Containing in all 105.08, acres more or less.

Also less Whale Island, together with an area of 200 feet surrounding the circumference thereof, except in the direction of Bush Key and in that respect an area not more than one-half the distance to Bush Key or 200 feet, whichever is less. Any person or persons having right, title or interest in said Whale Island shall have the right of ingress and egress to the Bunces Pass by the shortest route.

(b)

A chart or plat showing the above-described land shall be filed for record in the office of the secretary and engineer of the trustees of the internal improvement fund of the State of Florida, and in the office of the clerk of the Circuit Court in and for Pinellas County, Florida.

(c)

This grant [section] shall not affect any other grant heretofore made by the trustees of the internal improvement fund of the State of Florida to any individual, corporation, or public body, nor shall it affect the right of the trustees of the internal improvement fund to lease to the United States, within two years from the date of this section, the island known as Bush Key, sometimes known as Tarpon Key, and the submerged bottoms around the same for a distance outward from said Key to 250 yards, as a wildlife sanctuary.

(d)

Owners of submerged lands abutting on the boundaries of the area described in this grant may obtain such fill soil from within said area, in such amounts and from such places as the board of county commissioners of Pinellas County may permit, as will create, widen or deepen channels for navigation within said area, provided, however, that such fill soil is purchased from the trustees of the internal improvement fund at the time the abutting submerged land is acquired.

(e)

This legislative conveyance is granted upon the express condition subsequent that Pinellas County shall never sell or convey or lease the above described lands or any part thereof to any private persons, firm or corporation for private use or purpose, it being the intention of this restriction that said lands shall be used solely for public recreational purposes, rights-of-way for state or county roads and navigational purposes.

(f)

Pinellas County, prior to undertaking to develop the lands described herein for public recreational purposes, shall obtain written approval by the trustees of the internal improvement fund that such proposed development is a public recreational purpose authorized by this section.

(g)

In the event the above described lands cease to be used for public recreational purposes, rights-of-way for state or county roads and navigational purposes, or said lands are developed for purported public recreational purposes without approval of the internal improvement fund, title shall at once revert to the State of Florida.

(Laws of Fla. ch. 30400(1955), §§ 1—7)

Editor's note— The act contained in the above section retains its status as a special act due to its subject matter. The source of the section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Sec. 130-2. - Honeymoon Island, setback line for coastal construction on certain landfill portions; variances; penalties.

(a)

In order to preserve the health, safety and welfare of the residents of Honeymoon Island in the county, the legislature has determined that the construction setback requirements provided in this section are necessary.

(b)

No person, firm, corporation, municipality, or public agency shall construct any building, seawall, revetment or other structure incidental to or related to such structure, including but not limited to such attendant structures or facilities as a patio, swimming pool or garage, within 600 feet of the line of mean high water at any riparian location on Honeymoon Island in the county, which is created by landfill operations, upon lands which on the effective date of this section were seaward of the line of mean high water.

(c)

A waiver or variance of the setback requirements set out in subsection (b) of this section may be authorized by the county for the construction, when otherwise authorized as provided by law, of pipelines, utilities or piers unless it is determined by the county that the construction of such projects would cause erosion of the beaches.

(d)

Any coastal structure erected in violation of the provisions of this section is hereby declared to be a public nuisance, and such structure shall be forthwith removed upon written notice by the board of county commissioners. In the event that, within a reasonable time, the structure is not removed as directed, the board of county commissioners may remove such structure at its own expense and the costs thereof shall become a lien upon the property of the upland owner upon which such unauthorized structure is located.

(Laws of Fla. ch. 70-903, § 1)

Editor's note— The act contained in the above section assumed ordinance status pursuant to charter § 5.02.

Cross reference— Buildings and building regulations, ch. 22; environment, ch. 58; natural resources, ch. 82; environmental and natural resource protection, ch. 166.

Secs. 130-3—130-30. - Reserved.

ARTICLE II. - PUBLIC LAKE IMPROVEMENTS[2]

Footnotes:

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Cross reference— Natural resources, ch. 82; special assessments, ch. 110.

Sec. 130-31. - Areas embraced.

The provisions of this article shall embrace only the unincorporated areas of the county.

(Ord. No. 76-9, § 14, 5-18-76)

Sec. 130-32. - Authority to undertake maintenance programs.

The board of county commissioners is hereby authorized to undertake programs for the clearing of aquatic growth, decayed matter and otherwise cleaning and providing for the maintenance or improvement of public lakes within the unincorporated areas of the county.

(Ord. No. 76-9, § 2, 5-18-76)

Sec. 130-33. - Authority to contract for control of aquatic growth; performance by county.

(a)

The board of county commissioners is authorized to enter into contracts with firms providing chemical or mechanical control of aquatic growth found in lakes or who dredge or otherwise remove decayed matter from such bodies of water. When found to be within the capability of county forces, the board may direct that such improvements be accomplished by county personnel.

(b)

When improvements authorized under this section are ordered, the board of county commissioners shall designate the county engineer or other officer or agent to file with the clerk of the circuit court a copy of plans or specifications or other documentation and an estimate of the cost of making the improvements, together with an estimate of incidental expenses, including preliminary and other surveys, inspections and control of work, preparation of engineering and legal documents, fees and other expenses necessary or proper in connection therewith.

(Ord. No. 76-9, § 3, 5-18-76)

Sec. 130-34. - Assessment of costs of maintenance.

The entire cost of maintenance or improvements provided under this article shall be assessed against the properties specially benefited by such improvements. Such assessments shall be directly proportionate to the benefits of the property.

(Ord. No. 76-99, § 4, 5-18-76)

Sec. 130-35. - Petition for improvements.

(a)

Upon submission of a written petition signed by the owners of 50 percent of the lots or assessment units which comprise real estate as described in such petition and which abut upon the proposed public lake improvement project area or are otherwise specially benefited by such improvements, such owners may request the board of county commissioners to make such improvements to such public lake and at such estimated costs as are stated in the petition. A description of the proposed improvements and the estimated cost shall be stated upon the petition form by the county engineer or other officer or agent prior to circulation of the petition among owners. The petition shall also state that the board is requested to assess the entire cost of such improvements against the properties specially benefited thereby.

(b)

The board of county commissioners, upon finding that the petition under this section is sufficient in form, substance and execution, may by resolution order the improvement to be made and may assess against the property to be specially benefited by such improvement that portion of the cost which the board has designated, paying as a county charge any remaining cost.

(Ord. No. 76-9, § 5, 5-18-76)

Sec. 130-36. - Funding of improvements.

Improvements under this article shall be funded through the levy of a special assessment against all property specially benefited thereby in accordance with an assessment roll confirmed and approved by the board of county commissioners.

(Ord. No. 76-9, § 6, 5-18-76)

Sec. 130-37. - Special benefits proration criteria.

In the preparation of assessment rolls and in the determination of assessment costs of improvements against property under this article, it is hereby established that such special benefits shall be prorated in accordance with the following criteria:

(1)

Where individual platted subdivision lots abut or are located alongside the public lake, all such lots shall be assessed equal in benefits except for individual parcels which have twice or more square footage than the smallest lot. In such cases, each multiple of double square footage or portion thereof shall be assessed as an individual lot.

(2)

Where individual platted subdivision lots do not directly abut or lie alongside the public lake but are separated from such lake only by unimproved, dedicated public rights-of-way or easement, then such lots shall be assessed as being equally benefited as those lots which do abut or lie alongside the same public lake.

(3)

Where large parcels or unplatted tracts abut or lie alongside a public lake which also has small lots one-half acre or less in size and either platted or unplatted, then each 150 feet of such parcels or portions thereof, as measured along the largest perimeter dimension, shall be assessed as an individual lot.

(4)

Where a dedicated improved street abuts or lies alongside a public lake, then each 150 feet of such street or portion thereof, as measured along the centerline of the street, shall be assessed as an individual lot. Such portion of the total project assessment shall be paid by the county.

(Ord. No. 76-9, § 7, 5-18-76)

Sec. 130-38. - Preparation of report of cost and preliminary assessment roll for improvements; approval of

roll.

Upon completion of the project and confirmation of final cost, the county engineer and the clerk of the circuit court shall prepare and present to the board of county commissioners a report of the cost of such improvement together with the preliminary assessment roll. The report of cost shall show the total cost of the improvement, including incidental expenses and that portion of the total cost chargeable to each lot and parcel of land within the improvement project area which specially benefits by the improvements for which the assessments are made.

The board shall thereupon review the report of cost and the preliminary assessment roll, if they are in proper form, and they shall be placed on file in the office of the clerk of the circuit court. The preliminary assessment roll shall be advertised once each week for two successive weeks in a newspaper of general circulation in the county, together with a notice to be signed by the clerk stating that the preliminary assessment roll has been examined and approved by the board and that the board will sit at a certain hour on a certain day not earlier than three days after the final publication of such notice, for the purpose of hearing objections to such preliminary assessment roll. At least ten days prior to the date of such hearing, the clerk shall also send by first class mail to each person whose name and address is known or may reasonably be ascertained, who is the owner of any lot or parcel of land assessed, a notice advising him of the nature of the improvement, the cost thereof, the specific amount of assessment made against each lot or parcel of land so owned by him or listed in his name, and of the place, date and time of the hearing upon the assessments as provided in this section.

(Ord. No. 76-9, § 8, 5-18-76)

Sec. 130-39. - Hearing upon, confirmation and approval of assessment roll.

(a)

At the time specified in the notice provided for in section 130-38, the board of county commissioners shall meet and receive objections of all interested persons to the assessments and the accuracy and the amount thereof against any lot or parcel of land owned by such interested persons. At such hearing or thereafter at a definite time announced at such hearing, the board shall either annul, sustain or modify, in whole or in part, the special assessment roll according to the special benefits which the board determines each lot or parcel of land has received as a result of such improvement.

(b)

If any property which may be chargeable under this article with special benefits by reason of such improvement shall have been omitted from the assessment roll, the board of county commissioners may place such property on the roll, and assess a proper apportionment of the cost of the improvement against such property. The board may thereupon by resolution confirm and adopt the roll but shall not confirm any assessment in excess of the special benefits to the property, and the assessment so confirmed shall be in proportion to such special benefits. The board, in such resolution, shall levy the special assessments against all such lots or parcels of land in accordance with the assessment roll so confirmed and adopted. If the assessment against any particular lot or parcel of land shall be reduced by the board, then the board shall authorize and require a reassessment for the improvement in order to absorb such reduction or reductions. Any such reassessment shall be made in accordance with the provisions of this article, upon notice and hearing, and in all respects in the manner prescribed for the original special assessment. Upon confirmation and approval of the assessment roll by the board, the roll and each individual assessment shall be final and

conclusive, unless a suit be filed in a court of proper jurisdiction attacking such assessment, in whole or in part, within ten days after such confirmation and approval, in which event such assessment or assessments as shall be so attacked shall await the disposition of such suit or suits, and shall abide the ultimate decree or judgment of such court or courts concerning the same.

(Ord. No. 76-9, § 9, 5-18-76)

Sec. 130-40. - Filing of assessment roll; effect of filing.

Upon becoming final by the confirmation and approval of the board of county commissioners, the improvement project area assessment roll shall be filed in the office of the clerk of the circuit court. From the date of such filing, the assessments shall constitute liens upon the properties assessed coequal with the lien of general county taxes including ad valorem taxes and shall be superior in rank to all other liens, titles and claims. The assessments shall be collectible and shall be entitled to sale and forfeiture in the same manner and with the same attorney's fee, interest and penalties for default in payment as general county taxes. Collection may also be effected by foreclosure in a court of equity, according to the laws then existing for the foreclosure of mortgages, and it shall be lawful to join in any such complaint for foreclosure any real property by whomsoever owned, if assessed for the same improvement made under the provisions of the article. Failure to pay any installment of principal or interest of any assessment when due shall, without notice or proceedings, cause all installments of principal remaining unpaid to be forthwith due and payable with interest due thereon at the date of default.

(Ord. No. 76-99, § 10, 5-18-76)

Sec. 130-41. - When assessment liens due; payment in installments.

All assessment liens under this article shall be due and payable at the office of the tax collector of the county 30 days after the date of the recording of the assessment roll. All assessment liens not paid within such period shall become payable in not more than ten equal annual installments, the number to be determined by the board of county commissioners at the time of the confirmation and approval of the assessment roll, with interest at not more than eight percent per annum from the date due; but any assessment lien becoming so payable in installments may be paid in full at any time, together with interest accrued thereon to the last day of the calendar quarter in which such payment is made.

(Ord. No. 76-9, § 11, 5-18-76)

Sec. 130-42. - New assessment in case of defective assessment.

If any special assessment made under the provisions of this article to defray the whole or any part of the expense of any improvement shall be either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the board of county commissioners shall be satisfied that any such assessment is so irregular or defective that the assessment cannot be enforced or collected, or if the board shall have omitted to make such assessment when it might have done so, the board shall take all necessary steps to cause a new assessment to be made for the whole or any part of any improvement or against any property benefited by any improvement, following as nearly as may be possible the provisions of this article. In the event such second assessment shall be annulled, the board may obtain and make additional assessments until a valid assessment shall be levied.

(Ord. No. 76-9, § 12, 5-18-76)

Sec. 130-43. - Effect of irregular, illegal proceedings.

The purpose of this article being to provide an economical method by which local improvements in unincorporated areas of the county may be made, it is hereby declared that no irregularity or illegality in connection with any of the proceedings authorized in this article shall affect the validity of such proceedings nor the special assessments levied thereunder nor any contracts issued or executed pursuant thereto unless such irregularity or illegality shall substantially affect the rights of the county, its inhabitants or the owners of the properties assessed for such improvements.

(Ord. No. 76-9, § 13, 5-18-76)

Secs. 130-44—130-73. - Reserved.

ARTICLE III. - BOATS AND WATER SAFETY

DIVISION 1. - GENERALLY

Sec. 130-74. - Authority.

This article is adopted pursuant to F.S. chs. 125 and 327, and Laws of Fla. Ch. 31182 (1955), as amended, and Chapter 134, Article III of the Pinellas County Land Development Code, as amended.

(Ord. No. 00-93, § 14, 11-14-00)

Sec. 130-75. - Purpose and intent.

The purpose of this article is to establish regulatory zones in the waters of Pinellas County that limit vessels within such waters by regulating speed and/or access within certain areas. The intent of such regulation is to protect the citizenry of the county by limiting the operation of vessels where such operation is deemed to create a hazard to persons or property. It is furthermore the intent of this article to limit vessel operation where to do so would minimize damage to and promote the preservation, recovery and expansion of aquatic habitats and the wildlife therein.

(Ord. No. 00-93, § 15, 11-14-00)

Sec. 130-76. - Penalty for violation of article.

(a)

Except as otherwise provided, violations of this article are punishable as provided in section 1-8.

(b)

All provisions of this article may be enforced by all authorized law enforcement officers as well as the board or its designated representatives.

(c)

Any governmental employee or officer or authorized agent thereof, while performing duties pursuant to this article or other law within their official capacity, are hereby exempted from the prohibitions contained within this article. However, reasonable efforts must be made by these individuals to avoid damage to aquatic habitat.

(d)

Any vessel operator experiencing a health, safety or welfare emergency, including but not limited to mechanical difficulties with the vessel, which may result in severe personal or property damage, is hereby exempted from the prohibitions contained within this article.

(Ord. No. 00-93, § 16, 11-14-00)

Sec. 130-77. - County registration fee.

(a)

Imposed. The county hereby imposes an annual registration fee of 50 percent of the applicable state registration fees on vessels operated or stored within the county.

(b)

Remittance and disposition of fees. The first $1.00 of every registration fee imposed under this section shall be remitted to the state for deposit in the "save the manatee trust fund" for expenditure solely on activities related to the preservation of manatees. All other monies received from such fees shall be expended for marine patrols operating out of the sheriff's department within the county.

(Ord. No. 89-40, §§ 1, 2, 9-12-89)

Cross reference— Taxation, ch. 118.

State Law reference— Authority to impose above fee, F.S. § 327.22(2).

Sec. 130-78. - Reserved.

Editor's note— Ord. No. 00-93, § 17, adopted Nov. 14, 2000, repealed § 130-78 which pertained to the restricted area around Fred Howard Park Causeway and derived from Ord. No. 89-23, §§ 1—4, adopted May 16, 1989.

Sec. 130-79. - Reserved.

Editor's note— Ord. No. 00-93, § 18, adopted Nov. 14, 2000, repealed § 130-79 which pertained to speed of watercraft on Lake Chautauqua and derived from Ord. No. 85-11, §§ 1—3, adopted June 4, 1985.

Sec. 130-80. - Reserved.

Editor's note— Ord. No. 00-93, § 19, adopted Nov. 14, 2000, repealed § 130-80 which pertained to use of internal combustion engines prohibited on waters of Lake Seminole Bypass Canal and derived from Ord. No. 88-37, §§ 1—3, adopted Sept. 27, 1988.

Sec. 130-81. - Speed of watercraft on Allen's Creek Estuary.

(a)

The speed limit on Allen's Creek Estuary, which includes Allen's Creek and its tributaries, located south of Belleair Road and east of Keene Road to the mouth of Allen's Creek at Largo Inlet, in Pinellas County, is five

miles per hour with no wake.

(b)

Any person who operates a boat, vessel or other watercraft in excess of the posted speed limit of five miles per hour commits a noncriminal infraction and is subject to imposition of a civil penalty of $35.00.

(c)

The Florida Marine Patrol shall designate where speed limit signs shall be located. Pinellas County shall bear the cost of providing and erecting such signs.

(Laws of Fla. ch. 87-425, §§ 1—3)

Editor's note— The act contained in the above section retains its status as a special act because it was adopted after the county charter. See charter § 5.02. The source of the section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Secs. 130-82—130-96. - Reserved.

DIVISION 2. - IDLE SPEED (NO WAKE) ZONES[3]

Footnotes:

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Editor's note—Ord. No. 00-93, §§ 20—25, adopted Nov. 14, 2000, enacted new provisions intended for use as §§ 130-82—130-87. In order to place the new sections in Div. 2, and to maintain Code format, the provisions of Ord. No. 00-93 have been set out herein as §§ 130-97—130-102 at the discretion of the editor.

State Law reference— Penalty for violations, F.S. § 370.73.

Sec. 130-97. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aquatic habitat means submerged and partially submerged habitats, including but not limited to subtidal flats, oyster bars, live bottom reefs, seagrass beds, lakes, rivers and streams.

Board means the Board of County Commissioners of Pinellas County, Florida.

Combustion motor exclusion zone means an area where the entry of vessels being propelled or powered by an internal combustion engine is prohibited. These zones do not apply to vessels using other means of propulsion (e.g., sails, oars, poles, etc.) or to vessels equipped with an internal combustion engine when such engine is not in use.

Idle speed/no wake zone means that a vessel operating within any such area must be throttled down to the point where the engine is just above a stall. At idle speed, a boat or vessel should cast little or no wake.

Internal combustion engine means any engine in which the combustion of fuel generates the heat necessary for power. The reaction takes place inside the engine proper.

No entry zone means an area where no vessel of any kind, whether power-driven or non-motorized shall be permitted within the designated area. No other vessel or flotation device, including but not limited to a seaplane, sailboard, surfboard or other like object intended for or capable of use as a means of transportation on the water, shall be permitted within the designated area.

Person means any person, firm, corporation, municipality, township or any other public agency.

Shallow water caution zone means an area where aquatic flora and fauna, such as, but not limited to, seagrasses, manatees, and oyster bars, exist or would be expected to exist in abundance and vessel operators are advised to use caution so as not to cause any propeller damage or otherwise disturb the aquatic flora and fauna.

Slow speed/minimum wake zone means that a vessel operating within any such area must be fully off plane and completely settled into the water. It may not proceed at a speed greater than that speed which is reasonable and prudent to avoid the creation of an excessive wake or other hazardous condition under the existing circumstances.

Vessel is synonymous with boat, as referenced in Section 1(b), Article VII of the Florida Constitution and includes every description of watercraft, barge, and airboat.

(Ord. No. 00-93, § 20, 11-14-00)

Sec. 130-98. - Criteria for establishing zones.

The board may establish idle speed/no wake zones, slow speed/minimum wake zones, combustion motor exclusion zones, no entry zones, or shallow water caution zones, as determined appropriate by the board, based upon the following criteria:

(1)

Whether the unrestricted use of boats or vessels may create hazards to persons or property by virtue of the shape, size, or normal traffic levels of the subject waterway.

(2)

Whether the unrestricted use of vessels may create hazards to persons by virtue of the frequent use of the subject waterway for swimming or bathing.

(3)

Whether the unrestricted use of vessels unreasonably restricts the normal or historic use for navigation or the safe operation of vessels in the subject waterway.

(4)

Whether the unrestricted use of vessels or the adverse impacts of such use may result in harm to marine resources or aquatic habitat in the subject waterway.

(5)

Whether the unrestricted use of vessels or the adverse impacts of such use is consistent with the comprehensive plan of the county.

(6)

Whether the unrestricted use of vessels will significantly affect endangered, threatened species, or species of special concern when reasonable scientific judgment indicates that the subject water body or its associated upland provides a function, including but not limited to nesting, reproduction, food source, habitat, or cover, for such species or whether the vegetation itself is endangered, threatened, or a species of special concern.

(7)

Whether the unrestricted use of vessels will significantly impair the available habitat for wildlife existence and reproduction, or result in the emigration of wildlife from adjacent or associated ecosystems and macrohabitats.

(8)

Whether the unrestricted use of vessels will have an adverse impact upon existing biological and ecological systems; or

(9)

Whether the unrestricted use of vessels is the primary causative factor preventing recovery of an impaired system or aquatic habitat in the subject waterway or whether restricting use would allow conditions to exist which are favorable to the managed recovery or restoration of the waterway.

(Ord. No. 00-93, § 21, 11-14-00)

Sec. 130-99. - Posting.

The restrictions contained in this article shall be as posted at each affected waterbody at intervals as deemed appropriate. These restrictions may include navigable channel areas and those areas outside the channel from bank to bank. This restriction may also apply to state approved restricted areas outside the Intracoastal Waterway right-of-way to the banks.

(Ord. No. 00-93, § 22, 11-14-00)

Sec. 130-100. - Public education.

The board shall promote an education program to provide for the distribution of information to citizens and in

particular to the boating public. The program shall emphasize the value of the natural resources and the restrictions of use within the regulatory zones, the operation of vessels in a lawful manner to provide for protection of aquatic habitats and the value of such habitats as natural resources to the county.

(Ord. No. 00-93, § 23, 11-14-00)

Sec. 130-101. - Monitoring.

The board or its designee shall continue a monitoring program in order to determine the success or failure of the adopted restrictions and posting upon natural resources. The county administrator shall periodically present to the board the status of the monitoring program and shall recommend its continuation, modification or revocation.

(Ord. No. 00-93, § 24, 11-14-00)

Editor's note— Ord. No. 00-93, § 26, adopted Nov. 14, 2000, repealed the former § 130-101. The former § 130-101 pertained to definitions and derived from Ord. No. 88-53, § 1, adopted Dec. 6, 1988.

Sec. 130-102. - Exemptions.

Any governmental employee or officer or authorized agent thereof, while performing duties pursuant to this article or other law or within their official capacity, is hereby exempted from all sections of this article. However, reasonable efforts must be made by these individuals to avoid damage to the aquatic habitat.

(Ord. No. 00-93, § 25, 11-14-00)

Editor's note— Ord. No. 00-93, § 27, adopted Nov. 14, 2000, repealed the former § 130-102. The former § 130-102 pertained to criteria for establishing zones; actions regulated and derived from Ord. No. 88-53, § 2, adopted Dec. 6, 1988.

Sec. 130-103. - Location of idle speed/no wake zones; actions regulated.

The following described waterways or portions of waterways are hereby established as idle speed no wake zones. It shall be a violation of this article to operate a vessel at a speed in excess of idle within any idle speed/no wake zone.

(1)

That portion of the Weedon Island Channel located between Papy's Bayou and Riviera Bay, and located in Section 28, Township 30 South, Range 17 East, as shown on the attached sketch labeled, "Idle Speed Zone, Weedon Island Channel" (appendix A).

(2)

Those channels, canals, and land cuts in Tierra Verde, and as shown on the attached sketch labeled, "Idle Speed Zone, Tierra Verde" (appendix B).

(3)

That body of water known as the Lake Tarpon Outfall Canal and extending from the southern boundary of Lake Tarpon to the upper limits of Safety Harbor Bay and as shown on the attached sketch labeled, "Idle

Speed Zone, Lake Tarpon Outfall Canal" (appendix C).

(4)

Those waters surrounding the Oakhurst Shores Subdivision and Boca Ciega Bay, west of the Intracoastal Waterway in Section 33, Township 30, Range 15 East and Section 4, Township 31, Range 15 East, and as shown on the attached sketch labeled, "Idle Speed Zone, Oakhurst Shores" (appendix D).

(5)

That portion of Allen's Creek, from 1,200 feet east of the U.S. 19 Bridge to the intersection of Belleair Road and Allen's Creek, including all bays, tributaries and impoundments (shown graphically on attachment E). (Sections 29 and 30, Township 29, Range 16.) (Section 25, Township 30, Range 15.)

(6)

The waters of Lake St. George being situated within several residential communities south of Tampa Road (SR 584), east of Lake Street, George Drive, north of Countryside, and west of the Lake Tarpon Outfall Canal. The lake is located in Section 8, Township 28 South, Range 16 East, and is further described graphically upon the attached sketch labeled, "Idle Speed Zone, Lake St. George" (appendix F).

(7)

An area along the north side of the Belleair Causeway, from the Intracoastal right-of-way line to the mean high water line of the main island, and from the shoreline to a point 300 feet offshore. The area is located in Section 31, Township 29 South, Range 15 East, and is graphically shown on the attached sketch labeled "Idle Speed Zone, Belleair Causeway" (appendix G).

(8)

That area of Lake Seminole known as the "Narrows" and bordered on the south by the north section line of Sections 22 and 23, Township 30 South, Range 15 East, and on the north by the ½ section line of Sections 14 and 15, Township 30 South, Range 15 East. The east and west boundaries of the zone shall be shoreline (elevation 5) of Lake Seminole, and is graphically shown on the attached sketch labeled "Idle Speed Zone, Lake Seminole Narrows" (appendix H).

(9)

The channel having northeast to southwest alignment and is crossed by the first bridge of the Dunedin Causeway, located in Section 15, Township 28 South, Range 15 East. Said channel is approximately 300 feet wide with boundaries on the north by the north subdivision line of Dunedin Causeway Center, Second Replat, Subdivision. The south boundary of the zone is the south property line of the South Paula Pointe Condominiums, and is graphically shown on the attached sketch labeled "Idle Speed Zone, Dunedin Causeway" (appendix I).

(10)

The area of McKay and Church Creeks and near Largo, beginning at Indian Rocks Road and encompassing an area to a line that connects lot 111, block J, Harbor Hills Estates Subdivision and lot 12 of Carlton Estates Subdivision. Said line has a southeast-northwest orientation and is approximately 720 feet long and is

graphically shown on the attached sketch labeled "Idle Speed Zone, McKay Creek at Church Creek" (appendix J).

(11)

Portions of Lake Tarpon, a meandered freshwater lake, located in the northeast section of the county, as follows: All inland canals, creeks and tributaries, natural or manmade, adjacent to and connected to the waters of Lake Tarpon, and a 200-foot buffer zone adjacent to and parallel to the shoreline or the rooted emergent vegetation line of Lake Tarpon, as graphically shown on the attached sketch labeled "Idle Speed Zone, Lake Tarpon" (appendix K).

(12)

That portion of Lake Seminole, being a meandered freshwater lake, located in the central section of Pinellas County, and as further enumerated: all inland canals, creeks and tributaries, natural or manmade, adjacent to and connected to the waters of Lake Seminole, and a 100-foot buffer zone adjacent to and parallel to the shoreline or the rooted emergent vegetation line of Lake Seminole, as graphically shown on the attached sketch labeled "Idle Speed Zone, Lake Seminole" (appendix L).

(13)

Those waters which make up the Cross Bayou Canal, North Segment, being more particularly described as follows: The waters of Cross Bayou, North Section, bounded on the east and the west by the mean high-water line, on the south by SR 686 and on the north by the shoreline of Tampa Bay (entrance to Cross Bayou). This area includes all bays, coves and other water bodies connected to this segment of Cross Bayou.

(14)

Those waters which make up the Cross Bayou Canal, South Segment, being more particularly described as follows: The waters of Cross Bayou, bounded on the south by a point 4,000 feet south of the Starkey Road (SR 695) Bridge; the east and west boundaries to be the mean high water line, including Joe's Creek; and by 66th Street as the north boundary. The area includes all bays, coves and other water bodies connected to this segment of Cross Bayou (as depicted on attachment A to Ord. No. 93-18).

(15)

Those waters which make up the Brooker Creek Basin (Lagoon) within Ozona Shores Third Addition (Section 10, Township 28 South, Range 15 East) to a point 400 feet south of the bridge at Shore Drive (CR 137) (as depicted in attachment B to Ord. No. 93-18).

(16)

Those waters which make up the Anclote River, east to the Pinellas County/Pasco County line, being more particularly described as follows: The waters of the Anclote River, east of U.S. Highway 19 North to the Pinellas County/Pasco County line (Sections 5 and 6, Township 27 South, Range 16 East). The area includes all bays, coves and other water bodies connected to this segment of the Anclote River except that area shown as cross hatched and lying between markers 3 and 4 and shown as attachment A to Ord. No. 94-46.

(17)

The waters of Boca Ciega Bay adjacent to and to the east and south of Bayview Drive, in an unincorporated area of Pinellas County known as Tierra Verde, for a distance of 50 feet from the mean high water line (shown graphically on attachment B to Ord. No. 93-102).

(18)

A zone completely surrounding Pasadena Island Subdivision (Section 31, Township 31, Range 16) for a distance of 75 feet from the existing seawall; extending 1,500 feet east of the ICW between Sailboat Key Boulevard and 79th Street South; encompassing the two canals east of the IntraCoastal Waterway (ICW) that pass under Corey Causeway; and extending 150 feet from the existing seawall on Sun Island to connect the canals to one another and to the ICW (shown graphically on Attachment A).

(19)

The water surrounding Harbor Bluffs Subdivision (Sections 31 and 32, Township 29, Range 15) bounded on the west by the east right-of-way line of the Pinellas segment of the Intracoastal Waterway, bounded on the east by the mean high water line of the natural shoreline, bounded on the north by the mean high water and bridge of the Belleair Causeway and bounded on the south by the extension of the southerly property line of lot 9, Harbor Hills Estates, as extended to the easterly right-of-way line of the Intracoastal Waterway (shown on attachment T).

(20)

An idle speed zone is established beginning at the existing boat ramp immediately west of Live Oak Park in Crystal Beach and extending 150 feet into St. Joseph Sound. The idle speed zone is 30 feet wide.

(21)

The channel immediately south and east of Collany Island, which is located south of Pass-A-Grille channel in the north one-half portion of Section 30, Township 32, Range 16 and as shown graphically on the attached map entitled "Proposed Aquatic Regulatory Zones Shell Key/Fort Desoto."

(22)

Those waters in the cove south of Indian Bluffs Island Subdivision and Causeway bounded on the west by a line projecting from the south west property corner of lot 9 of Indian Bluff Island to the northwest corner of lot 2, Seaside Point 2nd addition. The zone is bounded on the south and east by the mean high water line. All of which is in section 35, Township 27, Range 15 and as shown specifically on attachment 23 [of Ordinance No. 96-94].

(23)

Those waters in the cove at the south end of Lake Tarpon bounded on the north by a line which is a projection of the north subdivision line of Highland Lakes, Unit 93 to the mouth of Brooker Creek. Bounded on the south by the entrance to the Lake Tarpon Outfall Canal and located 100 feet from the ordinary high water line of Lake Tarpon (the 100 feet buffer is an existing idle speed no wake zone), all of which is in section 04, Township 28, Range 16 and is shown specifically on attachment 24 [of Ordinance No. 97-36].

(24)

That [portion] of Tampa Bay adjacent to a portion of the Courtney Campbell Causeway, beginning at a location 1,600 feet east of the intersection of McMullen Booth Road, following along the shoreline in an easterly direction, encompassing an area 300 feet south of the, south edge of pavement of SR 60, to a point 2,120 feet east of the point of beginning, located in Section 16, township 29 South, Range 16 East and as shown on the attached sketch, titled "Courtney Campbell Causeway, Idle Speed Zone."

(25)

That body of water known as Sutherland Bayou, within Palm Harbor, bordered to the north by Schooner Drive, to the west by Broadus Street, to the east by Eighth Street and to the south approximately 200' south of Laurel Lane, in Section 35, Township 27 South, Range 15 East, and Section 2, Township 28 South, Range 15 East as shown on the attached sketch, titled "Sutherland Bayou, Idle Speed No Wake Zone."

(26)

The waters of Lake Chautauqua, located solely in section 32, township 28, range 16 east, being approximately 2,700 feet long (N-S) and 1,200 feet wide (E-W).

(Ord. No. 88-53, § 3, 12-6-88; Ord. No. 89-18, § 1, 5-2-89; Ord. No. 89-29, § 1, 6-27-89; Ord. No. 93-18, § 1, 2-23-93; Ord. No. 93-102, § 1, 11-2-93; Ord. No. 94-18, § 1, 3-1-94; Ord. No. 94-46, § 1, 5-10-94; Ord. No. 94-79, § 2(B), 9-27-94; Ord. No. 96-57, § 1, 7-16-96; Ord. No. 96-94, § 1, 12-17-96; Ord. No. 97-36, § 1, 6-3-97; Ord. No. 98-104, § 1, 12-15-98; Ord. No. 00-24, § 1, 3-21-00; Ord. No. 00-93, § 28, 11-14-00; Ord. No. 07-21, § 1, 4-3-07)

Editor's note— The sketches showing the specific location of the idle speed/no wake zones referred to in section 130-103 have not been set out in this Code but are on file and available for inspection in the offices of the county.

Sec. 130-104. - Reserved.

Editor's note— Ord. No. 00-93, § 29, adopted Nov. 14, 2000, repealed § 130-104 which pertained to restrictions to be posted and derived from Ord. No. 88-53, § 4, adopted Dec. 6, 1988.

Sec. 130-105. - Location of slow speed/minimum wake zones; actions regulated.

The following described waterways or portions of waterways are hereby established as slow speed/minimum wake zones. It shall be a violation of this article to operate a vessel at a speed in excess of slow speed within any slow speed/minimum wake zone.

(1)

The southern ½ of that body of water known as Leisure (Salt) Lake which lays in the northern ½ of Section 8, Township 27, Range 16 of Tarpon Springs as shown on the attached map, titled "Leisure (Salt) Lake, Slow Speed/Minimum Wake" zone.

(2)

A zone comprising all of the waters of the Weedon Island Preserve, excepting those waters designated in this article as an idle speed/no wake zone or combustion motor exclusion zone, as shown on the attached map entitled "Proposed Aquatic Regulatory Zones Weedon Island/Gandy Causeway." The Weedon Island Preserve

is located in Township 30, Range 17 and includes Sections 15 and 16, the north ½ of Section 20, Section 21, the west ½ of Section 22, the west ½ of Section 27, Section 28, the northeast ¼ of Section 29, Section 34 and the east ½ of Section 333017.

(3)

A zone comprising all of the waters of the Shell Key Management Area, excepting those waters designated in this article as an idle speed/no wake zone, combustion motor exclusion zone or shallow water caution zone, as shown on the attached map entitled "Proposed Aquatic Regulatory Zones Shell Key/Ft. Desoto." The Shell Key Management Area is located in the following described area: Township 32, Range 16, including the southeast ¼ of Section 9, the south ½ of Section 10, the north ½ of Section 15, the north ½ of Section 16, the east ½ of Section 20, sections 21, 22, and 27 through 34 inclusive; Township 33, Range 16, including sections 3 through 9 inclusive, the northwest ¼ of Section 10, the northwest ¼ of Section 173316 and Section 18.

(4)

A zone encompassing northern Bay Pines Channel, extending from the Pinellas Trail Bridge approximately 2,700 feet south to the green Daybeacon #29. The zone shall also extend east to west from shore to shore to include the boat ramp channel at War Veterans Park. This zone is located on the eastern side of Section 2, Township 31, Range 15 and is depicted on the attached map, titled "Bay Pines Channel, Proposed Slow Speed/Minimum Wake Zone."

(5)

A seasonal (April 1 to November 15) slow speed/minimum wake zone encompassing the shoreline of Safety Harbor is established, which begins at the northwest abutment of the Courtney Campbell Causeway and extends north and east along the shoreline of Safety Harbor to the northwest corner of the Florida Power Corporation property, and which includes all associated and navigable tributaries, lakes, creeks, coves, bends, backwaters, canals, and boat basins, but excludes all marked channels and the Safety Harbor boat basin, and which the distance from shore varies as shown on the attached map entitled "Proposed Aquatic Regulatory Zone, Safety Harbor." The zone is located in Township 28, Range 16, including the south ½ of Section 23, the east ½ of Section 27, the northeast and southeast corners of Section 34, and Sections 22, 26, and 35; Township 29, Range 16, including the southeast ¼ of Section 9, the north ½ of Section 15, the northeast ¼ of 16, and Sections 3 and 10.

(6)

That portion of Bear Creek, shore to shore, beginning at the southern boundary of 10th Avenue Terrace South (approximately 500 feet south of the La Plaza Bridge) and extending upstream to 300 feet south of the weir located approximately 280 feet south of the Brookwood Drive South Bridge.

(Ord. No. 00-93, § 30, 11-14-00; Ord. No. 03-26, § 1, 5-6-03; Ord. No. 04-80, § 1, 11-16-04; Ord. No. 06-68, § 1, 8-22-06; Ord. No. 15-14, § 1, 3-24-15)

Editor's note— The sketches showing the specific location of the slow speed/minimum wake zones referred to in § 130-105 have not been set out in this Code but are on file and available for inspection in the offices of the county.

Sec. 130-106. - Location of combustion motor exclusion zones; actions regulated.

The following described waterways or portions of waterways are hereby established as combustion motor exclusion zones. It shall be a violation of this article to operate a vessel propelled or powered by an internal combustion engine within any combustion engine exclusion area.

(1)

The drainage conveyance known as the Lake Seminole Bypass Canal and located to the east of Lake Seminole and lying in Sections 11, 14, 23 and 26, Township 30, Range 15.

(2)

A zone comprising all of the waters of the Weedon Island Preserve, excepting those waters designated in this article as an idle speed/no wake zone or slow speed minimum wake zone, as shown on the attached map entitled "Proposed Aquatic Regulatory Zones Weedon Island/Gandy Causeway." The Weedon Island Preserve is located in Township 30, Range 17 and includes Sections 15 and 16, the north ½ of Section 20, Section 21, the west ½ of Section 22, the west ½ of Section 27, Section 28, the northeast ¼ of Section 29, Section 34 and the east ½ of Section 333017.

(3)

A zone comprising all of the waters of the Shell Key Management Area, excepting those waters designated in this article as an idle speed/no wake zone, slow speed/minimum wake zone or shallow water caution zone, as shown on the attached map entitled "Proposed Aquatic Regulatory Zones Shell Key/Ft. Desoto." The Shell Key Management Area is located in the following described area: Township 32, Range 16, including the southeast ¼ of Section 9, the south ½ of Section 10, the north ½ of Section 15, the north ½ of Section 16, the east ½ of Section 20, Sections 21, 22, and 27 through 34 inclusive; Township 33, Range 16, including sections 3 through 9 inclusive, the northwest ¼ of Section 10, the northwest ¼ of Section 173316 and Section 18.

(4)

A zone within Ft. DeSoto Park as shown on the attached map entitled "Proposed Aquatic Regulatory Zones—Ft. De Soto Park" that extends 150 feet out into the adjacent waterway beginning directly west of the North Beach Swim Center, extending 5,000 feet south.

(5)

That portion of Bear Creek, shore to shore, within 300 feet (north and south) of the weir located approximately 280 feet south of the Brookwood Drive South Bridge.

(Ord. No. 00-93, § 31, 11-14-00; Ord. No. 08-66, § 1, 10-21-08; Ord. No. 15-14, § 2, 3-24-15)

Editor's note— The sketches showing the specific location of the combustion motor exclusion zones referred to in § 130-106 have not been set out in this Code but are on file and available for inspection in the offices of the county.

Sec. 130-107. - Vessel exclusion zones; actions regulated.

The following described waterways or portions of waterways are hereby established as vessel exclusion zones. It shall be a violation of this article to operate a vessel of any kind, whether power-driven or

non-motorized within any vessel exclusion zone.

(1)

An area from the west abutment of the first bridge heading west on the Fred Howard Park Causeway to the western terminus of said causeway. The vessel exclusion zone shall extend 300 feet both north and south of the shoreline of the causeway. The vessel exclusion zone is depicted graphically (as a restricted boating area) on Appendix A attached to Ordinance No. 89-23.

(2)

An area beginning at the south right-of-way line of Crystal Beach Boulevard, following along the shoreline and encompassing an area 150 feet in breath out into St. Joseph's Sound for a distance of approximately 880 feet to the south right-of-way line of Ohio Avenue, excluding a zone 50 feet wide, beginning at the existing boat ramp and extending into St. Joseph's Sound a distance of 150 feet.

(3)

A zone within Ft. DeSoto Park as shown on the attached map entitled "Proposed Aquatic Regulatory Zones Ft. De Soto—Ft. De Soto Park Vessel Exclusion Zones." Four areas along the shoreline of Fort De Soto Park that extend 150 feet out into the adjacent waterway: (1) North Beach East, beginning directly west of Shelter #6, extending 400 feet south along the shoreline to a point directly west of Shelter #48, (2) North Beach West, beginning directly west of Restroom #1, extending 2,000 feet south along the shoreline to a point directly west of the North Beach Swim Center, (3) East Beach, beginning directly south of Shelter #13, extending 700 feet east along the shoreline, and (4) Dog Beach — beginning 600 feet southwest of the Bay Pier, extending 1,000 feet southwest along the shoreline along the extent of Dog Beach.

(4)

A zone within Sand Key Park as shown on the attached map entitled "Boating Regulatory Zones—Sand Key Park" that extends 150 feet out into the adjacent waterway beginning at the south jetty of Clearwater Pass, extending 2,000 feet south to the south property line of Sand Key Park.

(Ord. No. 00-93, § 32, 11-14-00; Ord. No. 03-67, § 1, 9-9-03; Ord. No. 08-66, § 2, 10-21-08)

Editor's note— The sketches showing the specific location of the no entry zones referred to in section 130-107 have not been set out in this Code but are on file and available for inspection in the offices of the county.

Sec. 130-108. - Shallow water caution zones; actions regulated.

The following described waterways or portions of waterways are hereby established as shallow water caution zones. Vessel operators are advised to use caution within shallow water caution zones so as not to cause any propeller damage or otherwise disturb the aquatic flora and fauna.

(1)

A zone comprising all of the waters of the Shell Key Management Area, excepting those waters designated in this article as an idle speed/no wake zone, slow speed/minimum wake zone or combustion motor exclusion zone, as shown on the attached map entitled "Proposed Aquatic Regulatory Zones Shell Key/Ft. Desoto." The

Shell Key Management Area is located in the following described area: Township 32, Range 16, including the southeast ¼ of Section 9, the south ½ of Section 10, the north ½ of Section 15, the north ½ of Section 16, the east ½ of Section 20, Sections 21, 22, and 27 through 34 inclusive; Township 33, Range 16, including Sections 3 through 9 inclusive, the northwest ¼ of Section 10, the northwest ¼ of Section 173316 and Section 18.

(Ord. No. 00-93, § 35, 11-14-00)

Editor's note— The sketches showing the specific location of the shallow water caution zones referred to in section 130-108 have not been set out in this Code but are on file and available for inspection in the offices of the county.

Secs. 130-109—130-120. - Reserved.

DIVISION 3. - RESERVED[4]

Footnotes:

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Editor's note—Ord. No. 00-93, §§ 33, 34, adopted Nov. 14, 2000, repealed Div. 3, §§ 130-121, 130-122, which pertained to boat exclusion zones and derived from Ord No. 94-79, §§ 1(B), (C), 2(A), adopted Sept. 27, 1994.

Secs. 130-121, 130-122. - Reserved.

APPENDIX A - TABLE OF FRANCHISES[1]

The following franchise ordinances are in effect and the following additional ordinances have been adopted that pertain to franchises:

Ord. No.	Date	Franchisee	Term (years)
82-26	8-17-82	Vision Cable of Pinellas, Inc. (cable communications)	15
82-27	8-17-82	Vision Cable of Pinellas, Inc. (cable communications)	15
83-14	8- 9-83	Centel Cable Television Company of Florida (cable communications)—For Tierra Verde	15
84-25	8-28-84	unknown—Granted for Dunedin Enclaves (cable communications)	—

84-26	8-28-84	unknown—Granted for Oldsmar enclaves (cable communications)	—
84-27	8-28-84	unknown—Granted for Tarpon Springs enclaves (cable communications)	—
86-44 as amended by 86-89	6-26-86 12-23-86	Approves transfer of control of GWC subsidiary—For City of St. Petersburg enclaves (cable communications)	—
86-45 as amended by 86-88	6-26-86 12-23-86	Approves transfer of control of GWC subsidiary—For City of Largo enclaves (cable communications)	—
86-90	12-23-86	Approves transfer of assets of Group W Cable, Inc. cable system for City of Safety Harbor enclaves to Gulfstream (cable communications)	—
[89-25, § 1	6- 6-89	Franchise granted by Ord. No. 83-14 transferred from Centel Cable Television Company of Florida to American Television and Communications Corporation d/b/a CableVision of Central Florida	—]
95-11, § 1	2-21-95	Approves transfer of franchise granted by Ord. No. 82-26 from Vision Cable of Pinellas, Inc., to Time Warner Entertainment-Advance/Newhouse	—

		Partnership	
95-12, § 1	2-21-95	Approves transfer of franchise granted by Ord. No. 82-27 from Vision Cable of Pinellas, Inc., to Time Warner Entertainment-Advance/Newhouse Partnership	—
96-70	9-17-96	GTE Media Ventures Incorporated	
97-68	8-26-97	Amends section 6 of Ord. No. 82-26 as modified by Ord. No. 95-11 by granting a term beginning with the effective date of this ordinance until and including November 27, 1997	—
97-69	8-26-97	Amends section 6 of Ord. No. 82-27 as modified by Ord. No. 95-12 by granting a term beginning with the effective date of this ordinance until and including November 27, 1997	—
97-70	8-26-97	Amends section 6 of Ord. No. 96-70 by granting a term beginning with the effective date of this ordinance until and including November 27, 1997	—
97-94	11-25-97	Amends section 6 of Ord. No. 96-70 as amended by Ord. No. 97-70 by granting a term until and including February 27, 1998	—

97-95	11-25-97	Amends section 6 of Ord. No. 82-26 as modified by Ord. No. 95-11 by granting a term beginning with the effective date of this ordinance until and including February 27, 1998	—
97-96	11-25-97	Amends section 6 of Ord. No. 82-27 as modified by Ord. No. 95-12 by granting a term beginning with the effective date of this ordinance until and including February 27, 1997	—
98-30	2-24-98	Amends section 6 of Ord. No. 96-70 as amended by Ord. No. 97-70 by granting a term for a period until and including May 29, 1998	—
98-31	2-24-98	Amends section 6 of Ord. No. 82-26 as modified by Ord. No. 95-11 by granting a term beginning with the effective date of this ordinance and until May 29, 1997	—
98-32	2-24-98	Amends section 6 of Ord. No. 82-27 as modified by Ord. No. 95-12 by granting a term beginning with the effective date of this ordinance and until May 29, 1997	—
98-48	5-19-98	Amends section 6 of Ord. No. 96-70 by granting a term for a period until and	—

		including September 1, 1998	
98-49	5-19-98	Amends section 6 of Ord. No. 82-26 as modified by Ord. No. 95-11 by granting a term beginning with the effective date of this ordinance until and including September 1, 1998	—
98-50	5-19-98	Amends section 6 of Ord. No. 82-27 as modified by Ord. No. 95-12 by granting a term beginning with the effective date of this ordinance until and including September 1, 1998	—
98-75	8-25-98	Amends section 6 of Ord. No. 82-26, as modified by Ord. No. 95-11 by granting a term beginning with the effective date of this ordinance until and including November 6, 1998	—
98-76	8-25-98	Amends section 6 of Ord. No. 82-27, as modified by Ord. No. 95-12 by granting a term beginning with the effective date of this ordinance until and including November 6, 1998	—
98-77	8-25-98	Amends section 6 of Ord. No. 96-70, as amended by Ord. No. 97-70 by granting a term for a period until and including November 6, 1998	-

98-94	11-3-98	Amends section 6 of Ord. No. 82-26 as modified by Ord. No. 95-11 by granting a term beginning with the effective date of this ordinance until and including February 6, 1999	—
98-95	11-3-98	Amends section 6 of Ord. No. 82-27 as modified by Ord. No. 95-12 by granting a term beginning with the effective date of this ordinance until and including February 6, 1999	—
98-96	11-3-98	Amends section 6 of Ord. No. 96-70 as amended by Ord. No. 97-70 by granting a term until and including February 6, 1999	—
99-13	2-2-99	Amends section 6 of Ord. No. 96-70 as amended by Ord. No. 97-70 by granting a term until and including April 9, 1999	—
99-14	2-2-99	Amends section 6 of Ord. No. 82-26 as modified by Ord. No. 95-11 by granting a term beginning with the effective date of this ordinance until and including April 9, 1999	—
99-15	2-2-99	Amends section 6 of Ord. No. 82-27 as modified by Ord. No. 95-12 by granting a	-

		term beginning with the effective date of this ordinance until and including April 9, 1999	
99-21A	3-2-99	Amends Ord. No. 84-25 by adding XVI to read as follows: The term of the franchise granted under this ordinance shall run through August 31, 1999, but may terminate sooner in the event that the City of Dunedin, Florida franchise terminates sooner, in which case the earlier termination date of the City of Dunedin, Florida franchise will govern. The board is further empowered to earlier terminate this franchise in the event that TCI Cablevision of Pinellas County, Inc. transfers its franchise to an entity which presently holds a general franchise for the unincorporated areas of Pinellas County, which termination will be in favor of the applicability of the general franchise.	—
99-21B	3-2-99	Amends Ord. No. 84-26 by adding the following XVI to read as follows: The term of the franchise granted under this ordinance shall run through	—

		August 31, 1999, but may terminate sooner in the event that the City of Oldsmar, Florida franchise terminates sooner, in which case the earlier termination date of the City of Oldsmar, Florida franchise will govern. The board is further empowered to earlier terminate this franchise in the event that TCI Cablevision of Pinellas County, Inc. transfers its franchise to an entity which presently holds a general franchise for the unincorporated areas of Pinellas County, which termination will be in favor of the applicability of the general franchise.	
99-21C	3-2-99	Amends Article V of contract dated May 11, 1982, which granted control to Teleprompter Southeast, Inc. to read as follows: The term of this agreement shall run through August 31, 1999, but may terminate sooner in the event that the City of Safety Harbor, Florida franchise terminates sooner, in which case the earlier termination date of the city franchise will govern. The board is further empowered to earlier	—

		terminate this franchise in the event that TCI Cablevision of Pinellas County, Inc. transfers its franchise to an entity which presently holds a general franchise for the unincorporated areas of Pinellas County, which termination will be in favor of the applicability of the general franchise.	
99-21D	3-2-99	Amends Ord. No. 84-27 by adding XVI to read as follows: The term of the franchise granted under this ordinance shall run through August 31, 1999, but may terminate sooner in the event that the City of Tarpon Springs franchise terminates sooner, in which case the earlier termination date of the City of Tarpon Springs franchise will govern. The board is further empowered to earlier terminate this franchise in the event that TCI Cablevision of Pinellas County, Inc. transfers its franchise to an entity which presently holds a general franchise for the unincorporated areas of Pinellas County, which termination will be in favor of the applicability of the	—

		general franchise.	
99-31	3-30-99	Amends section 6 or Ord. No. 96-70, as amended by Ord. No. 97-70, to read as follows: The term of the franchise granted by the county pursuant to this ordinance shall be for a period until and including April 9, 1999, extending therefrom on a month-to-month basis. Unless acted upon by the board of county commissioners to the contrary, the term shall be extended on the ninth of every month through the ninth of the following month without action by the board up until and terminating on August 9, 1999.	—
99-32	3-30-99	Amends section 6 of Ord. No. 82-26, as modified by Ord. No. 95-11, as amended, to read as follows: The term of the franchise to be granted by the county pursuant to this ordinance shall be for a period beginning with the effective date of this Ordinance until and including April 9, 1999, extending therefrom on a month-to-month basis. Unless acted upon by the board of county commissioners to the contrary, the term shall	

		be extended on the ninth of every month through the ninth of the following month without action by the board up until and terminating on August 9, 1999.	
99-33	3-30-99	Amends section 6 of Ord. No. 82-27 as modified by Ord. No. 95-12 to read as follows: The term of the franchise to be granted by the county pursuant to this ordinance shall be for a period beginning with the effective date of this Ordinance until and including April 9, 1999, extending therefrom on a month-to-month basis. Unless acted upon by the board of county commissioners to the contrary, the term shall be extended on the ninth of every month through the ninth of the following month without action by the board up until and terminating on August 9, 1999.	—
99-70	7-27-99	Amends section 6 of Ord. No. 96-70 as amended. The term of the franchise granted by the county pursuant to this ordinance shall be for a period beginning with the effective date of this ordinance until and	—

		including September 10, 1999.	
99-71	7-27-99	Amends section 6 of Ord. No. 82-26 as amended. The term of the franchise granted by the county pursuant to this ordinance shall be for a period beginning with the effective date of this ordinance until and including September 10, 1999.	—
99-72	7-27-99	Amends section 6 of Ord. No. 82-27 as amended. The term of the franchise granted by the county pursuant to this ordinance shall be for a period beginning with the effective date of this ordinance until and including September 10, 1999.	—
99-79	7-27-99	Amends section 6 of Ord. No. 82-26 as amended. The term of the franchise granted by the county pursuant to this ordinance shall be for a period beginning with the effective date of this ordinance until and including October 11, 1999.	—
99-80	8-31-99	Amends section 6 of Ord. No. 82-27 as amended. The term of the franchise granted by the county pursuant to this ordinance shall be for a period beginning with the	—

		effective date of this ordinance until and including October 11, 1999.	
99-81	8-31-99	Amends section 6 of Ord. No. 96-70 as amended. The term of the franchise granted by the county pursuant to this ordinance shall be for a period until and including October 11, 1999.	—
99-87	10-5-99	Amends section 6 of Ord. No. 82-26 as amended. The term of the franchise granted by the county pursuant to this ordinance shall be for a period beginning with the effective date of this ordinance until and including November 11, 1999.	—
99-88	10-5-99	Amends section 6 of Ord. No. 82-27 as amended. The term of the franchise granted by the county pursuant to this ordinance shall be for a period beginning with the effective date of this ordinance until and including November 11, 1999.	—
99-89	10-5-99	Amends section 6 of Ord. No. 96-70 as amended. The term of the franchise granted by the county pursuant to this ordinance shall be for a period until and including November 11, 1999.	—

99-96	11-9-99	Amends section 6 of Ord. No. 82-26 as amended. The term of the franchise granted by the county pursuant to this ordinance shall be for a period beginning with the effective date of this ordinance until and including December 26, 1999.	—
99-106	12-14-99	GTE Media Ventures Incorporated.	10
99-107	12-14-99	Amends section 6 of Ord. No. 96-70 as amended. The term of the franchise granted by the county pursuant to this ordinance shall be for a period until and including December 31, 1999.	—
99-108	12-14-99	Amends section 6 of Ord. No. 82-26 as amended. The term of the franchise granted by the county pursuant to this ordinance shall be for a period beginning with the effective date of this ordinance until and including January 28, 2000.	—
99-109	12-14-99	Amends section 6 of Ord. No. 82-27 as amended. The term of the franchise granted by the county pursuant to this ordinance shall be for a period beginning with the effective date of this ordinance until and including January 28,	—

		2000.	
00-5	1-4-00	Time Warner Entertainment-Advance Newhouse Partnership	10
00-11	1-25-00	Amends section 6 of Ord. No. 82-26 as amended. The term of the franchise granted by the county pursuant to this ordinance shall be for a period beginning with the effective date of this ordinance until and including February 22, 2000.	—
00-12	1-25-00	Amends section 6 of Ord. No. 82-27 as amended. The term of the franchise granted by the county pursuant to this ordinance shall be for a period beginning with the effective date of this ordinance until and including February 22, 2000.	—
00-18	2-22-00	Amends section 6 of Ord. No. 82-26 as amended. The term of the franchise to be granted by the county pursuant to this ordinance shall be for a period beginning with the effective date of this ordinance until and including March 31, 2000.	—
00-19	2-22-00	Amends section 6 of Ord. No. 82-27 as amended. The term of the franchise to be	—

		granted by the county pursuant to this ordinance shall be for a period beginning with the effective date of this ordinance until and including March 31, 2000.	
00-26	3-28-00	Amends section 6 of Ord. No. 82-26 as amended. The term of the franchise to be granted by the county pursuant to this ordinance shall be for a period beginning with the effective date of this ordinance until and including May 5, 2000.	—
00-27	3-28-00	Amends section 6 of Ord. No. 82-27 as amended. The term of the franchise to be granted by the county pursuant to this ordinance shall be for a period beginning with the effective date of this ordinance until and including May 5, 2000.	—
00-36	5-2-00	Amends section 6 of Ord. No. 82-26 as amended. The term of the franchise to be granted by the county pursuant to this ordinance shall be for a period beginning with the effective date of this ordinance until and including June 7, 2000.	—

00-37	5-2-00	Amends section 6 of Ord. No. 82-27 as amended. The term of the franchise to be granted by the county pursuant to this ordinance shall be for a period beginning with the effective date of this ordinance until and including June 7, 2000.	—
00-43	6-6-00	Amends section 6 of Ord. No. 82-26 as amended. The term of the franchise to be granted by the county pursuant to this ordinance shall be for a period beginning with the effective date of this ordinance until and including July 12, 2000.	—
00-44	6-6-00	Amends section 6 of Ord. No. 82-27 as amended. The term of the franchise to be granted by the county pursuant to this ordinance shall be for a period beginning with the effective date of this ordinance until and including July 12, 2000.	—
00-64	8-15-00	Time Warner Advance Newhouse Partnership	12½

Footnotes:
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Cross reference— Cable television franchises, § 30-26 et seq.

APPENDIX B - STREET LIGHTING DISTRICTS[1]

The following street lighting districts exist:

Number	District Name
246	Alderman Ridge Subdivision Street Lighting District. Ord. No. 89-11, §§ 1—10, 3-28-89; Ord. No. 03-56, § 45, 7-29-03.
249	Allen's Ridge Unit 4 Subdivision Street Lighting District. Ord. No. 89-57, §§ 1—10, 11-7-89; Ord. No. 03-56, § 3, 7-29-03.
234	Allen's Ridge Units 1, 2 and 3 Subdivision Street Lighting District. Ord. No. 88-29, §§ 1—10, 9-13-88; Ord. No. 03-54, § 77, 7-1-03.
329	Alston Heights Block A Subdivision Street Lighting District. Ord. No. 01-77, §§ 1—12, 11-13-01; Ord. No. 03-77, § 20, 10-7-03.
021	Alston Heights Street Lighting District. Ord. No. 76-4, §§ 1—10, 2-17-76; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 35, 6-24-03.
128	Anchorage of Tarpon Lake Street Lighting District. Ord. No. 82-5, §§ 1—10, 2-23-82; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 73, 6-24-03.
166	Arbor Glen-Phase One and Two Subdivisions Street Lighting District. Ord. No. 84-23, §§ 1—10, 7-31-84; Ord. No. 03-54, § 13, 7-1-03.
042	Arnold's Acres Street Lighting District. Ord. No. 77-31, §§ 1—10, 12-20-77; Ord. No. 79-36, § 1, 11-6-79; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 6, 6-24-03; Ord. No. 03-77, § 34, 10-7-03.
252	Autumn Place Subdivision Street Lighting District. Ord. No. 90-9, §§ 1—10, 2-13-90; Ord. No. 03-56, § 6, 7-29-03.
016	Bardmoor Golf View Estates Street Lighting District. Ord. No. 75-19, §§ 1—10, 9-16-75; Ord. No. 82-25, 8-10-82; Ord. No. 03-54, § 64, 7-1-03.
135	Bardmoor Northeast Street Lighting District. Ord. No. 82-13, §§ 1—10, 6-8-82; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 76, 6-24-03; Ord. No. 03-96, § 9, 12-02-03.
175	Barrington Hills Subdivision Street Lighting District. Ord. No. 85-6, §§ 1—10, 4-2-85; Ord. No. 03-54, § 17, 7-1-03.
196	Barrington Oaks West Subdivision Street Lighting District. Ord. No. 86-10, §§ 1—10, 2-25-86; Ord. No. 03-54, § 46, 7-1-03.
224	Barry Estates Subdivision Street Lighting District. Ord. No. 88-1, §§ 1—10, 2-9-88; Ord. No. 03-54, § 72, 7-1-03.
068	Bay Bluffs Street Lighting District. Ord. No. 79-18, §§ 1—10, 7-17-79; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 27, 6-24-03.
178	Bay Pines Estates & Manor Subdivision Street Lighting District. Ord. No. 85-13, §§ 1—10, 6-11-85; Ord. No. 88-36, §§ 1—10, 9-27-88; Ord. No. 03-77, § 36, 10-7-03.
033	Bay Pines Lakes Phase I Street Lighting District. Ord. No. 77-9, §§ 1—10, 5-19-77; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 7, 6-24-03; Ord. No. 03-96, § 2, 12-02-03.
292	Bayhaven Subdivision Street Lighting District. Ord. No. 95-54, §§ 1—10, 7-25-95; Ord. No. 03-56, § 78, 7-29-03; Ord. No. 03-96, § 19, 12-02-03.

031	Bayview Estates Street Lighting District. Ord. No. 77-3, §§ 1—10, 2-15-77; Ord. No. 82-25, 8-10-82; Ord. No. 0-34, § 6, 6-24-03.
034	Baywood Village Section 5 Street Lighting District. Ord. No. 77-13, §§ 1—10, 6-16-77; Ord. No. 82-25, 8-10-82; Ord. No. 03-77, § 24, 10-7-03.
002	Baywood Village Street Lighting District. Ord. No. 88-54, §§ 1—10, 12-6-88; Ord. No. 03-77, § 6, 10-7-03.
049	Beacon Groves Street Lighting District. Ord. No. 78-9, §§ 1—10, 5-16-78; Ord. No. 79-3, §§ 1, 2, 2-20-79; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 18, 6-24-03.
131	Beacon Groves Unit V Street Lighting District. Ord. No. 82-9, §§ 1—10, 4-27-82; Ord. No. 82-25, 8-10-82; Ord. No. 03-54, § 28, 7-1-03.
142	Beacon Groves Unit VI and Orangepoint Unit II Street Lighting District. Ord. No. 82-37, §§ 1—10, 11-2-82; Ord. No. 03-54, § 34, 7-1-03.
256	Belmont Subdivision First Addition Subdivision Street Lighting District. Ord. No. 90-38, §§ 1—10, 6-12-90; Ord. No. 03-56, § 47, 7-29-03.
035	Bent Tree Estates Street Lighting District. Ord. No. 77-14, §§ 1—10, 7-7-77; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 8, 6-24-03.
182	Blue Jay Woodlands Phases 1, 2 and 3 Subdivisions Street Lighting District. Ord. No. 85-22, §§ 1—10, 9-10-85; Ord. No. 03-54, § 21, 7-1-03.
095	Blue Water Cove Street Lighting District. Ord. No. 80-29, §§ 1—10, 8-19-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-77, § 44, 10-7-03.
039	Boca Ciega Ridge 6th Addition Street Lighting District. Ord. No. 77-26, §§ 1—10, 10-20-77; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 10, 6-24-03.
111	Bonnie Bay Country Club Estates—Phase 4 Street Lighting District. Ord. No. 81-8, §§ 1—10, 4-28-81; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 60, 6-24-03; Ord. No. 03-96, § 8, 12-02-03.
126	Bonnie Bay Country Club Estates—Phase 5 Street Lighting District. Ord. No. 82-3, §§ 1—10, 1-26-82; Ord. No. 82-25, 8-10-82; Ord. No. 03-56, § 14, 7-29-03.
152	Bonnie Bay Country Club Estates—Phase 6 Street Lighting District. Ord. No. 83-13, §§ 1—10, 8-9-83; Ord. No. 03-54, § 2, 7-1-03.
146	Bonnie Bay Country Club Estates—Phase 7 Street Lighting District. Ord. No. 83-6, §§ 1—10, 4-5-83; Ord. No. 03-54, § 38, 7-1-03.
052	Bonnie Bay Country Club Estates—Phase One Street Lighting District. Ord. No. 78-14, §§ 1—10, 6-20-78; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 1, 6-24-03; Ord. No. 03-47, § 20, 6-24-03; ord. No. 03-96, § 4, 12-02-03.
017	Bonnie Bay Street Lighting District. Ord. No. 75-21, §§ 1—10, 11-18-75; Ord. No. 82-25, 8-10-82; Ord. No. 03-77, § 2, 10-7-03.
070	Bonnie Bay Unit III Street Lighting District. Ord. No. 79-34, §§ 1—10, 10-16-79; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 46, 6-24-03.
053	Bonnie Glynn Phase One Street Lighting District. Ord. No. 78-13, §§ 1—10, 6-20-78; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 21, 6-24-03.

138	Bonnie Glynn Phase One-B Street Lighting District. Ord. No. 82-18, §§ 1—10, 7-13-82; Ord. No. 82-25, 8-10-82; Ord. No. 03-54, § 32, 7-1-03.
133	Bonnie Pines Street Lighting District. Ord. No. 82-11, §§ 1—10, 6-8-82; Ord. No. 82-25, 8-10-82; Ord. No. 03-54, § 29, 7-1-03.
294	Boulevard Woodlands Subdivision Street Lighting District. Ord. No. 95-63, §§ 1—10, 9-12-95; Ord. No. 03-56, § 70, 7-29-03.
105	Bridlewood Street Lighting District. Ord. No. 80-46, §§ 1—10, 11-18-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-77, § 47, 10-7-03.
291	Brookers Landing Subdivision Street Lighting District. Ord. No. 95-41, §§ 1—10, 6-27-95; Ord. No. 03-56, § 69, 7-29-03.
145	Canterbury Chase Street Lighting District. Ord. No. 83-3, §§ 1—10, 2-1-83; Ord. No. 03-54, § 37, 7-1-03.
232	Carriage Bay Units 1, 2 and 3 Subdivision Street Lighting District. Ord. No. 88-24, §§ 1—10, 8-2-88; Ord. No. 03-56, § 38, 7-29-03; Ord. No. 03-96, § 12, 12-02-03.
003	Center City Colony Street Lighting District. Ord. No. 88-64, §§ 1—10, 12-6-88; Ord. No. 03-47, § 1, 6-24-03.
026	Century Oaks Street Lighting District. Ord. No. 76-11, §§ 1—10, 5-18-76; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 40, 6-24-03.
328	Charolais Place Subdivision Street Lighting District. Ord. No. 01-76, §§ 1—12, 11-13-01; Ord.
162	Cinnamon Hill Subdivision Street Lighting District. Ord. No. 84-16, §§ 1—10, 5-22-84; Ord. No. 03-54, § 10, 7-1-03.
287	Clear Vista Subdivision Street Lighting District. Ord. No. 94-63, 7-12-94; Ord. No. 03-56, § 67, 7-29-03.
343	Coral Heights Subdivision Street Lighting District. Ord. No. 10-01, 1-5-10.
304	Cornerstone Estates Subdivision Street Lighting District. Ord. No. 96-50, §§ 1—10, 7-2-96; Ord. No. 03-56, § 76, 7-29-03.
274	Country Oak Estates Subdivision Street Lighting District. Ord. No. 92-17, 3-24-92; Ord. No. 03-56, § 58, 7-29-03.
219	Countryside North Tract 3-B Phases 1 and 2 Subdivision Street Lighting District. Ord. No. 87-36, §§ 1—10, 6-9-87; Ord. No. 03-54, § 69, 7-1-03.
207	Countryside North Tract 5—Phases 1, 2, 3 and 4 Subdivisions Street Lighting District. Ord. No. 86-55, §§ 1—10, 9-9-86; Ord. No. 03-56, § 26, 7-29-03.
340	Country Square Subdivision Street Lighting District. Ord. No. 08-52, § 1, 2, 10-7-08.
337	Courtyard at Bardmoor Subdivision Street Lighting District. Ord. No. 03-97, 12-2-03.
300	Cross Bayou Estates Subdivision Street Lighting District. Ord. No. 95-90, §§ 1—10, 12-19-95; Ord. No. 03-56, § 79, 7-29-03.
204	Crossing at the Narrows Subdivision Street Lighting District. Ord. No. 86-49, §§ 1—10, 8-12-86; Ord. No. 03-56, § 25, 7-29-03.
227	Crossings at Lake Tarpon Subdivision Street Lighting District. Ord. No. 88-10, §§ 1—10, 5-3-88; Ord. No. 03-54, § 73, 7-1-03.

202	Crystal Beach Estates Subdivision Street Lighting District. Ord. No. 86-41, §§ 1—10, 6-3-86; Ord. No. 03-56, § 23, 7-29-03.
009	Curlew City Street Lighting District. Ord. No. 88-63, §§ 1—10, 12-6-88; Ord. No. 03-77, § 22, 10-7-03.
089	Curlew Groves Street Lighting District. Ord. No. 80-26, §§ 1—10, 7-22-80; Ord. No. 87-2, § 1, 1-13-87; Ord. No. 82-25, 8-10-82; Ord. No. 03-54, § 56, 7-1-03.
120	Cypress Green Street Lighting District. Ord. No. 81-24, §§ 1—10, 11-3-81; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 68, 6-24-03.
313	Cypress Lake Estates III Subdivision Street Lighting District. Ord. No. 98-37, §§ 1—10, 3-10-98; Ord. No. 03-77, § 10, 10-7-03.
295	Cypress Lake Estates Phase II Subdivision Street Lighting District. Ord. No. 95-64, §§ 1—10, 9-12-95; Ord. No. 03-56, § 71, 7-29-03.
237	Cypress Lakes Estates Phase I Subdivision Street Lighting District. Ord. No. 88-44, §§ 1—10, 10-25-88; Ord. No. 03-56, § 39, 7-29-03.
185	Cypress Point Unit 1 Subdivision Street Lighting District. Ord. No. 85-31, §§ 1—10, 9-24-85; Ord. No. 03-56, § 20, 7-29-03.
210	Cypress Point Unit 2 Subdivision Street Lighting District. Ord. No. 86-77, §§ 1—10, 11-25-86; Ord. No. 03-56, § 27, 7-29-03.
296	Cypress Trails Subdivision Street Lighting District. Ord. No. 95-66, §§ 1—10, 10-3-95; Ord. No. 03-77, § 50, 10-7-03.
303	Cypress Woods Subdivision Street Lighting District. Ord. No. 96-43, §§ 1—10, 5-7-96; Ord. No. 03-56, § 75, 7-29-03.
267	Dalewood Subdivision Street Lighting District. Ord. No. 91-2, 1-8-91; Ord. No. 03-54, § 52, 7-1-03.
323	Deep Spring Subdivision Street Lighting District. Ord. No. 00-51, §§ 1—10, 7-11-00; Ord. No. 03-77, § 16, 10-7-03.
027	Del Prado Imperial Street Lighting District. Ord. No. 76-13, §§ 1—10, 6-15-76; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 41, 6-24-03.
310	Dixie Crossings Subdivision Street Lighting District. Ord. No. 97-91, §§ 1—10, 11-4-97; Ord. No. 03-77, § 9, 10-7-03; Ord. No. 03-96, § 20, 12-02-03.
022	Dorothy Manor Street Lighting District. Ord. No. 76-5, §§ 1—10, 3-16-76; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 36, 6-24-03.
081	Dove Hollow Street Lighting District. Ord. No. 80-14, §§ 1—10, 3-18-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 47, 6-24-03.
117	Dove Hollow—Unit II Street Lighting District. Ord. No. 81-19, §§ 1—10, 9-29-81; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 65, 6-24-03.
262	Drew Oak Estates Subdivision Street Lighting District. Ord. No. 90-73, §§ 1—10, 8-14-90; Ord. No. 03-77, § 38, 10-7-03.
084	Eagle Chase Street Lighting District. Ord. No. 80-16, §§ 1—10, 4-15-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 50, 6-24-03.

254	Eagle Cove Subdivision Street Lighting District. Ord. No. 90-29, §§ 1—10, 3-27-90; Ord. No. 03-56, § 8, 7-29-03.
088	Eastwood Terrace Street Lighting District. Ord. No. 80-35, §§ 1—10, 9-16-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-54, § 55, 7-1-03.
083	Eniswood Street Lighting District. Ord. No. 80-15, §§ 1—10, 3-18-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 49, 6-24-03; Ord. No. 03-96, § 6, 12-02-03.
124	Eniswood—Unit IIB Street Lighting District. Ord. No. 81-28, §§ 1—10, 12-15-81; Ord. No. 82-25, 8-10-82; Ord. No. 03-54, § 63, 7-1-03.
118	Fairway Forest Street Lighting District. Ord. No. 81-20, §§ 1—10, 9-29-81; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 66, 6-24-03.
230	Falcon Ridge and Green Valley Estates Unit 1 Subdivision Street Lighting District. Ord. No. 88-16, §§ 1—10, 6-7-88; Ord. No. 03-77, § 28, 10-7-03.
025	Farmcrest Acres Street Lighting District. Ord. No. 76-10, §§ 1—10, 5-18-76; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 39, 6-24-03.
263	Fieldstone Village at Woodfield and Addition Subdivision Street Lighting District. Ord. No. 90-83, §§ 1—11, 10-23-90; Ord. No. 03-56, § 52, 7-29-03.
149	Forest Grove Phase III Street Lighting District. Ord. No. 83-11, §§ 1—10, 7-5-83; Ord. No. 03-47, § 79, 6-24-03.
140	Forest Grove—Phase I and Phase II Street Lighting District. Ord. No. 82-23, §§ 1—10, 10-12-82; Ord. No. 82-25, 8-10-82; Ord. No. 03-54, § 33, 7-1-03.
297	Forest Oaks Subdivision Street Lighting District. Ord. No. 95-82, §§ 1—10, 12-5-95; Ord. No. 03-56, § 72, 7-29-03.
130	Fox Court Street Lighting District. Ord. No. 82-8, §§ 1—10, 4-6-82; Ord. No. 82-25, 8-10-82; Ord. No. 03-54, § 27, 7-1-03.
157	Frank Estates Subdivision Street Lighting District. Ord. No. 84-6, §§ 1—10, 3-6-84; Ord. No. 03-54, § 5, 7-1-03.
333	Fruit Haven Subdivision Street Lighting District. Ord. No. 02-33, §§ 1—12, 5-7-02; Ord. No. 03-77, § 32, 10-7-03.
276	Glenbrook West Subdivision Street Lighting District. Ord. No. 92-90, 12-8-92; Ord. No. 03-56, § 60, 7-29-03.
005	Golden Palm Manor Street Lighting District. Ord. No. 88-62, §§ 1—10, 12-6-88; Ord. No. 03-47, § 3, 6-24-03.
106	Golfwood 2nd Addition Street Lighting District. Ord. No. 80-47, §§ 1—10, 11-18-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 54, 6-24-03.
013	Golfwoods Addition Street Lighting District. Ord. No. 75-14, §§ 1—5, 9-19-75; Ord. No. 03-54, § 24, 7-1-03.
121	Green Valley Estates Unit Two Street Lighting District. Ord. No. 81-25, §§ 1—10, 11-17-81; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 69, 6-24-03.
085	Greenbrook Estates Street Lighting District. Ord. No. 80-23, §§ 1—10, 6-17-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-54, § 54, 7-1-03.

259	Green's Addition to Patty Ann Acres Subdivision Street Lighting District. Ord. No. 90-47, §§ 1—10, 7-3-90; Ord. No. 03-56, § 51, 7-29-03.
242	Groves at Cobb's Landing Subdivision Street Lighting District. Ord. No. 89-2, §§ 1—10, 1-24-89; Ord. No. 03-56, § 1, 7-29-03.
302	Gulf Terrace 1st Addition Subdivision Street Lighting District. Ord. No. 96-42, §§ 1—10, 4-30-96; Ord. No. 03-56, § 74, 7-29-03.
122	Hammocks Unit I Street Lighting District. Ord. No. 81-26, §§ 1—10, 12-15-81; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 70, 6-24-03.
163	Hammocks Unit II Subdivision Street Lighting District. Ord. No. 84-18, §§ 1—10, 6-5-84; Ord. No. 03-54, § 11, 7-1-03.
176	Hammocks Unit III Subdivision Street Lighting District. Ord. No. 85-7, §§ 1—10, 4-23-85; Ord. No. 03-54, § 18, 7-1-03.
139	Harbor Lakes—Unit I Street Lighting District. Ord. No. 82-22, §§ 1—10, 8-3-82; Ord. No. 82-25, 8-10-82; Ord. No. 03-77, § 26, 10-7-03.
168	Harbor Lakes—Unit II Subdivision Street Lighting District. Ord. No. 84-28, §§ 1—10, 10-2-84; Ord. No. 03-77, § 27, 10-7-03; Ord. No. 03-96, § 10, 12-02-03.
173	Harbor Place Subdivision Street Lighting District. Ord. No. 85-1, §§ 1—10, 1-8-85; Ord. No. 03-54, § 15, 7-1-03; Ord. NO. 03-96, § 11, 12-02-03.
265	Harbor Woods North Subdivision Street Lighting District. Ord. No. 91-3, 1-8-91; Ord. No. 03-56, § 11, 7-29-03.
241	Harbor Woods Subdivision Street Lighting District. Ord. No. 88-65, §§ 1—10, 12-6-88; Ord. No. 03-56, § 41, 7-29-03.
045	Heather Acres Street Lighting District. Ord. No. 78-3, §§ 1—10, 2-21-78; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 14, 6-24-03.
137	Hidden Cove Street Lighting District. Ord. No. 82-17, §§ 1—10, 7-13-82; Ord. No. 82-25, 8-10-82; Ord. No. 03-54, § 31, 7-1-03.
193	Hidden Grove Subdivision Street Lighting District. Ord. No. 86-3, §§ 1—10, 1-14-86; Ord. No. 03-54, § 43, 7-1-03.
144	Hidden Lake Street Lighting District. Ord. No. 83-1, §§ 1—10, 1-4-83; Ord. No. 03-54, § 36, 7-1-03.
194	Hidden Meadows Subdivision Street Lighting District. Ord. No. 86-7, §§ 1—10, 1-28-86; Ord. No. 03-54, § 44, 7-1-03.
316	Hidden Pines @ Countryside Subdivision Street Lighting District. Ord. No. 98-55, §§ 1—10, 6-9-98; Ord. No. 03-77, § 12, 10-7-03.
311	High Point North Subdivision Street Lighting District. Ord. No. 97-100, §§ 1—10, 12-9-97; Ord. No. 03-77, § 54, 10-7-03.
036	Highland Lakes Street Lighting District. Ord. No. 77-15, §§ 1—10, 7-21-77; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 56, 6-24-03.
119	Highland Lakes Unit 13 Phase 2 Street Lighting District. Ord. No. 81-23, §§ 1—10, 10-27-81; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 67, 6-24-03.

238	Highland Lakes Unit 17 Phase 2 Subdivision Street Lighting District. Ord. No. 88-49, §§ 1—10, 11-8-88; Ord. No. 03-54, § 79, 7-1-03.
211	Highland Lakes Units 13, 14 and 15 Subdivision Street Lighting District. Ord. No. 86-78, §§ 1—10, 11-25-86; Ord. No. 03-54, § 51, 7-1-03.
244	Hill Groves Estates/Collins Estates Phases 1, 2 and 3 Subdivision Street Lighting District. Ord. No. 89-8, §§ 1—10, 2-14-89; Ord. No. 03-56, § 43, 7-29-03.
127	Hilltop Groves Estates Street Lighting District. Ord. No. 82-6, §§ 1—10, 2-23-82; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 72, 6-24-03.
331	Hoeldtke Heights Subdivision Street Lighting District. Ord. No. 01-83, §§ 1—12, 12-11-01; Ord. No. 03-56, § 77, 7-29-03; Ord. No. 03-96, § 22, 12-02-03.
301	Holdcroft Heights Subdivision Street Lighting District. Ord. No. 96-22, §§ 1—10, 2-20-96; Ord. No. 03-56, § 80, 7-29-03.
305	Holiday Heights Subdivision Street Lighting District. Ord. No. 96-62, §§ 1—10, 7-30-96; Ord. No. 03-77, § 51, 10-7-03.
012	Holiday Highlands/Seminole Hills Street Lighting District. Ord. No. 88-61, §§ 1—10, 12-6-88; Ord. No. 03-77, § 1, 10-7-03.
123	Homestead Woods Street Lighting District. Ord. No. 81-27, §§ 1—10, 12-15-81; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 71, 6-24-03.
063	Hunters Wood Street Lighting District. Ord. No. 78-28, §§ 1—10, 10-17-78; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 43, 6-24-03; Ord. No. 03-96, § 5, 12-02-03.
006	Imperial Point Street Lighting District. Ord. No. 88-60, §§ 1—10, 12-6-88; Ord. No. 03-56, § 12, 7-29-03.
113	Indian Trails Street Lighting District. Ord. No. 81-14, §§ 1—10, 7-14-81; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 62, 6-24-03.
258	Kapok Terrace and Kapok Terrace First Addition Subdivision Street Lighting District. Ord. No. 90-46, §§ 1—10, 7-3-90; Ord. No. 03-56, § 48, 7-29-03; Ord. No. 03-96, § 15, 12-02-03.
061	Kaywood Gardens Unit Two Street Lighting District. Ord. No. 78-24, §§ 1—10, 10-17-78; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 26, 6-24-03.
293	Keystone Phase 1 Subdivision Street Lighting District. Ord. No. 95-59, §§ 1—10, 8-1-95; Ord. No. 03-77, § 49, 10-7-03.
306	Keystone Phase 2 Subdivision Street Lighting District. Ord. No. 96-81, §§ 1—10, 10-22-96; Ord. No. 03-77, § 52, 10-7-03.
115	Keystone Ranchettes Street Lighting District. Ord. No. 81-16, §§ 1—10, 7-28-81; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 64, 6-24-03.
307	Lake Park Subdivision Street Lighting District. Ord. No. 97-10, §§ 1—10, 2-18-97; Ord. No. 03-77, § 7, 10-7-03.
201	Lake Seminole Village Stage 3 and Stage 4 Subdivisions Street Lighting District. Ord. No. 86-40, §§ 1—10, 5-13-86; Ord. No. 03-56, § 22, 7-29-03.
134	Lake Seminole Village Stage 1 Street Lighting District. Ord. No. 82-12, §§ 1—10, 6-8-82; Ord. No. 82-25, 8-10-82; Ord. No. 03-77, § 3, 10-7-03.

236	Lake Shore Estates 1st, 2nd, 4th, 5th and 6th Additions Subdivision Street Lighting District. Ord. No. 88-46, §§ 1—10, 11-1-88; Ord. No. 03-77, § 29, 10-7-03; Ord. No. 03-96, § 13, 12-02-03.
270	Lake Shore Estates 3rd Addition Subdivision Street Lighting District. Ord. No. 91-28, 4-30-91; Ord. No. 03-77, § 39, 10-7-03.
225	Lake St. George South Unit 4 Subdivision Street Lighting District. Ord. No. 88-6, §§ 1—10, 3-2-88; Ord. No. 03-56, § 35, 7-29-03.
154	Lake St. George South Unit 1 Street Lighting District. Ord. No. 83-16, §§ 1—10, 11-1-83; Ord. No. 03-54, § 4, 7-1-03.
161	Lake St. George South Unit II Subdivision Street Lighting District. Ord. No. 84-11, §§ 1—10, 5-1-84; Ord. No. 03-54, § 9, 7-1-03.
213	Lake St. George South Unit III Subdivision Street Lighting District. Ord. No. 87-8, §§ 1—10, 3-10-87; Ord. No. 03-56, § 29, 7-29-03.
065	Lake St. George Street Lighting District. Ord. No. 79-9, §§ 1—10, 3-6-79; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 44, 6-24-03.
110	Lake St. George Unit II Street Lighting District. Ord. No. 81-7, §§ 1—10, 4-14-81; Ord. No. 82-25, 8-10-82; Ord. No. 03-54, § 62, 7-1-03.
283	Lake Tarpon Estates Subdivision Street Lighting District. Ord. No. 94-1, 1-11-94; Ord. No. 03-77, § 42, 10-7-03; Ord. No. 03-96, § 18, 12-02-03.
112	Lake Valencia Unit One Street Lighting District. Ord. No. 81-9, §§ 1—10, 5-12-81; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 61, 6-24-03.
169	Lake Valencia Units 2, 3A and 3B Subdivisions Street Lighting District. Ord. No. 84-30, §§ 1—10, 10-2-84; Ord. No. 03-56, § 17, 7-29-03.
221	Lakes of Pine Ridge Subdivision Street Lighting District. Ord. No. 87-54, §§ 1—10, 9-15-87; Ord. No. 03-54, § 70, 7-1-03.
220	Lakeshore Village at Woodfield Subdivision Street Lighting District. Ord. No. 87-31, §§ 1—10, 6-2-87; Ord. No. 03-56, § 33, 7-29-03; Ord. No. 03-96, § 7, 12-02-03.
093	Laura Anne Estates Street Lighting District. Ord. No. 80-33, §§ 1—10, 8-19-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 57, 6-24-03.
299	Laura's Place Subdivision Street Lighting District. Ord. No. 95-89, §§ 1—10, 12-19-95; Ord. No. 03-54, § 30, 7-1-03.
195	Laurel Oak Woods Subdivision Street Lighting District. Ord. No. 86-8, §§ 1—10, 1-28-86; Ord. No. 03-54, § 45, 7-1-03.
075	Laurelwood Estates Street Lighting District. Ord. No. 79-40, §§ 1—10, 11-20-79; Ord. No. 82-25, 8-10-82; Ord. No. 03-54, § 66, 7-1-03.
184	Leach Estates Subdivision Street Lighting District. Ord. No. 85-30, §§ 1—10, 9-24-85; Ord. No. 03-54, § 23, 7-1-03.
330	Lealman Heights 1st Section Subdivision Street Lighting District. Ord. No. 01-82, §§ 1—12, 12-11-01; Ord. No. 03-77, § 21, 10-7-03; Ord. No. 03-96, § 21, 12-02-03.
335	Lealman Heights 2nd Section Subdivision Street Lighting District. Ord. No. 03-10, §§ 1—12, 2-4-03; Ord. No. 03-77, § 62, 10-7-03.

332	Lealman Heights 3rd Section Subdivision Street Lighting District. Ord. No. 02-32, §§ 1—12, 5-7-02; Ord. No. 03-77, § 31, 10-7-03.
336	Lealman Heights 5th Section Subdivision Street Lighting District. Ord. No. 03-42, §§ 1—12, 6-10-03; Ord. No. 03-77, § 5, 10-7-03.
326	Lealman South Subdivision Street Lighting District. Ord. No. 01-41, §§ 1—12, 6-26-01; Ord. No. 03-77, § 60, 10-7-03.
090	Leona Heights Street Lighting District. Ord. No. 80-36, §§ 1—10, 9-16-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 52, 6-24-03.
011	Lofty Pine Estates Street Lighting District. Ord. No. 88-59, §§ 1—10, 12-6-88; Ord. No. 03-47, § 31, 6-24-03.
102	Lynmar Estates Street Lighting District. Ord. No. 80-42, §§ 1—10, 10-21-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-77, § 45, 10-7-03.
271	Lynn Oaks Subdivision Street Lighting District. Ord. No. 91-38, 9-10-91; Ord. No. 03-56, § 56, 7-29-03.
341	Madison Avenue Street Lighting District. Ord. No. 09-50, §§ 1, 2, 10-6-09.
282	Magnolia Place Subdivision Street Lighting District. Ord. No. 93-97, 10-26-93; Ord. No. 03-56, § 64, 7-29-03.
177	Marla Grove Estates Subdivision Street Lighting District. Ord. No. 85-9, §§ 1—10, 5-7-85; Ord. No. 03-56, § 18, 7-29-03.
198	Mayfair Woods Subdivision Street Lighting District. Ord. No. 86-13, §§ 1—10, 3-25-86; Ord. No. 03-54, § 48, 7-1-03.
315	Mid County Industrial Center Subdivision Street Lighting District. Ord. No. 98-46, §§ 1—10, 4-28-98; Ord. No. 03-77, § 56, 10-7-03.
321	Misty Woods Subdivision Street Lighting District. Ord. No. 99-105, §§ 1—12, 12-14-99; Ord. No. 03-77, § 15, 10-7-03.
158	Monterey Gardens Subdivision Street Lighting District. Ord. No. 84-7, §§ 1—10, 3-13-84; Ord. No. 03-54, § 6, 7-1-03.
179	Monterey Heights and John A. Wilcox Subdivisions Street Lighting District. Ord. No. 85-18, §§ 1—10, 7-23-85; Ord. No. 03-56, § 19, 7-29-03.
285	Natowich Subdivision Street Lighting District. Ord. No. 94-28, 4-5-94; Ord. No. 03-56, § 66, 7-29-03.
008	Newport Street Lighting District. Ord. No. 88-58, §§ 1—10, 12-6-88; Ord. No. 03-47, § 29, 6-24-03.
167	Noell Heights Unit One and Unit Two Subdivisions Street Lighting District. Ord. No. 84-24, §§ 1—10, 8-7-84; Ord. No. 03-54, § 14, 7-1-03.
183	Noell Heights Unit Three Subdivision Street Lighting District. Ord. No. 85-25, §§ 1—10, 9-10-85; Ord. No. 03-54, § 22, 7-1-03.
214	Normandy Estates Subdivision Street Lighting District. Ord. No. 87-25, §§ 1—10, 5-5-87; Ord. No. 03-56, § 30, 7-29-03.

057	North Whitney Pines Street Lighting District. Ord. No. 80-21, §§ 1—10, 5-20-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-77, § 25, 10-7-03.
174	Oak Creek Estates Subdivision Street Lighting District. Ord. No. 85-5, §§ 1—10, 3-26-85; Ord. No. 03-54, § 16, 7-1-03.
235	Oak Hill Acres Subdivision Street Lighting District. Ord. No. 88-35, §§ 1—10, 9-27-88; Ord. No. 03-54, § 78, 7-1-03.
064	Oak Park Street Lighting District. Ord. No. 79-2, §§ 1—10, 2-20-79; Ord. No. 82-29, §§ 1, 2, 9-7-82; Ord. No. 82-25, 8-10-82; Ord. No. 03-56, § 49, 7-29-03.
250	Oak Trail Subdivision Street Lighting District. Ord. No. 89-58, §§ 1—10, 11-7-89; Ord. No. 03-56, § 4, 7-29-03.
191	Oakhill Acres First Addition Subdivision Street Lighting District. Ord. No. 86-1, §§ 1—10, 1-7-86; Ord. No. 03-54, § 42, 7-1-03.
290	Oakhurst Groves #2 Subdivision Street Lighting District. Ord. No. 95-19, §§ 1—12, 3-28-95; Ord. No. 03-77, § 48, 10-7-03.
286	Oakhurst Groves Subdivision Street Lighting District. Ord. No. 94-54, 6-14-94; Ord. No. 03-77, § 43, 10-7-03.
153	Oakhurst Shores Fifth Addition Street Lighting District. Ord. No. 83-15, §§ 1—10, 8-23-83; Ord. No. 03-54, § 3, 7-1-03.
279	Oakhurst Shores Subdivision Street Lighting District. Ord. No. 93-71, 7-27-93; Ord. No. 03-77, § 41, 10-7-03.
014	Oakhurst Terrace Street Lighting District. Ord. No. 75-15, §§ 1—5, 8-19-75; Ord. No. 03-54, § 25, 7-1-03.
223	Oakhurst Trails Subdivision Street Lighting District. Ord. No. 88-2, §§ 1—10, 2-9-88; Ord. No. 03-54, § 71, 7-1-03.
216	Oaklake Village at Woodfield Phase I and Oaklake Village at Woodfield Phase II Subdivisions Street Lighting District. Ord. No. 87-28, §§ 1—10, 5-12-87; Ord. No. 03-56, § 32, 7-29-03.
226	Oakridge Trails Subdivision Street Lighting District. Ord. No. 88-7, §§ 1—10, 3-22-88; Ord. No. 99-99, § 1, 11-23-99; Ord. No. 03-56, § 36, 7-29-03.
100	Oaktree Highlands Street Lighting District. Ord. No. 80-44, §§ 1—10, 10-21-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-54, § 60, 7-1-03.
079	Orange Estates Street Lighting District. Ord. No. 80-12, §§ 1—10, 3-18-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-77, § 35, 10-7-03.
015	Orange Lake Village Street Lighting District. Ord. No. 75-18, §§ 1—10, 9-16-75; Ord. No. 82-25, 8-10-82; Ord. No. 03-77, § 23, 10-7-03.
278	Orange Terrace 1st and 2nd Addition Subdivision Street Lighting District. Ord. No. 93-66, 6-22-93; Ord. No. 03-77, § 4, 10-7-03.
334	Orangewood Heights Subdivision Street Lighting District. Ord. No. 02-34, §§ 1—12, 5-7-02; Ord. No. 03-77, § 33, 10-7-03.
062	Parkside Unit 1 Street Lighting District. Ord. No. 78-27, §§ 1—10, 10-17-78; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 42, 6-24-03.

268	Pasadena Golf Club Estates Subdivision Street Lighting District. Ord. No. 91-16, 4-9-91; Ord. No. 03-77, § 30, 10-7-03; Ord. No. 03-96, § 17, 12-02-03.
037	Patty Ann Acres Street Lighting District. Ord. No. 77-16, §§ 1—10, 8-4-77; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 9, 6-24-03.
159	Patty Ann First Addition Subdivision Street Lighting District. Ord. No. 84-8, §§ 1—10, 4-10-84; Ord. No. 03-54, § 7, 7-1-03.
325	Pelican Creek 2nd Addition Subdivision Street Lighting District. Ord. No. 01-7, §§ 1—12, 1-23-01; Ord. No. 03-77, § 18, 10-7-03.
269	Pine Bay Park No. 2 Subdivision Street Lighting District. Ord. No. 91-27, 4-23-91; Ord. No. 03-56, § 55, 7-29-03.
266	Pine Bay Park Subdivision Street Lighting District. Ord. No. 91-1, 1-8-91; Ord. No. 03-56, § 54, 7-29-03.
239	Pine Bluff Acres Subdivision Street Lighting District. Ord. No. 88-48, §§ 1—10, 11-8-88; Ord. No. 03-54, § 80, 7-1-03.
322	Pine Oak II Subdivision Street Lighting District. Ord. No. 00-35, §§ 1—10, 5-2-00; Ord. No. 03-77, § 59, 10-7-03.
312	Pine Oak Subdivision Street Lighting District. Ord. No. 97-105, §§ 1—10, 12-23-97; Ord. No. 00-34, 5-2-00; Ord. No. 03-77, § 55, 10-7-03.
125	Pinebrook Estates, Unit I Street Lighting District. Ord. No. 82-4, §§ 1—10, 1-26-82; Ord. No. 82-25, 8-10-82; Ord. No. 03-56, § 13, 7-29-03.
059	Pinellas Center Street Lighting District. Ord. No. 78-26, §§ 1—10, 10-17-78; Ord. No. 82-28, §§ 1, 2, 8-31-82; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 24, 6-24-03.
044	Pinetree Village Street Lighting District. Ord. No. 78-2, §§ 1—10, 2-21-78; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 13, 6-24-03.
260	Pinnacle at Cobb's Landing Subdivision Street Lighting District. Ord. No. 90-48, §§ 1—10, 7-3-90; Ord. No. 03-56, § 10, 7-29-03; Ord. No. 03-96, § 16, 12-02-03.
248	Pipers Meadow Subdivision Street Lighting District. Ord. No. 89-34, §§ 1—10, 8-22-89; Ord. No. 03-56, § 46, 7-29-03.
018	Pleasure World Park Street Lighting District. Ord. No. 75-22, §§ 1—10, 11-18-75; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 32, 6-24-03.
277	Rainforest Subdivision Street Lighting District. Ord. No. 93-63, 6-8-93; Ord. 97-61, 7-22-97; Ord. No. 03-56, § 61, 7-29-03.
205	Ramblewood Subdivision Street Lighting District. Ord. No. 86-51, §§ 1—10, 8-26-86; Ord. No. 03-54, § 50, 7-1-03.
338	Red Bird Court Street Lighting District. Ord. No. 07-27 §§ 1—4, 5-15-07.
245	Reserve at Lake Tarpon Subdivision Street Lighting District. Ord. No. 89-7, §§ 1—10, 2-14-89; Ord. No. 03-56, § 44, 7-29-03.
019	Resort Lake Estates Street Lighting District. Ord. No. 76-2, §§ 1—10, 1-20-76; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 33, 6-24-03.

108	Rexdale Heights First Addition Street Lighting District. Ord. No. 81-6, §§ 1—10, 3-31-81; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 59, 6-24-03.
344	Rexdale Heights II Subdivision Street Lighting District. Ord. No. 12-36, §§ 1—5, 8-7-12.
074	Ridge Grove Street Lighting District. Ord. No. 79-39, §§ 1—10, 11-20-79; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 28, 6-24-03.
023	Ridge Park Estates Street Lighting District. Ord. No. 76-6, §§ 1—10, 4-20-76; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 37, 6-24-03.
091	Ridge Park Estates Unit 2 Street Lighting District. Ord. No. 80-30, §§ 1—10, 8-19-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-54, § 57, 7-1-03.
320	Ridgecrest Acres South Subdivision Street Lighting District. Ord. No. 99-68, §§ 1—10, 7-27-99; Ord. No. 03-77, § 58, 10-7-03.
309	Ridgecrest Acres Subdivision Street Lighting District. Ord. No. 97-73, §§ 1—10, 9-9-97; Ord. No. 03-77, § 53, 10-7-03.
327	Ridgewood Groves Unit 4 Subdivision Street Lighting District. Ord. No. 01-63, §§ 1—12, 9-11-01; Ord. No. 03-77, § 61, 10-7-03.
040	Ridgewood Manor Street Lighting District. Ord. No. 77-25, §§ 1—10, 10-20-75; Ord. No. 82-25, 8-10-82.
004	Ridgewood Mountain Village Street Lighting District. Ord. No. 88-57, §§ 1—10, 12-6-88; Ord. No. 03-47, § 2, 6-24-03.
051	Ridgewood Riviera Street Lighting District. Ord. No. 78-12, §§ 1—10, 6-20-78; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 19, 6-24-03.
314	Robinwood Subdivision Street Lighting District. Ord. No. 98-44, §§ 1—10, 4-14-98; Ord. No. 03-77, § 11, 10-7-03.
020	Rolling Heights Street Lighting District. Ord. No. 76-1, §§ 1—10, 1-20-76; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 34, 6-24-03.
255	Rolling Oaks Subdivision Street Lighting District. Ord. No. 90-36, §§ 1—10, 6-5-90; Ord. No. 03-56, § 9, 7-29-03.
056	Rosetree Estates Street Lighting District. Ord. No. 78-19, §§ 1—10, 8-15-78; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 23, 6-24-03.
222	Rosetree Oaks Unit II Subdivision Street Lighting District. Ord. No. 87-60, §§ 1—10, 11-17-87; Ord. No. 03-56, § 34, 7-29-03.
104	Rosetree Place Street Lighting District. Ord. No. 80-41, §§ 1—10, 10-21-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-77, § 46, 10-7-03.
317	Rountree Acres Subdivision Street Lighting District. Ord. No. 98-54, §§ 1—10, 6-9-98; Ord. No. 03-77, § 13, 10-7-03.
339	Royal Palms Trailer Homes Subdivision Street Lighting District. Ord. No. 08-51, § 1, 2, 10-7-08
180	Rustic Oaks First Addition Subdivision Street Lighting District. Ord. No. 85-24, §§ 1—10, 9-10-85; Ord. No. 03-54, § 19, 7-1-03.
189	Rustic Oaks Second Addition Subdivision Street Lighting District. Ord. No. 85-38, §§ 1—10, 12-3-85; Ord. No. 03-54, § 41, 7-1-03.

092	Rustic Oaks Street Lighting District. Ord. No. 80-32, §§ 1—10, 8-19-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 53, 6-24-03.
077	Rustic Pines Street Lighting District. Ord. No. 80-2, §§ 1—10, 2-19-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-54, § 67, 7-1-03.
217	Rustic Woods II Subdivision Street Lighting District. Ord. No. 87-30, §§ 1—10, 6-2-87; Ord. No. 03-54, § 68, 7-1-03.
082	Rustic Woods Street Lighting District. Ord. No. 80-13, §§ 1—10, 3-18-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 48, 6-24-03.
229	Saddle Hill Subdivision Street Lighting District. Ord. No. 88-15, §§ 1—10, 5-24-88; Ord. No. 03-54, § 74, 7-1-03.
280	Sage Oaks Subdivision Street Lighting District. Ord. No. 93-77, 9-14-93; Ord. No. 03-56, § 1, 7-29-03.
319	Savannah Oaks Subdivision Street Lighting District. Ord. No. 99-54, §§ 1—10, 6-29-99; Ord. No. 03-77, § 57, 10-7-03.
275	Savoy Estates Subdivision Street Lighting District. Ord. No. 92-35, 5-12-92; Ord. No. 03-56, § 59, 7-29-03.
281	Sawgrass Acres Subdivision Street Lighting District. Ord. No. 93-78, 9-14-93; Ord. No. 03-56, § 63, 7-29-03.
107	Seminole Country Street Lighting District. Ord. No. 81-4, §§ 1—10, 3-31-81; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 58, 6-24-03.
024	Seminole Gardens/Seminole Ridge Street Lighting District. Ord. No. 76-7, §§ 1—10, 4-20-76; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 38, 6-24-03; Ord. No. 03-96, § 1, 12-02-03.
098	Seminole Groves Estates Street Lighting District. Ord. No. 80-43, §§ 1—10, 10-21-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-54, § 59, 7-1-03.
141	Seminole Pines Phase II and Phase III Street Lighting District. Ord. No. 82-35, §§ 1—10, 10-26-82; Ord. No. 03-56, § 15, 7-29-03.
080	Seminole Pines Street Lighting District. Ord. No. 80-11, §§ 1—10, 3-18-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-54, § 53, 7-1-03.
160	Seminole Trail Estates Subdivision Street Lighting District. Ord. No. 84-9, §§ 1—10, 4-24-84; Ord. No. 03-54, § 8, 7-1-03.
264	Seminole Woods Subdivision Street Lighting District. Ord. No. 90-93, 12-11-90; Ord. No. 03-56, § 53, 7-29-03.
324	Serenity Subdivision Street Lighting District. Ord. No. 00-99, §§ 1—12, 12-5-00; Ord. No. 03-77, § 17, 10-7-03.
228	Sever's Landing Phase I Subdivision Street Lighting District. Ord. No. 88-11, §§ 1—10, 5-3-88; Ord. No. 03-56, § 37, 7-29-03.
253	Sever's Landing Phase II Subdivision Street Lighting District. Ord. No. 90-21, §§ 1—10, 3-6-90; Ord. No. 03-56, § 7, 7-29-03.
318	Shadow Pines Estates III Subdivision Street Lighting District. Ord. No. 99-42, §§ 1—10, 4-27-99; Ord. No. 03-77, § 14, 10-7-03.

212	Shadow Pines Estates Unit 1 and McCanless Tract Subdivision Street Lighting District. Ord. No. 86-81, §§ 1—10, 12-9-86; Ord. No. 03-56, § 28, 7-29-03.
231	Shadow Pines Estates Unit 2 Subdivision Street Lighting District. Ord. No. 88-22, §§ 1—10, 7-12-88; Ord. No. 03-54, § 88-22, 7-1-03.
215	Shadowlake Village at Woodfield and Shadowlake Village at Woodfield Addition Subdivisions Street Lighting District. Ord. No. 87-27, §§ 1—10, 5-12-87; Ord. No. 03-56, § 31, 7-29-03.
047	Sharon Oaks Street Lighting District. Ord. No. 78-5, §§ 1—10, 3-21-78; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 16, 6-24-03; Ord. No. 03-96, § 12-02-03.
243	Somerset Lakes Unit 4 Subdivision Street Lighting District. Ord. No. 89-3, §§ 1—10, 1-24-89; Ord. No. 03-56, § 42, 7-29-03.
143	Somerset Lakes Unit One and Unit Two Street Lighting District. Ord. No. 82-39, §§ 1—10, 12-7-82; Ord. No. 03-54, § 35, 7-1-03.
197	Somerset Lakes Unit Three and Somerset Lakes Unit Three Phase Two Subdivisions Street Lighting District. Ord. No. 86-12, §§ 1—10, 3-25-86; Ord. No. 03-54, § 47, 7-1-03.
200	Somerset Lakes Unit Two Phase Two Subdivisions Street Lighting District. Ord. No. 86-37, §§ 1—10, 4-29-86; Ord. No. 03-54, § 49, 7-1-03.
067	Spanish Acres Street Lighting District. Ord. No. 79-12, §§ 1—10, 5-15-79; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 45, 6-24-03.
060	Spanish Oaks Street Lighting District. Ord. No. 78-25, §§ 1—10, 10-17-78; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 25, 6-24-03.
273	Spanish Pines 4th and 5th Additions Subdivision Street Lighting District. Ord. No. 91-59, 11-26-91; Ord. No. 03-77, § 40, 10-7-03.
046	Spanish Pines Street Lighting District. Ord. No. 78-4, §§ 1—10, 2-21-78; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 15, 6-24-03.
188	Spring Run Subdivision Street Lighting District. Ord. No. 85-39, §§ 1—10, 12-3-85; Ord. No. 03-54, § 40, 7-1-03.
284	Starkey Heights Unit 1 Subdivision Street Lighting District. Ord. No. 94-17, 3-1-94; Ord. No. 03-56, § 65, 7-29-03.
251	Sundown Woods Subdivision Street Lighting District. Ord. No. 89-56, §§ 1—10, 11-7-89; Ord. No. 03-56, § 5, 7-29-03.
101	Sunhaven Homes Unit II Street Lighting District. Ord. No. 80-45, §§ 1—10, 10-21-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-54, § 61, 7-1-03.
308	Sunset Knoll Subdivision Street Lighting District. Ord. No. 97-49, §§ 1—10, 7-1-97; Ord. No. 03-77, § 8, 10-7-03.
136	Sutton Place Street Lighting District. Ord. No. 82-14, §§ 1—10, 6-22-82; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 77, 6-24-03.
272	Sutton's Ridge Subdivision Street Lighting District. Ord. No. 91-42, 10-8-91; Ord. No. 03-56, § 57, 7-29-03.
048	Tarpon Woods Street Lighting District. Ord. No. 78-6, §§ 1—10, 4-18-78; Ord. No. 79-1, §§ 1, 2, 1-16-79; Ord. No. 81-13, §§ 1—10, 7-14-81; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 17,

	6-24-03.
043	Taylor Lake Subdivision Street Lighting District. Ord. No. 78-1, §§ 1—10, 1-17-78; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 12, 6-24-03.
342	Thunderbird Hill Subdivision Street Lighting District. Ord. No. 09-51, §§ 1, 2, 10-6-09.
072	Town and Country Estates Street Lighting District. Ord. No. 79-38, §§ 1—10, 11-20-79; Ord. No. 81-12, §§ 1—10, 6-23-81; Ord. No. 82-25, 8-10-82; Ord. No. 03-54, § 65, 7-1-03.
187	Trails of Countryside Subdivision Street Lighting District. Ord. No. 85-35, §§ 1—10, 10-29-85.
156	Twin Lakes Manor Street Lighting District. Ord. No. 84-5, §§ 1—10, 2-28-84; Ord. No. 03-56, § 16, 7-29-03.
181	Valencia Heights Subdivision Street Lighting District. Ord. No. 85-23, §§ 1—10, 9-10-85; Ord. No. 03-54, § 20, 7-1-03.
233	Village of Woodland Hills Units 5 & 6 Subdivision Street Lighting District. Ord. No. 88-27, §§ 1—10, 8-30-88; Ord. No. 03-54, § 76, 7-1-03.
007	Virginia Groves Street Lighting District. Ord. No. 88-56, §§ 1—10, 12-6-88; Ord. No. 03-47, § 55, 6-24-03.
096	Westchester Estates Street Lighting District. Ord. No. 80-37, §§ 1—10, 9-16-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-54, § 58, 7-1-03.
186	Wexford Leas 6, 7, 8 and La Bella Subdivisions Street Lighting District. Ord. No. 85-33, §§ 1—10, 10-8-85; Ord. No. 87-58, §§ 1—10, 10-6-87; Ord. No. 03-56, § 21, 7-29-03.
069	Wexford Leas Street Lighting District. Ord. No. 79-19, §§ 1—10, 7-17-79; Ord. No. 82-25, 8-10-82; Ord. No. 03-56, § 50, 7-29-03.
148	Wexford Leas Unit 3 and Unit 4A Street Lighting District. Ord. No. 83-8, §§ 1—10, 4-12-83; Ord. No. 03-47, § 78, 6-24-03.
165	Wexford Leas Unit 4B Subdivision Street Lighting District. Ord. No. 84-21, §§ 1—10, 7-3-84; Ord. No. 03-54, § 12, 7-1-03.
203	Whisper Lake Subdivision Street Lighting District. Ord. No. 86-48, §§ 1—10, 8-5-86; Ord. No. 03-56, § 24, 7-29-03.
028	Whispering Forest Street Lighting District. Ord. No. 76-14, §§ 1—10, 6-15-76; Ord. No. 82-25, 8-10-82; Ord. No. 03-54, § 26, 7-1-03.
029	Whispering Pines Forest 5th Addition Street Lighting District. Ord. No. 76-17, §§ 1—10, 9-21-76; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 4, 6-24-03.
010	Whispering Pines Forest Subdivision Street Lighting District. Ord. No. 88-55, §§ 1—10, 12-6-88; Ord. No. 03-47, § 30, 6-24-03.
086	White Wood Terrace Street Lighting District. Ord. No. 80-22, §§ 1—10, 5-20-80; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 51, 6-24-03.
151	Whitney Pines First Addition Street Lighting District. Ord. No. 83-12, §§ 1—10, 7-26-83; Ord. No. 03-54, § 1, 7-1-03.
054	Whitney Pines Street Lighting District. Ord. No. 78-15, §§ 1—10, 7-18-78; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 22, 6-24-03.

150	Williamsdale Square Street Lighting District. Ord. No. 83-10, §§ 1—10, 7-5-83; Ord. No. 03-47, § 80, 6-24-03.
030	Wilshire Estates Street Lighting District. Ord. No. 76-21, §§ 1—10, 10-19-76; Ord. No. 82-25, 8-10-82; Ord. No. 94-24, 3-22-94; Ord. No. 03-47, § 5, 6-24-03.
247	Wind Tree Village and Kensington Park Subdivisions Street Lighting District. Ord. No. 89-30, §§ 1—10, 7-11-89; Ord. No. 03-56, § 2, 7-29-03.
132	Windmill Pointe of Tarpon Lake Street Lighting District. Ord. No. 82-10, §§ 1—10, 5-11-82; Ord. No. 88-23, §§ 1—10, 7-12-88; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 75, 6-24-03.
114	Woodland Estates Street Lighting District. Ord. No. 81-15, §§ 1—10, 7-14-81; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 63, 6-24-03.
129	Woodlands West Street Lighting District. Ord. No. 82-7, §§ 1—10, 3-2-82; Ord. No. 82-25, 8-10-82; Ord. No. 03-47, § 74, 6-24-03.
240	Woods at Lake Seminole Subdivision Street Lighting District. Ord. No. 88-66, §§ 1—10, 12-6-88; Ord. No. 03-56, § 40, 7-29-03.
289	Woods at Lake Seminole Unit 2 Subdivision Street Lighting District. Ord. No. 94-108, 12-6-94; Ord. No. 03-56, § 68, 7-29-03.
298	Wrens Way Subdivision Street Lighting District. Ord. No. 95-88, §§ 1—10, 12-12-95; Ord. No. 03-56, § 73, 7-29-03.
257	Wyatt Street Target Area Community Development Block Grant Subdivision Street Lighting District. Ord. No. 90-45, §§ 1—10, 7-3-90; Ord. No. 03-77, § 37, 10-7-03; Ord. No. 03-96, § 14, 12-02-03.

Footnotes:
--- (**1**) ---

Cross reference— Special districts, ch. 114.

APPENDIX C - COUNTY-OWNED ENVIRONMENTAL LANDS[1]

Allen's Creek Management Area

Alligator Lake Management Area

Anclote Islands Management Area

Brooker Creek Preserve

Cabbage Key Management Area

Cow Branch Management Area

East Lake Management Area

Joe's Creek Management Area

King Islands Management Area

Lake Seminole Management Area

Lake Tarpon Management Area

Lake Tarpon West Management Area

Long Branch Management Area

Mariner's Point Management Area

Mobbly Bayou Preserve

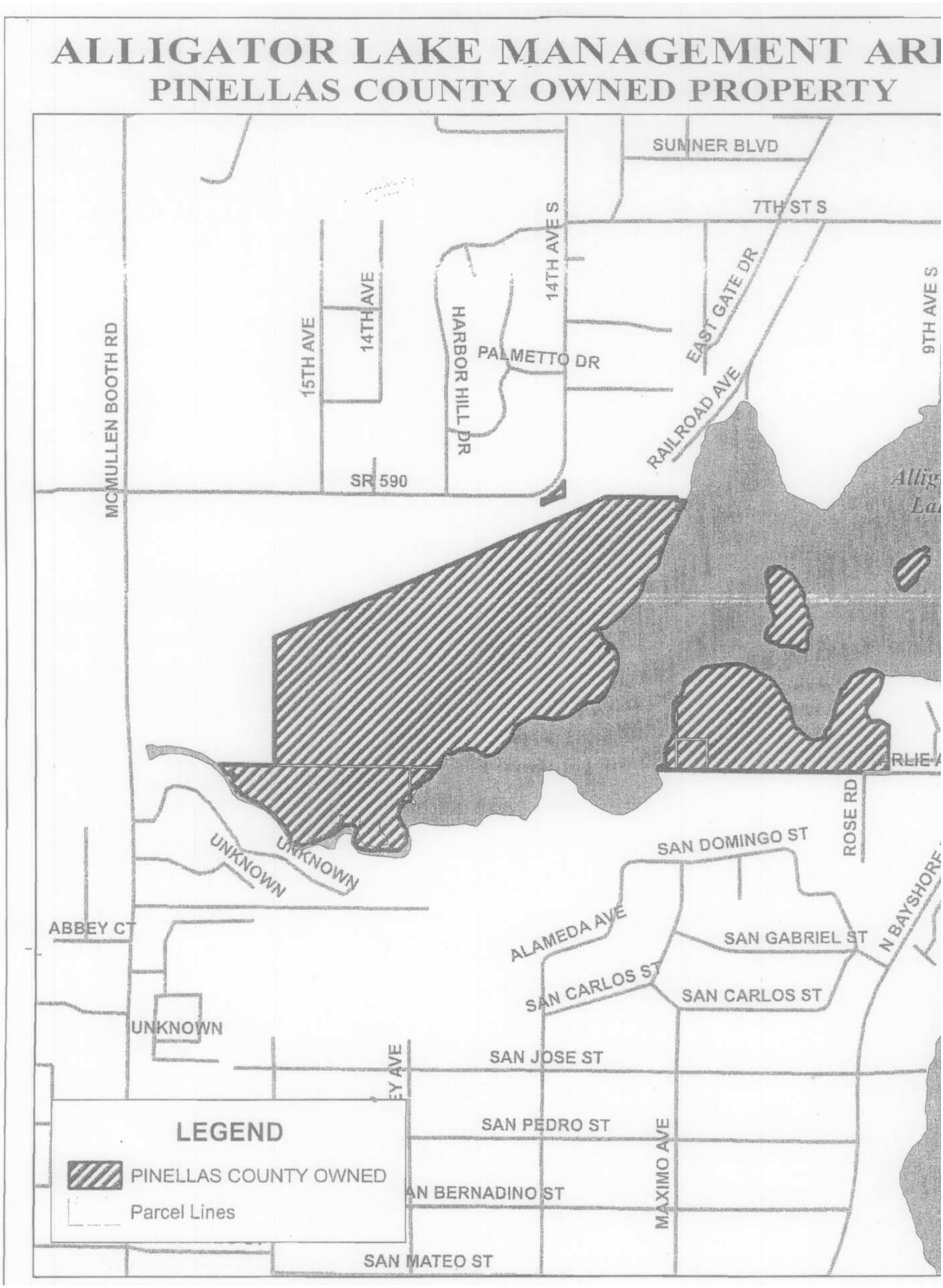
Ozona Management Area

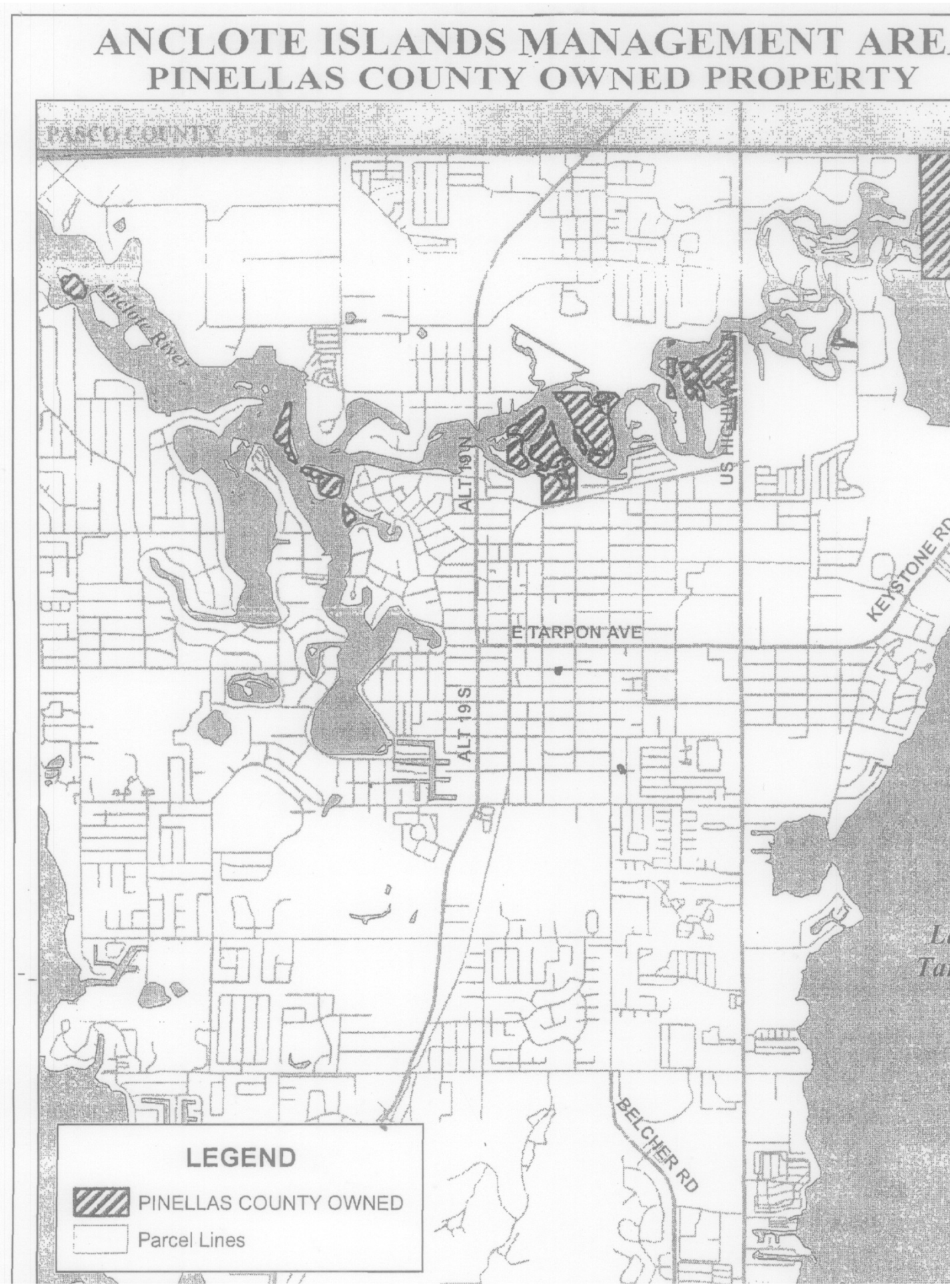
Shell Key Preserve

Travatine Island Management Area

Weedon Island Preserve

C-1.png


ALLIGATOR LAKE MANAGEMENT AR
PINELLAS COUNTY OWNED PROPERTY
SUMNER BLVD
7TH ST S
14TH AVE S
9TH AVE S
EAST GATE DR
RAILROAD AVE
HARBOR HILL DR
PALMETTO DR
15TH AVE
14TH AVE
MCMULLEN BOOTH RD
SR 590
ROSE RD
SAN DOMINGO ST
UNKNOWN
UNKNOWN
ABBEY CT
ALAMEDA AVE
SAN GABRIEL ST
SAN CARLOS ST
SAN CARLOS ST
UNKNOWN
SAN JOSE ST
SAN PEDRO ST
MAXIMO AVE
SAN MATEO ST
LEGEND
PINELLAS COUNTY OWNED
Parcel Lines


ANCLOTE ISLANDS MANAGEMENT ARE
PINELLAS COUNTY OWNED PROPERTY
PASCO COUNTY
Anclote River
ALT 19N
US HIGHWAY
KEYSTONE RD
E TARPON AVE
ALT 19S
BELCHER RD
LEGEND
PINELLAS COUNTY OWNED
Parcel Lines

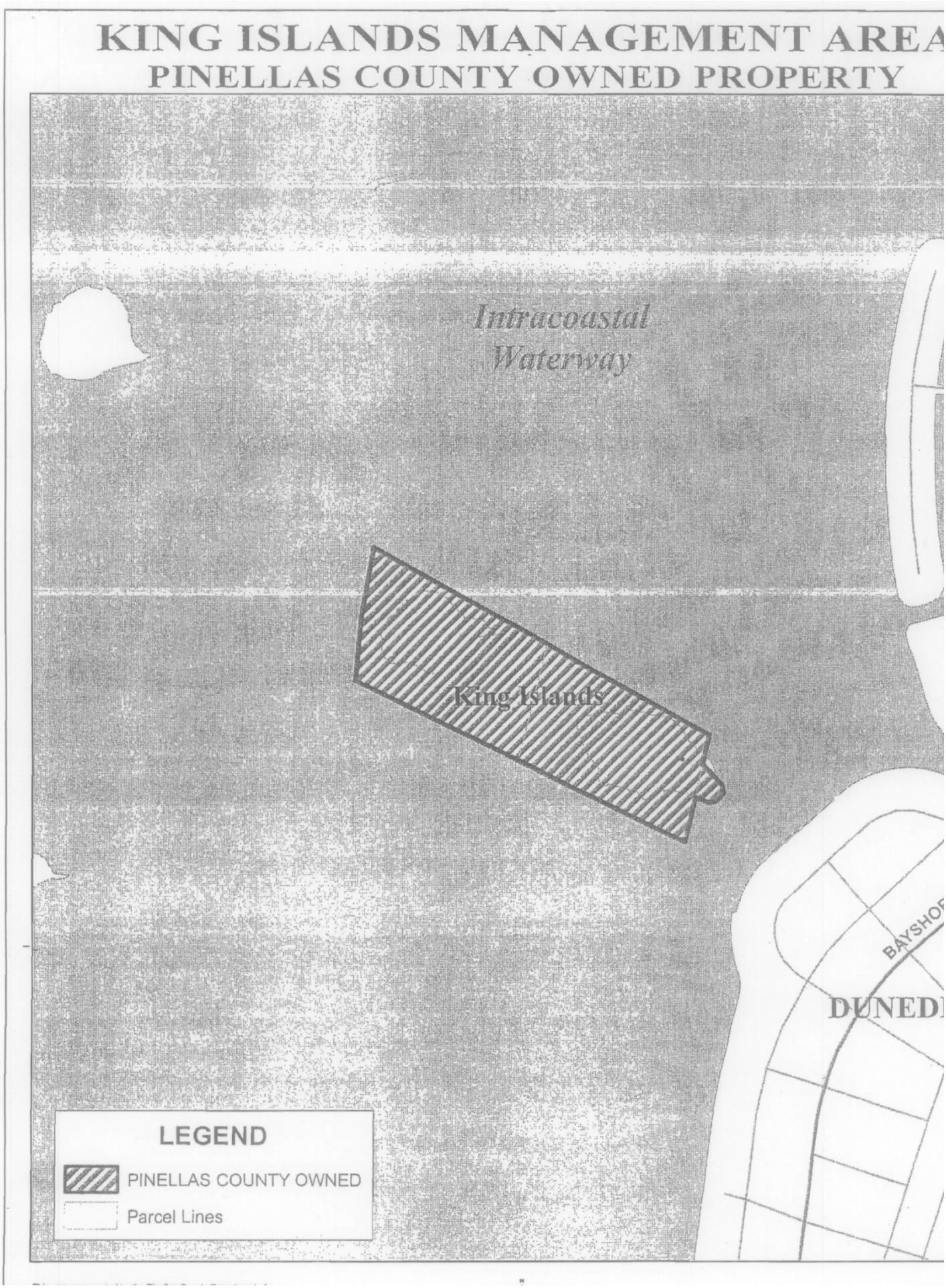
C-4.png

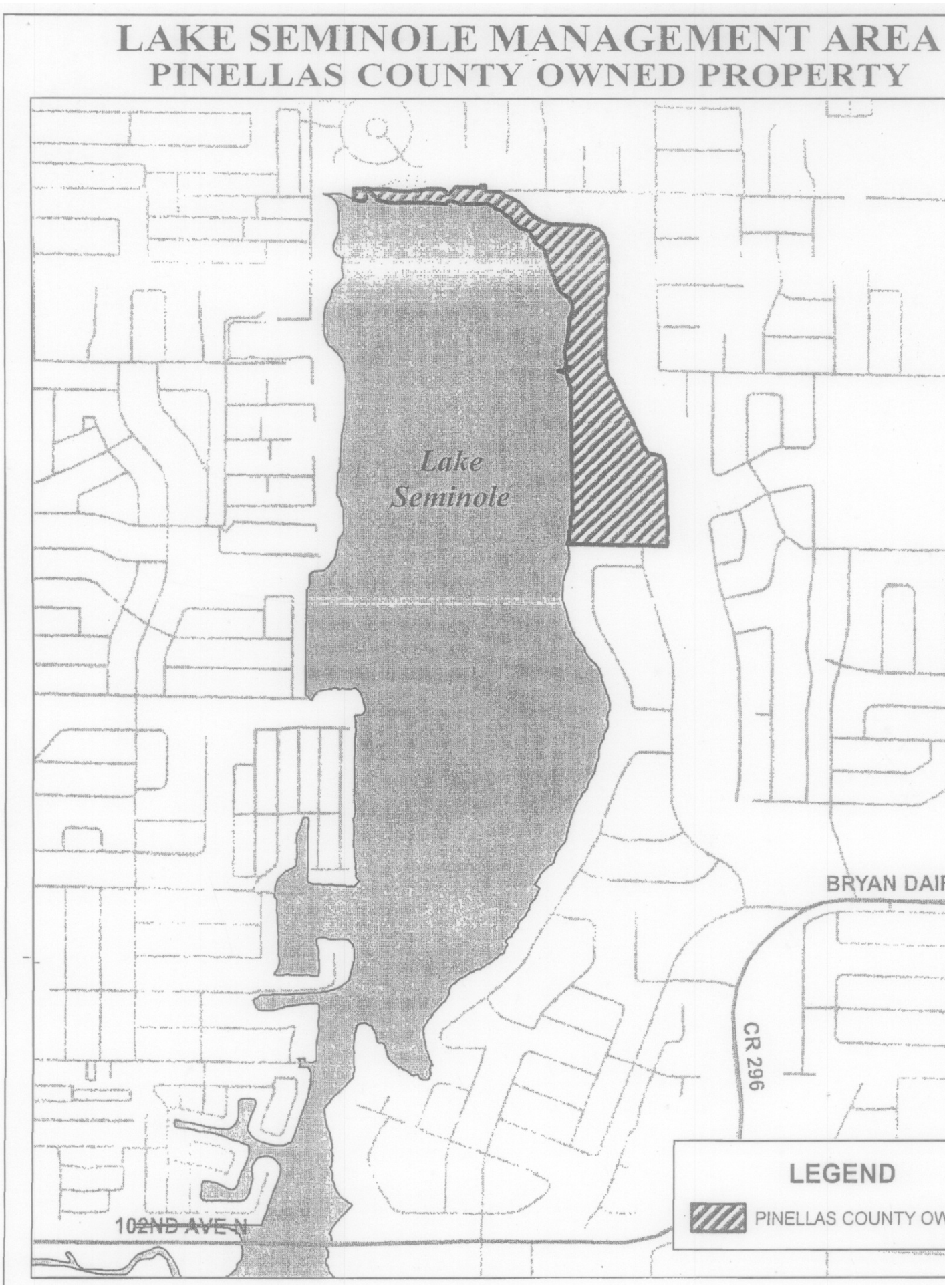
C-5.png

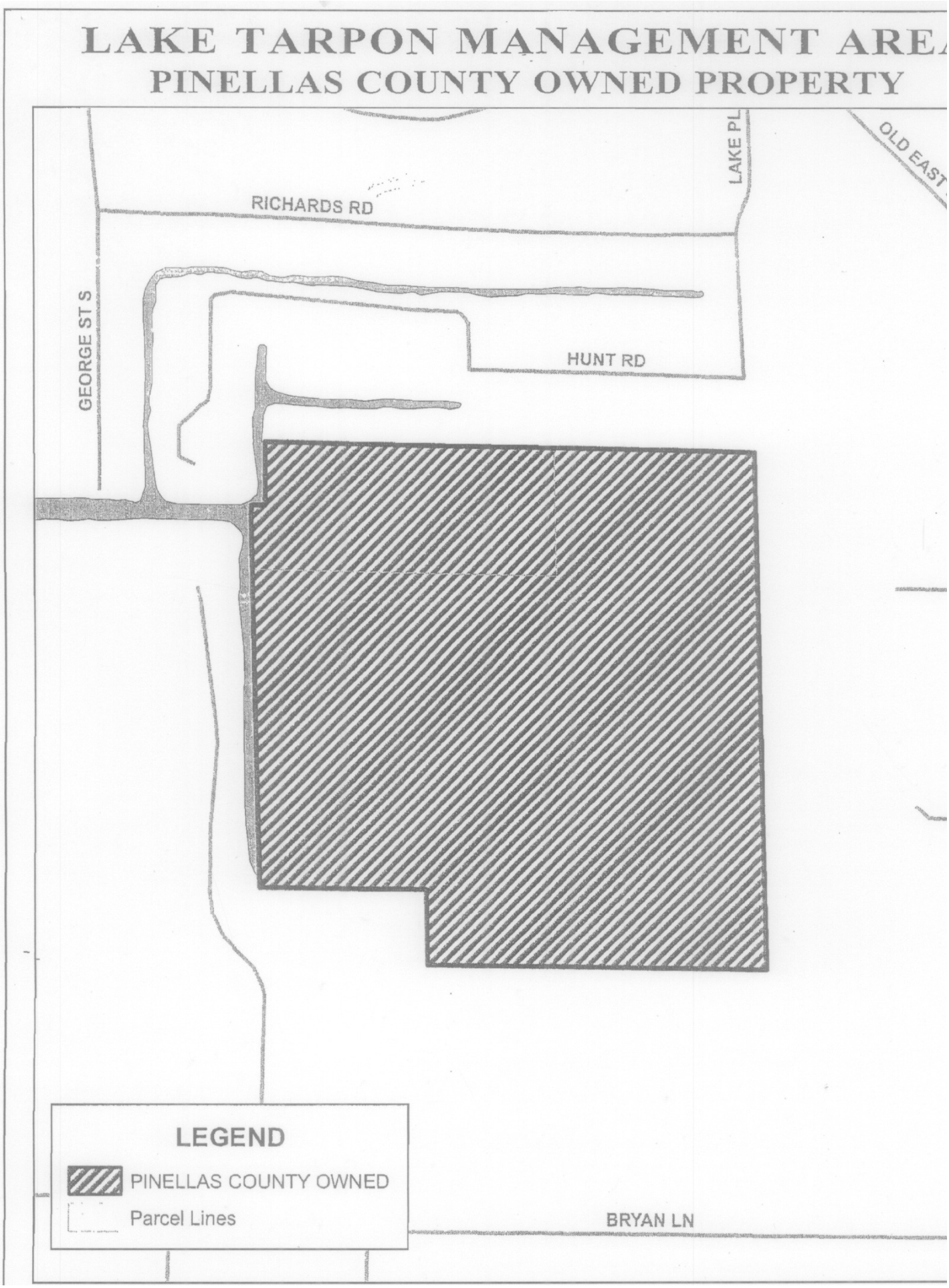
C-6.png

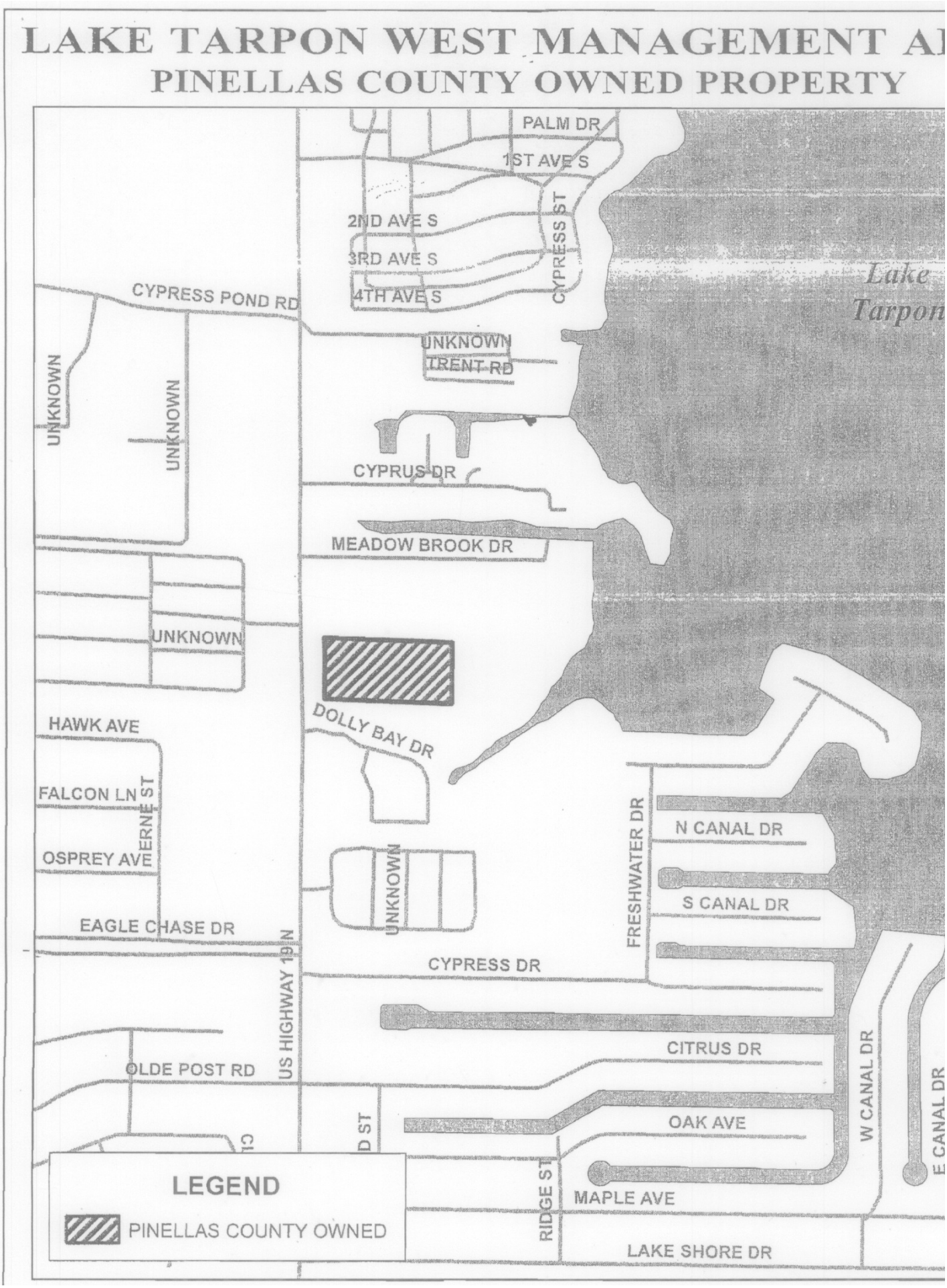

EAST LAKE MANAGEMENT AREA
PINELLAS COUNTY OWNED PROPERTY
CRYSTAL CT E
WESTBURY
TARPON LAKE BLVD
BROOKER CREEK DR
WOODCOTE TERR
WITLEY AVE
LAKESHORE DR
LANYARD ST
MAINSAIL WAY
ANCHORAGE LN
WINDMILL POIN
CROWSNEST DR
PORTSIDE PSG
WINDWARD WAY
FORECASTLE DR
LEEWARD WAY
BOWSPRIT PL
WOODGATE DR
LEGEND
PINELLAS COUNTY OWNED


JOE'S CREEK MANAGEMENT AREA
PINELLAS COUNTY OWNED PROPERTY
PARK BLVD N
62ND AVE N
PARK ST N
Cross Bayou
Long Bayou
54TH AVE N
71ST ST N
BAY PINES BLVD
TYRON
LEGEND
PINELLAS COUNTY OWNE
Parcel Lines
This map was created by the Pinellas County Department of Environmental Management, Environmental Lands Division, from


KING ISLANDS MANAGEMENT AREA
PINELLAS COUNTY OWNED PROPERTY
Intracoastal
Waterway
King Islands
BAYSHOR
DUNEDI
LEGEND
PINELLAS COUNTY OWNED
Parcel Lines


LAKE SEMINOLE MANAGEMENT AREA
PINELLAS COUNTY OWNED PROPERTY
Lake
Seminole
BRYAN DAI
CR 296
102ND AVE N
LEGEND
PINELLAS COUNTY OW


LAKE TARPON MANAGEMENT AREA
PINELLAS COUNTY OWNED PROPERTY
RICHARDS RD
LAKE PL
OLD EAST
GEORGE ST S
HUNT RD
LEGEND
PINELLAS COUNTY OWNED
Parcel Lines
BRYAN LN

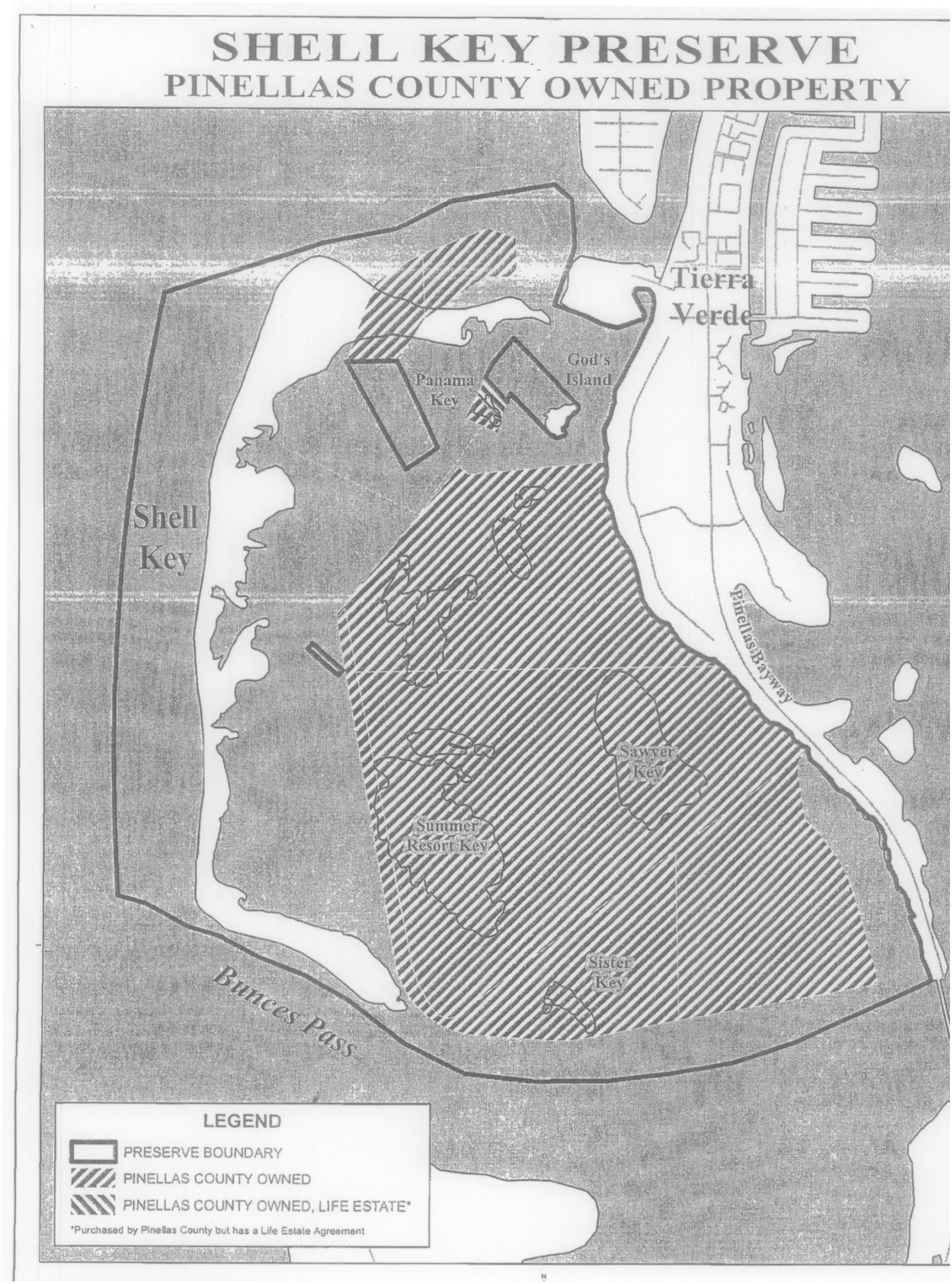

LAKE TARPON WEST MANAGEMENT A
PINELLAS COUNTY OWNED PROPERTY
PALM DR
1ST AVE S
2ND AVE S
3RD AVE S
4TH AVE S
CYPRESS ST
CYPRESS POND RD
UNKNOWN
TRENT RD
UNKNOWN
UNKNOWN
CYPRUS DR
MEADOW BROOK DR
UNKNOWN
HAWK AVE
DOLLY BAY DR
FALCON LN
ERNE ST
OSPREY AVE
UNKNOWN
FRESHWATER DR
N CANAL DR
S CANAL DR
EAGLE CHASE DR
US HIGHWAY 19 N
CYPRESS DR
CITRUS DR
OLDE POST RD
OAK AVE
W CANAL DR
E CANAL DR
RIDGE ST
MAPLE AVE
LAKE SHORE DR
LEGEND
PINELLAS COUNTY OWNED

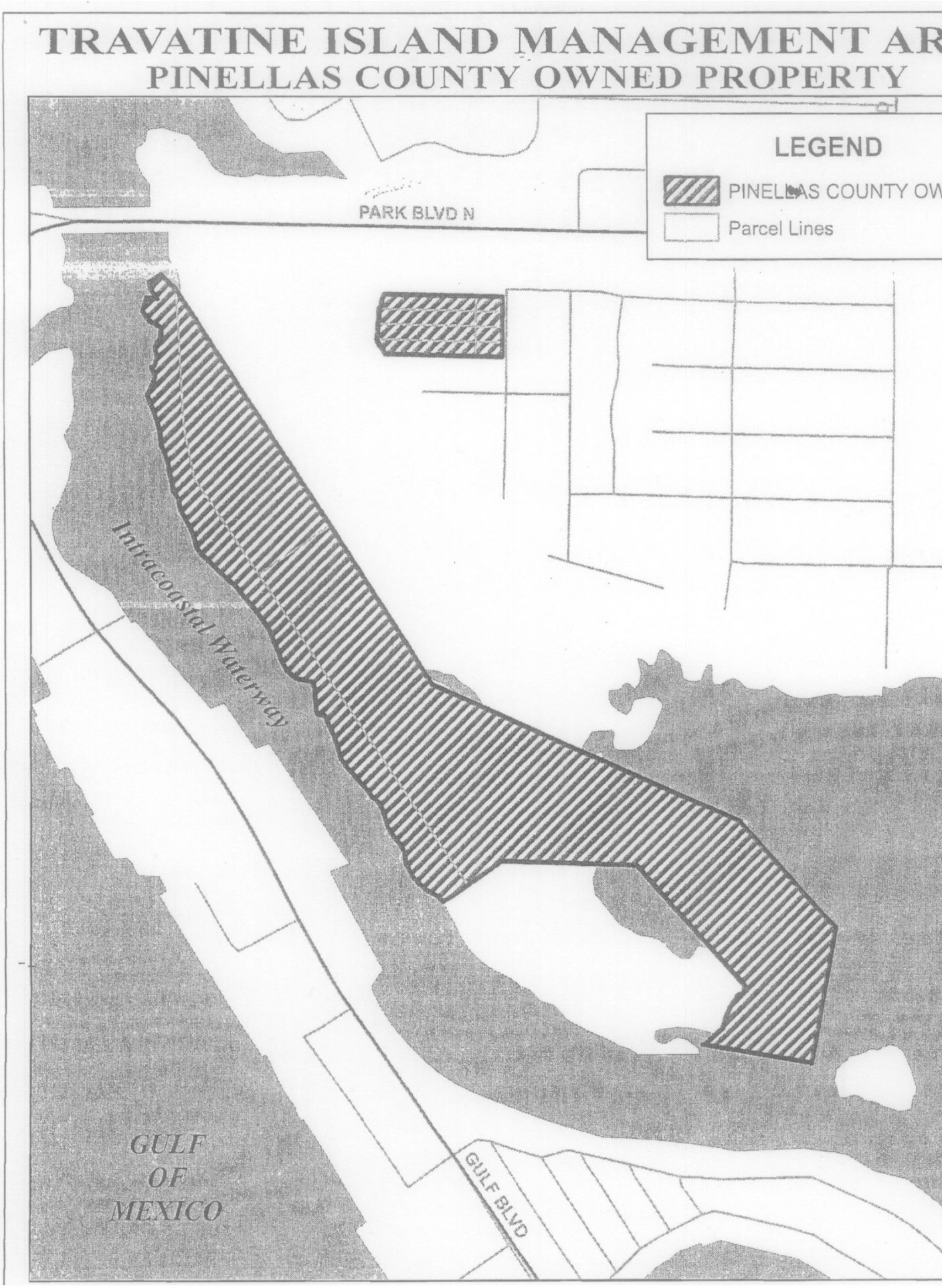
C-13.png

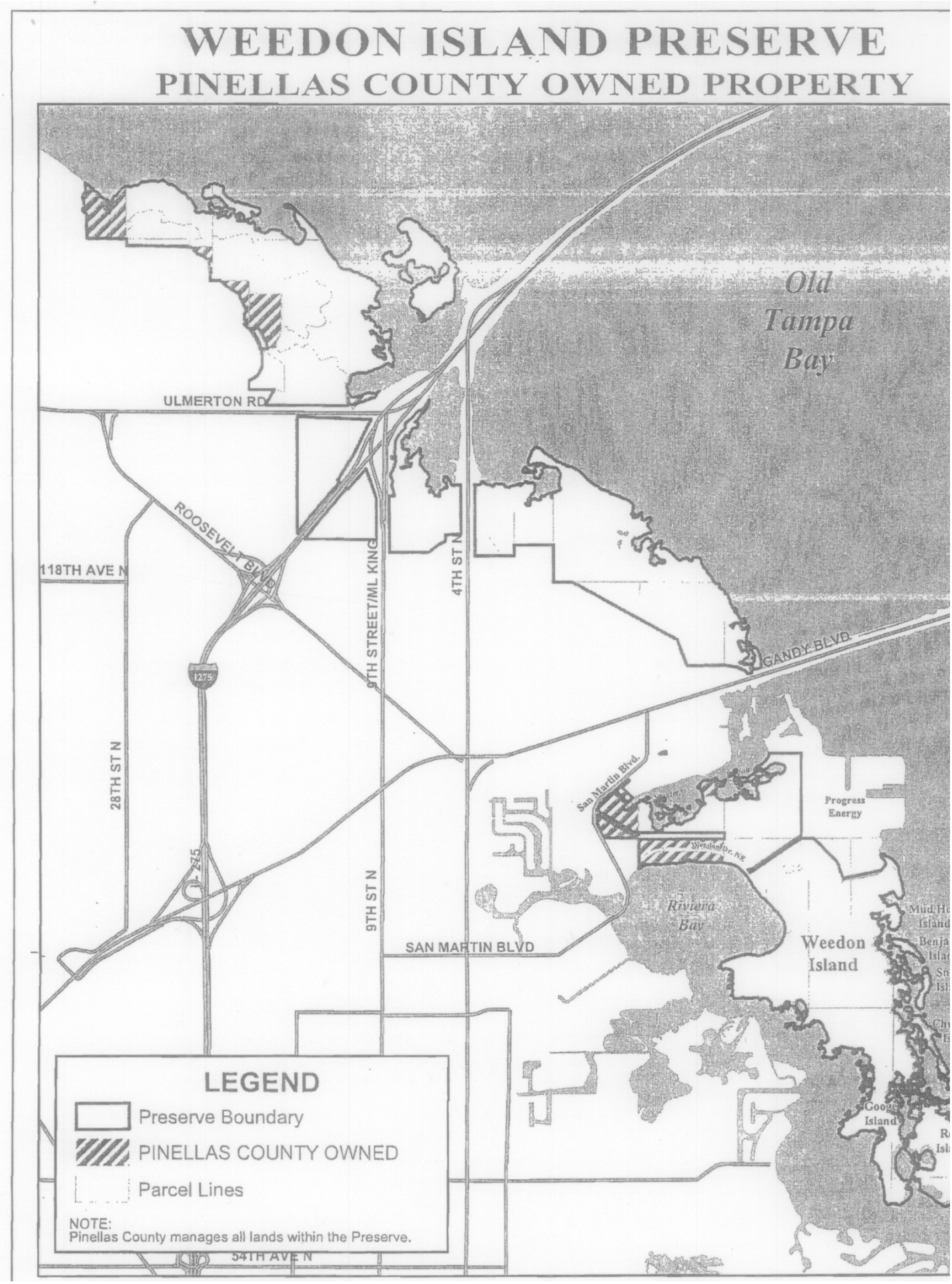
C-14.png

C-15.png

C-16.png


SHELL KEY PRESERVE
PINELLAS COUNTY OWNED PROPERTY
Tierra Verde
God's Island
Panama Key
Shell Key
Pinellas Bayway
Sawyer Key
Summer Resort Key
Sister Key
Bunces Pass
LEGEND
PRESERVE BOUNDARY
PINELLAS COUNTY OWNED
PINELLAS COUNTY OWNED, LIFE ESTATE*
*Purchased by Pinellas County but has a Life Estate Agreement


TRAVATINE ISLAND MANAGEMENT AR
PINELLAS COUNTY OWNED PROPERTY
LEGEND
PINELLAS COUNTY OW
Parcel Lines
PARK BLVD N
Intracoastal Waterway
GULF OF MEXICO
GULF BLVD


WEEDON ISLAND PRESERVE
PINELLAS COUNTY OWNED PROPERTY
Old Tampa Bay
ULMERTON RD
ROOSEVELT BLVD
118TH AVE N
28TH ST N
9TH STREET/ML KING
4TH ST N
GANDY BLVD
I-275
9TH ST N
SAN MARTIN BLVD
San Martin Blvd.
Progress Energy
Riviera Bay
Weedon Island
54TH AVE N
LEGEND
Preserve Boundary
PINELLAS COUNTY OWNED
Parcel Lines
NOTE:
Pinellas County manages all lands within the Preserve.

Footnotes:
--- (**1**) ---

Editor's note—The maps included in this Appendix B depict the county-owned environmental lands subject to the provisions of Section 2.08 of the Pinellas County Charter. See § 90-112 of this Code.

CODE COMPARATIVE TABLE SPECIAL ACTS

This table is a numerical listing of the chapters of the Laws of Florida used in this Code.

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26161(1949)	1	2-257
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	8-A	114-47
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	17-B	114-54
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	6	114-139
	7	114-138
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	8, 9	58-30, 58-31
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	4	114-133
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	4	26-129
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		22-14(1), (5)
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2005-294	4	58-28(a)

CODE COMPARATIVE TABLE ORDINANCES

This is a chronological listing of the ordinances used in this Code. Repealed or superseded ordinances at the time of the codification and any omitted materials are not reflected in this table.

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PART III - LAND DEVELOPMENT CODE
Chapter 134 - GENERAL AND ADMINISTRATIVE PROVISIONS[1]
Footnotes:
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Charter reference— General powers of county, § 2.01.

State Law reference— General power of chartered counties, Fla. Const. art. VIII, § 1(g).

ARTICLE I. - IN GENERAL

Sec. 134-1. - How Code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated as the "Pinellas County Land Development Code."

State Law reference— Requirement that county codify its ordinances, F.S. § 125.68.

Sec. 134-2. - Definitions and rules of construction.

In the construction of this Code, and of all ordinances, the definitions and rules set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the board of county commissioners. The definitions set out in this section shall not be applied to any section of this Code which shall contain any express provisions excluding such construction, or where the subject matter or context of such section may be repugnant thereto.

Generally. All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the board of county commissioners may be fully carried out. The provisions of this Code shall be liberally construed so as to effect its purposes. Terms used in this Code, unless otherwise specifically provided, shall have the meanings prescribed by the statutes of the state for the same terms.

State Law reference— Construction of statutes, F.S. ch. 1.

In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

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

Board of county commissioners. "Board of county commissioners" means the board of county commissioners of Pinellas County, Florida. The term "board of county commissioners" shall include the county chairman.

Charter or county charter. "Charter" or "county charter" means the Pinellas County Charter.

Circuit court. "Circuit court" means the circuit court of the sixth judicial circuit in and for Pinellas County.

Clerk of the circuit court or county clerk. "Clerk of the circuit court" or "county clerk" means the clerk of the circuit court of the sixth judicial circuit in and for Pinellas County.

Code. The term "Code" means the Pinellas County Land Development Code, as designated in section 134-1; however, in references to chapters 1 through 133, or any portion thereof, the term Code means the Pinellas County Code as designated in section 1-1 of such Code.

Computation of time. In computing any period of time prescribed or allowed by ordinance, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

State Law reference— Similar provisions, Fla. R.Civ.P. 1.090(a).

Conjunctions. Where a provision involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or" or "either … or," the conjunction shall be interpreted as follows:

(1)

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

(2)

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

(3)

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

County. "County" means Pinellas County, Florida.

County court. "County court" means the county court of Pinellas County, Florida.

County limits. "County limits" means the legal boundaries of Pinellas County.

State Law reference— Boundaries of Pinellas County, F.S. § 7.52.

Delegation of authority. Whenever a provision requires the head of a county department or some other county officer or county employee to do some act or perform some duty, it is to be construed to authorize the county administrator to designate, delegate and authorize subordinates to perform the required act or perform the

duty, on behalf of the county department, program, or operation, including any successor or consolidated department, program or operation.

F.A.C. "F.A.C." means the Florida Administrative Code, as amended.

F.S. "F.S." means the latest edition of Florida Statutes, as amended.

Gender. Words importing the masculine gender shall include the feminine and neuter.

Includes. "Includes" does not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

Joint authority. All words giving a joint authority to three or more persons or officers are to be construed as giving such authority to a majority of such persons or officers.

Keeper and proprietor. "Keeper" or "proprietor" means and includes persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or through a servant, agent or employee.

May. "May" is to be construed as being permissive.

May not. "May not" has a prohibitory effect and states a prohibition.

Month. "Month" means a calendar month.

Must. "Must" is to be construed as being mandatory.

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing. The use of the plural number includes any single person or thing.

Oath. "Oath" includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" are equivalent to the words "affirm" and "affirmed."

Officer, official. Whenever reference is made to any officer or official, the reference will be taken to be to such officer or official of Pinellas County, Florida.

Owner. "Owner," applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or part of such building or land.

Person. "Person" extends and applies to individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups and legal entities or combinations thereof.

State Law reference— Similar provisions, F.S. § 1.01(3).

Property. "Property" shall include real and personal property.

Shall. "Shall" is to be construed as being mandatory.

Sidewalk. "Sidewalk" means any portion of a street between the curbline and the adjacent property line intended for the use of pedestrians.

State. "State" means the State of Florida.

Street or road. "Street" or "road" includes streets, avenues, boulevards, roads, alleys, viaducts and all other public highways in the county.

Tenant or occupant. "Tenant" or "occupant," applied to a building or land, includes any person holding a written or oral lease of or who occupies the whole or part of such building or land, either alone or with others.

Week. "Week" means seven days.

Written or in writing. "Written" or "in writing" includes any representation of words, letters or figures, whether by printing or otherwise.

Year. "Year" means a calendar year.

(Ord. No. 10-46, § 2, 9-28-10)

Sec. 134-3. - Catchlines of sections; effect of history notes; references in Code.

(a)

The catchlines of the several sections of this Code set in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of such sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(b)

The history or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the sources of matter contained in the section. Cross references, editor's notes and state law references which appear after sections or subsections of this Code or which otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.

(c)

All references to chapters, articles or sections are to be chapters, articles and sections of this Code unless otherwise specified, but references to provisions in chapters 1—133 are to provisions in the Pinellas County Code.

Sec. 134-4. - Effect of repeal of ordinances.

(a)

The repeal or amendment of an ordinance shall not revive any ordinance in force before or at the time the ordinance repealed or amended took effect.

(b)

The repeal or amendment of any ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal for an offense committed under the ordinance repealed or amended.

Sec. 134-5. - Amendments to Code; effect of new ordinances; amendatory language.

(a)

All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. Repealed chapters, sections and subsections, or any part thereof, by subsequent ordinances may be excluded from this Code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of these subsequent ordinances until such time that this Code and subsequent ordinances are readopted as a new Code.

(b)

Amendments to any of the provisions of this Code may be made by amending those provisions by specific reference to the section number of this Code in the following language:

"Section _____ of the Pinellas County Land Development Code is hereby amended to read as follows: …." The new provisions may then be set out in full as desired.

(c)

If a new section not then existing in the Code is to be added, the following language may be used:

"The Pinellas County Land Development Code is hereby amended by adding a section (or article or chapter) to be numbered _____, which section reads as follows: …." The new section may then be set out in full as desired.

(d)

All provisions desired to be repealed should be specifically repealed by section, article or chapter number, as the case may be, and/or by setting them out at length in the repealing ordinance.

State Law reference— Ordinance adoption procedures, F.S. § 125.66.

Sec. 134-6. - Supplementation of Code.

(a)

Supplements to this Code shall be prepared and printed whenever authorized or directed by the county. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of adoption of the latest ordinance included in the supplement.

(b)

In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c)

When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the person may:

(1)

Organize the ordinance material into appropriate subdivisions.

(2)

Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles.

(3)

Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.

(4)

Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code).

(5)

Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code.

(d)

In no case shall the person preparing the supplement make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 134-7. - Severability.

It is declared to be the intent of the board of county commissioners that if any section, subsection, sentence, clause, phrase or portion of this Code or any ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Code or any ordinance, and it shall be construed to have been the legislative intent to pass this Code or such ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Code or such ordinance after the exclusion of such part or parts shall be deemed and held to be valid as if such part or parts had not been included herein. If this Code or any ordinance or any provision thereof shall be held

inapplicable to any person, group of persons, property or kind of property, or circumstances or set of circumstances, such holding shall not affect the applicability of this Code to any other person, property or circumstance.

Sec. 134-8. - General penalty; continuing violations.

(a)

In this section "violation of this Code" means:

(1)

Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by this Code or by rule or regulation authorized by this Code;

(2)

Failure to perform an act that is required to be performed by this Code or by rule or regulation authorized by this Code; or

(3)

Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by this Code or by rule or regulation authorized by this Code.

(b)

In this section, "violation of this Code" does not include the failure of a county officer or county employee to perform an official duty unless it is provided that failure to perform the duty is to be punished as provided in this section.

(c)

Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code shall be punished by a fine not to exceed $500.00. With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense.

(d)

The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise, the imposition of civil fines or other administrative actions, including action pursuant to F.S. ch. 162 and article VIII of chapter 2 of the Pinellas County Code, nor does it preclude other civil judicial remedies.

(e)

The board of county commissioners is authorized and empowered to institute legal proceedings in the circuit court of the county for the purpose of obtaining injunctive relief and such other relief as may be proper under the law against violators of this Code. This remedy is in addition to all other remedies. The imposition of a penalty does not prevent equitable relief.

(Ord. No. 75-9, § 1, 4-15-75; Ord. No. 06-07, § 2, 1-24-06; Ord. No. 07-05, § 1, 1-9-07)

State Law reference— Penalty for violation of county ordinances, F.S. § 125.69.

Sec. 134-9. - Certain ordinances not affected by Code.

(a)

Nothing in this Code shall affect any ordinance:

(1)

Promising or guaranteeing the payment of money by or to the county or authorizing the issuance of any bonds of the county, or any evidence of the county's indebtedness, or any contract or obligation assumed by the county.

(2)

Relating to fixing positions, classifications, benefits or salaries of county officers or employees.

(3)

Granting a right or franchise.

(4)

Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating or prescribing the grades of any road or public way in the county.

(5)

Levying or imposing taxes not codified in this Code.

(6)

Providing for local improvements and assessing taxes therefor.

(7)

Codified in the Pinellas County Code.

(8)

Rezoning specific property.

(9)

Adopted for purposes which have been consummated.

(10)

Which is temporary, although general in effect.

(11)

Which is special, although permanent in effect.

(12)

Declaring a moratorium that is not codified in this Code.

(13)

Creating any special district not codified in this Code.

(b)

All ordinances specified in subsection (a) of this section are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

(c)

Nothing in this Code or the ordinance adopting this Code repeals or modifies any exhibit, attachment or appendix to an ordinance referenced in this Code if the exhibit, attachment or appendix is not published in this Code.

Sec. 134-10. - Provisions considered as continuation of existing ordinances.

(a)

The provisions appearing in this Code, so far as they are the same as those of ordinances existing at the time of the adoption of this Code, shall be considered as a continuation thereof and not as new enactments.

(b)

The adoption of this Code does not alter the effective date of any ordinance in this Code, it being the intent of the board of county commissioners that the adoption of this Code shall not be interpreted as creating any new preexisting uses or altering the date by which preexisting uses must comply with a county ordinance.

Sec. 134-11. - Code does not affect prior offenses, acts, penalties or rights.

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

Sec. 134-12. - Designation of the local planning agency.

(a)

Establishment; composition; terms; expenses; quorum; chairman and vice-chairman; fees.

(1)

Establishment. The local planning agency is hereby established pursuant to F.S. § 163.3174.

(2)

Composition; terms. The local planning agency shall be composed of seven members, one each nominated by each member of the board of county commissioners and appointed by the board of county commissioners. Each person appointed by the board of county commissioners shall be considered a voting member of the local planning agency. The terms of office shall run concurrently with the term of the nominating commissioner. Each person appointed by the board of county commissioners serves at the pleasure and discretion of the board of county commissioners, and may be removed by the board of county commissioners without cause. Any vacancy in the membership of the local planning agency shall be filled for the unexpired portion of the term in the same manner as an appointment for a full term.

(3)

Alternates. The board of county commissioners may appoint one alternate to the local planning agency to serve during the absence of any regular member.

(4)

Expenses. The members of the local planning agency shall be compensated as deemed appropriate by the board of county commissioners, or their designee.

(5)

School district representative. A representative of the Pinellas County School District appointed by the school board shall be a non-voting member of the local planning agency.

(6)

Chairman and vice-chairman. The members of the local planning agency shall annually select a chairman and vice-chairman.

(7)

Quorum and voting. The presence of at least four members of the local planning agency appointed by the board of county commissioners shall constitute a quorum.

(8)

Fees. The board of county commissioners shall establish by resolution the appropriate schedule of any fees that may be charged by the local planning agency.

(b)

Powers.

(1)

The county planning department is designated by the board of county commissioners as the staff for the local planning agency and as the agency with the general responsibility for the conduct of the comprehensive planning program, including the specific duties as follows:

a.

Preparation of the comprehensive plan or amendments to the plan and shall present such plan and amendments to the local planning agency for their recommendation.

b.

Monitoring and overseeing the effectiveness and status of the comprehensive plan and present reports and proposals to the local planning agency and to the board of county commissioners as called for in F.S. ch. 163.

c.

Reviewing proposed land development regulations, land development codes, or amendments thereto and make recommendations as to the consistency with the adopted comprehensive plan to the local planning agency and the board of county commissioners.

d.

Reviewing county and agency plans, projects and proposals, and as appropriate, make recommendations to those agencies concerning their consistency with the adopted county comprehensive plan.

e.

Supporting any other functions, duties and responsibilities assigned to the local planning agency by the board of county commissioners.

(2)

The local planning agency is designated by the board of county commissioners as the land development regulation commission and as the agency with the responsibility for making recommendations to the board of county commissioners in the following areas:

a.

The adoption of the comprehensive plan, amendments to that plan, and the evaluation and appraisal of that plan.

b.

Changes in the comprehensive plan as may be proposed or required in F.S. ch. 163.

c.

Proposed land development regulations, land development codes, and amendments thereto as to the consistency of the proposal with the adopted comprehensive plan.

(3)

The local planning agency may perform any other functions, duties, and responsibilities assigned to it by the board of county commissioners or by general or special law.

(c)

Record of proceedings.

(1)

Records maintenance. All records of any proceeding before the local planning agency shall be filed with the clerk of the circuit court, board of county commissioners' records division, to be held as a part of the public records of the county.

(2)

Official minutes. Minutes shall be kept in which applications, recommendations and all determinations or decisions of the local planning agency shall be recorded.

(3)

Use of recording devices. Wherever possible, all proceedings before the local planning agency shall be recorded by recording device.

(4)

Application files. Application files shall be held and maintained by the planning department, in accordance with state law.

(d)

Public meetings; notice.

(1)

Public meetings. Meetings of the local planning agency are public meetings and its records are public records.

(2)

Notice. All public meetings shall be conducted by the local planning agency only after a public notice has been given in accordance with state law.

(Ord. No. 88-28, § 1, 8-30-88; Ord. No. 09-4, § 2, 1-20-09)

State Law reference— Local planning agency, F.S. § 163.3174.

Sec. 134-13. - Nonconforming or substandard lots created by eminent domain proceedings.

(a)

Any lot or parcel which shall be made nonconforming or substandard after the effective date of this section as a result of eminent domain proceedings instituted by the county or other condemning authority, or through a voluntary conveyance by such lot or parcel owner in lieu of formal eminent domain proceedings, which lot or parcel, except for such eminent domain or voluntary conveyance, would be an otherwise conforming lot or parcel, shall be deemed to be a conforming lot or parcel for all purposes under this section, without the necessity for a variance from any land development ordinance. However, where sufficient land is available so that deficiencies can be corrected with no resulting damage to the remainder, the corrective action shall be performed. This subsection shall not apply to any lot or parcel which is reduced in size by more than 25

percent by such action.

(b)

All territory within the boundaries of the county, including all incorporated areas, shall be embraced by the provisions of this section.

(Ord. No. 93-92, §§ 1, 2, 10-19-93)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 134-14. - Quasi-judicial proceedings before the board of county commissioners.

(a)

Purpose and intent. The Board of County Commissioners ("Board") has prepared these rules in an attempt to encourage public participation during quasi-judicial hearings in a manner consistent with the requirements of law. As part of that effort and within the confines of the law, the board intends its hearings to be informal and not intimidating for the public, while recognizing the need for certain structure to maintain orderly hearings. Notwithstanding the procedures established in this section, the board may modify these procedures to effectuate the effective presentation of evidence.

(b)

Applicability of these procedures.

(1)

Quasi-judicial proceedings. These procedures apply to all quasi-judicial proceedings heard by the board regardless of the capacity in which the board is sitting. Examples of quasi-judicial proceedings include but are not limited to: site specific land use decisions and site specific rezonings (provided they involve policy implementation), development of regional impact hearings, water and navigation control authority permits, conditional use permits, solid waste permits, fortunetelling, and administrative appeals.

(2)

Legislative proceedings. Utilization of these procedures by the board when sitting in its legislative capacity does not change the character of the legislative proceeding nor does it confer any additional rights or remedies upon any person or party.

(c)

Pre-hearing submittals.

(1)

Continuing record of qualifications. The board's clerk shall maintain a file with the most recent copies of resumes previously filed with the clerk by county staff and agents speaking on behalf of proponents and opponents.

(2)

Application. The applicant shall make application as provided in the procedures established for the individual decision being requested.

(3)

Staff/agency recommendation. To the extent that the applicable procedure requires a staff review and written recommendation to be presented to the board, that written recommendation shall be completed and available for public inspection no later than three weeks prior to the hearing before the board.

(4)

Written presentation. No later than one week prior to the scheduled public hearing before the board, any applicant, proponent, or opponent may submit any written arguments, evidence, explanations, studies, reports, petitions or other documentation for consideration by the board in support of or in opposition to the application. All written submissions must be on 8½ × 11-inch paper. No written materials will be accepted by the board at its hearing unless, in the board's discretion, acceptance is necessary to decide the issue. Written comments submitted shall be considered and entered into the record of the meeting in accordance with subsection 134-14(e), below.

(d)

Public hearing before the board of county commissioners.

(1)

Generally. It is the expectation that the hearing will be as informal and nonintimidating as possible. All members of the public who address the board shall first be identified for the record and shall utilize the speaker's lectern to allow his comments to be recorded. Each other person who addresses the board shall speak from the speaker's lectern and shall provide the speaker's name, address and whether the speaker speaks on behalf of others.

a.

Time limitation guidelines. It is expected that presentations will be organized and efficiently presented. As a guideline to presentations, in addition to the written comments submitted as part of the preliminary record, it is expected that persons in the following status will prepare their discussions and comments to be completed within the prescribed time limits:

1.

The applicant should present his or her entire case in 20 minutes.

2.

Persons who have been authorized to represent an organization with five or more members or a group of five or more persons should, to the maximum extent possible, limit their presentation to 20 minutes. It is expected that others in the organization or group waive their time.

3.

All other persons may speak up to a total of three minutes each.

b.

Registration of proponents or opponents. To the extent possible, persons who desire to make presentations as proponents or opponents of an item should, prior to the meeting at which such item is to be heard, register with the board's clerk on the forms provided. Five or more persons deemed by the board to be associated together or otherwise represent a common point of view, as proponents or opponents on an item may be requested to select a spokesperson.

(2)

Order and subject of appearance.

a.

Initial presentation by staff. County staff shall make the initial presentation to the board regarding any item under consideration. After completion of the staff presentation, the board may make inquiries of staff at this time. Affected parties may ask questions of, or seek clarification from, staff by request through the chair at the time that party makes its initial presentation to the board.

b.

Proponents' presentation. After staff presentation, the applicant(s) shall be allowed to make a presentation to the board based on the time limitation guidelines outlined in the immediately preceding subsection 134-14(d)(1)(a), above. After presentation by the applicant(s), proponents of the item or request shall be allowed to speak based on the time limitation guidelines outlined in the immediately preceding subsection 134-14(d)(1)(a), above.

c.

Inquiry of proponents. During and after the proponents' presentation, the board shall have an opportunity to comment or ask questions of or seek clarification from the proponent(s). The board may allow staff to comment, ask questions of or seek clarification from the proponent(s) at this time. After completion of the proponent's presentation(s), affected parties may ask questions of or seek clarification from the proponent(s) by request through the chair at this time.

d.

Opponent's presentation. After board and staff inquiry of the proponents, opponents of an item or request shall be allowed to speak based on the time limitation guidelines outlined in the immediately preceding subsection 134-14(d)(1)(a), above.

e.

Inquiry of opponents. During and after the opponent(s)' presentation, the board shall have an opportunity to comment or ask questions of or seek clarification from the opponent(s). The board may allow staff to comment, ask questions of or seek clarification from the opponent(s) at this time. After completion of the opponent(s)' presentation(s), affected parties may ask questions of or seek clarification from the opponent(s) by request through the chair at this time.

f.

Staff response and summary. After inquiry of the opponents, the staff shall be allowed an opportunity for response to the presentations by the applicant, proponents and opponents and a summary with any changes in position after consideration of relevant public comment. Proponents and opponents who believe that the staff response includes errors of fact or law may ask for any may be allowed an opportunity to point out such errors of fact or law.

g.

Applicants' rebuttal presentation.

1.

Applicants' rebuttal shall be allowed only in items where there is an applicant other than the board or board staff itself. After staff response, the applicant shall be allowed an opportunity for rebuttal. Rebuttal should be limited to five minutes unless otherwise set by the board. Rebuttal shall only address previous comments.

2.

Proponents, opponents and staff who believe that the rebuttal presentation includes an error of fact or law may ask for and may be allowed an opportunity to point out such error of fact or law.

h.

Board and staff inquiry. After staff, proponents and opponents have made presentations as outlined above, the board shall have a final opportunity to comment or ask questions of any proponent, opponent or staff member. The board may allow staff to respond to comments of a proponent or opponent at this time.

i.

Limit on presentations. No person who has made a presentation for or against an item at a given meeting shall be allowed to make additional comment as of right. In the event that such additional comments are allowed, in the board's discretion, such additional comments shall not be allowed until after all other persons on the same side of the issue have had an opportunity initially to comment or make presentations.

j.

Closing of public comment. For those matters in which public comment is heard by the board, the chair shall close the public comment portion of the meeting on that item upon the conclusion of the last appropriate speaker's comments or, in the board's discretion, if no new relevant information is being presented. No additional public comments shall be allowed, except in specific response to questions by members of the board.

(3)

Miscellaneous.

a.

Organizational or group speakers. Prior to presenting his/her case, any person representing an organization or other persons shall indicate who he/she represents and how he/she received authorization to speak on behalf of such organization or group of persons. The board may make further inquiry into the represented authority

of such person if necessary.

b.

Restrictions on testimony or presentation of evidence. Notwithstanding any provisions herein, any board member may interrupt and/or stop any presentation which discusses matters which need not be considered in deciding the matter then before the board for consideration. At any board proceeding, the chair, unless overruled by majority of the board members present, may restrict or terminate presentations which in the chairman's judgment are frivolous, unduly repetitive or out of order.

c.

Speaker's qualifications. If their resumes are not already on file with the board's clerk pursuant to the subsection 134-14(c)(1), above, persons addressing the board on issues requiring educational, occupational and other experience should identify those qualifications. The board may inquire as to such qualifications.

d.

Elected officials. Notwithstanding other provisions hereof, the board may allow any elected or appointed public official, or representative thereof, to appear and make presentations at any time with regard to matters under consideration.

e.

Continued public hearings. In any matter it is known that a scheduled public hearing will be continued to a future date certain, the staff report may be abbreviated and public comment may be limited to those persons who state that they believe they cannot be available to speak on the date to which the public hearing is being continued. Such persons may make their comments at the then current meeting; provided, however, that upon making their comments, such persons shall waive the right to repeat or make substantially the same presentation at any subsequent meeting on the same subject. This waiver shall not preclude such persons from making different presentations based on new information or from offering response to other persons' presentation, if otherwise allowable, at any subsequent meeting.

(e)

The record.

(1)

Automatically included in the record. The following documents shall automatically be included in the record of the hearing before the board:

a.

The record from any preliminary hearing, the agenda packet, the staff report, and the transcript of the hearing before the board;

b.

The most recent copies of resumes previously filed with the clerk of the circuit court of county staff, proponents, opponents, and their agents, speaking on the particular matter; and

c.

Written comments and documents previously entered into the record at a prior board meeting on the particular matter.

(2)

Items which shall be placed in the record. Any additional documents, exhibits, diagrams, petitions, letters or other materials presented in support of, or in opposition to, an item to be considered by the board shall be entered into the record, as long as it was received by the board's clerk or the applicable Pinellas County department seven days prior to the date of the hearing.

(3)

Additional evidence. Except pursuant to subsection 134-14(c)(4), above, any additional written or documentary evidence filed within seven days of the date of the hearing may not become part of the record.

(4)

Custodian. The board's clerk shall be the official custodian of the record.

(5)

Exhibits. Unless an oversized exhibit is absolutely essential, documentary paper or photographic exhibits should not exceed 24 inches by 36 inches and, if mounted on a backboard, shall be removable therefrom. All documentary evidence should be capable of being folded and filed.

(Ord. No. 09-7, § 2, 2-17-09)

Editor's note— Section 1 of Ord. No. 96-23, adopted Feb. 20, 1996, set out to add § 134-30 to this Code, which the editor has codified as § 134-14 to maintain consistency in this Code.

Sec. 134-15. - Redevelopment.

Development activity will be considered as redevelopment when it occurs on a parcel of land that currently contains a legally permitted or legally nonconforming building, or that contained such a structure on or after September 14, 1982. Redevelopment shall include the reconstruction, conversion, structural alteration, relocation or enlargement of an existing building and/or accessory uses. Redevelopment, however, will not permit the expansion of a nonconforming use.

It is not intended that redevelopment encompass property where prior or existing development has impacted only a small percentage of the developable portion of the land. Therefore, to qualify as a redevelopment project, the existing, or prior, uses of the parcel (including buildings and accessory uses such as parking, stormwater treatment, internal traffic circulation, landscaping) would normally occupy, or have occupied, a substantial percentage of the developable portion of the property under consideration.

(Ord. No. 98-97, § 1, 11-17-98; Ord. No. 10-24, § II, 4-20-10)

Sec. 134-16. - Requirements for redevelopment activities.

Redevelopment as defined by section 134-15 of this Code, when on sites of three acres or less, may be

considered, on a case by case basis, for the following incentives to encourage adaptive reuse of existing building and properties:

(1)

Delay of payment of transportation impact fees for a period of one year.

(2)

Delay of onsite landscape requirements for a period of one year.

(3)

Required parking may be based on the actual utilization of the building at the time of occupancy. The site plan applicant will be required to document the actual need at the time of site plan review. However, adequate space must be set aside onsite to provide parking required by the Code, and in the event the county administrator or his designee determines that additional parking is required to meet the needs of the building or use, the county administrator or designee may require such parking, up to the number of spaces required by the Code, to immediately be installed.

(4)

No new flood control requirements will be imposed unless the area in which such site is located has experienced historic flooding. When such has occurred, normal site drainage requirements will be imposed. Redevelopment projects are not exempt from addressing current water quality treatment standards.

(5)

Buildings or structures which are non-conforming to setbacks, height, or lot size requirements may be extended or enlarged provided such nonconformity is not increased.

(Ord. No. 98-97, § 2, 11-17-98; Ord. No. 10-24, § III, 4-20-10)

Sec. 134-17. - Liens; priorities.

Each and every lien in favor of Pinellas County existing from the delivery of services, including liens for special assessments, code enforcement and the like, shall be deemed to be prior in dignity to any other lien, including mortgages, irrespective of the date of recording of the lien or the date of recording any mortgage or other lien on real property and such lien shall survive any action to foreclose such inferior lien, whether such inferior lien, arises by virtue of a mortgage, mechanic's lien or other security interest in real property; provided, however, that nothing herein contained shall be construed to be inconsistent with or repugnant to any law or statute respecting the priority of liens, and where such law or statute specifically provides for the priorities of liens, the provisions hereof shall be construed to achieve harmony therewith.

(Ord. No. 05-5, § 2, 1-18-05)

Secs. 134-18—134-45. - Reserved.

ARTICLE II. - PLANNING COUNCIL[2]

Footnotes:

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Editor's note—The act contained in this article retains its status as a special act. See charter § 5.02. The source of each section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. Catchlines have been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 134-46. - Created.

There is hereby created a countywide planning and coordinating council to be known as the "Pinellas Planning Council," hereinafter referred to as the "council."

(Laws of Fla. ch. 73-594, § 1; Laws of Fla. ch. 88-464, § 1)

Sec. 134-47. - Purpose of council; legislative intent; definitions.

(a)

The legislature recognizes the social and economic interdependence of the people residing within Pinellas County and the common interest they share in its future development. The legislature also recognizes that individual plans and decisions heretofore made by local governments within the county have affected the welfare of the entire county as well as neighboring jurisdiction and, therefore, the legislature intends that the purpose of this article is to provide a means for:

(1)

The formulation and execution by the county of the objectives and policies necessary for the orderly growth, development and environmental protection of Pinellas County as a whole.

(2)

The coordination by the council of all planning and development in Pinellas County with regional planning objectives in the Tampa Bay area as developed by the Tampa Bay Regional Planning Council.

(3)

The coordination by the council of all planning and development in Pinellas County with the department of community affairs.

(b)

The legislature further recognizes that the future of Pinellas County, its permanent residents and the millions of tourists who annually visit the county is dependent upon the way the natural and manmade resources of land, air and water are guided into use and reuse through zoning, subdivision regulations, wastewater treatment systems, water resource management, transportation systems, recreational facilities, solid waste disposal systems, urban development and redevelopment, and all other comprehensive planning activities.

(c)

As used in this article, the term:

(1)

Local government means the county or any municipality within the county.

(2)

Countywide comprehensive plan means materials in such descriptive form, written or graphic, as may be appropriate to the prescription of principles, guidelines, and standards for the orderly and balanced future economic, social, physical, environmental, and fiscal development of Pinellas County. The countywide comprehensive plan shall include a countywide future land use plan and those additional elements enumerated in this article.

(3)

Countywide future land use plan means a land use map supplemented by policies and objectives which designate proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land.

(4)

Land development regulation means an ordinance enacted by a local government for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, or building construction regulation or any other regulation controlling the development of land.

(Laws of Fla. ch. 73-594, § 2; Laws of Fla. ch. 88-464, § 1)

Sec. 134-48. - Membership; terms of office; vacancies.

(a)

The council shall be composed of 13 members, to be selected and appointed as follows:

(1)

One member shall be appointed by a majority vote of the board of county commissioners. Such appointee shall be a member of said board of county commissioners and shall serve for a term of two years.

(2)

One member shall be a representative of the City of St. Petersburg and shall be appointed by the city council

of St. Petersburg. Such appointee shall serve for a term of two years.

(3)

One member shall be a representative of the City of Clearwater and shall be appointed by the city commission of Clearwater. Said appointee shall serve for a term of two years.

(4)

One member shall be a representative of the City of Dunedin and shall be appointed by the city commission of Dunedin. Said appointee shall serve for a term of two years.

(5)

One member shall be a representative of the City of Pinellas Park and shall be appointed by the city council of Pinellas Park. Said appointee shall serve for a term of two years.

(6)

One member shall be a representative of the City of Largo and shall be appointed by the city commission of Largo. Said appointee shall serve for a term of two years.

(7)

One member shall be a representative of the following group of municipalities: St. Petersburg Beach, Treasure Island, and Madeira Beach. The governing body of each named municipality shall submit nominations to the board of county commissioners. Said board of county commissioners shall appoint one person from those nominated for a term of two years.

(8)

One member shall be a representative of the following group of municipalities: Indian Rocks Beach, Redington Shores, Redington Beach, Belleair Beach, Indian Shores, North Redington Beach, and Belleair Shores. The governing body of each named municipality shall submit nominations to the board of county commissioners. Said board of county commissioners shall appoint one person from those nominated for a term of two years.

(9)

One member shall be a representative of the following group of municipalities: Gulfport, Kenneth City, Belleair, South Pasadena, Belleair Bluffs and Seminole. The governing body of each named municipality shall submit nominations to the board of county commissioners. Said board of county commissioners shall appoint one person from those nominated for a term of two years.

(10)

One member shall be a representative of the Pinellas County School Board and shall be appointed by the school board. Said appointee shall serve for a term of two years.

(11)

One member shall be a representative of the City of Tarpon Springs. One member shall be a representative of the City of Oldsmar. One member shall be a representative of the City of Safety Harbor. Each said appointee shall be appointed by the respective city commission and shall serve for a term of two years.

(b)

The terms of all appointees to the present council shall expire on the effective date of this article. Initial appointments to the council shall be made by the appointing agency within 30 days after the effective date of this article. The term of each appointee shall begin on the date of his appointment and shall expire at midnight, December 31, 1990. Thereafter, all appointments shall be made by the appointing agency on or before January 1, biennially, and all terms shall begin on January 1 of the calendar year.

(c)

When nominations are required, they shall be submitted no later than 30 days prior to the last day appointments may be made. Failure to receive nominations by the time specified shall not impair the duty of the board of county commissioners to make appointments required by this section, provided, however, when an appointment is made by said board of county commissioners after failing to receive nominations, said appointee shall be qualified by residence to serve the body he is appointed to represent and shall meet all other requirements of this section.

(d)

Each member shall be an elected official and a member of the governing body or one of the governing bodies that he represents.

(e)

Any member of the council may be removed by the appointing authority for malfeasance, misfeasance, nonfeasance, misconduct, or for more than three unexcused absences during the calendar year from regular council meetings. Any vacancy in the membership of the council shall be filled for the unexpired term in the same manner as the initial appointment.

(Laws of Fla. ch. 73-594, § 3; Laws of Fla. ch. 74-586, § 1; Laws of Fla. ch. 76-473, § 3; Laws of Fla. ch. 88-464, § 1)

Sec. 134-49. - Officers; meetings; records; quorum; expenses.

(a)

The council shall elect one of its members as chairman, one of its members as vice-chairman, one of its members as treasurer and one of its members as secretary, each of whom shall serve for the year or until a successor is elected. No person elected chairman shall serve more than two consecutive years in that capacity.

(b)

The council may meet at least once each month, at such place and at such other times, in special session, as the council, by a majority vote, shall determine, and at any other time at the call of the chairman. The council shall adopt operating procedures for the transaction of business and keep a record of its transactions, resolutions, findings, determinations, recommendations and orders, which record shall be a public record.

(c)

At all meetings of the council, a quorum shall consist of eight members. No official business of the council may be transacted unless a quorum is present. No vacancy in the council shall impair the right of a quorum of the council to exercise all the rights and perform all the duties of the council. Except as otherwise provided in this article, all actions of the council shall be [by] a majority vote of those members present.

(d)

Members of the council shall be entitled to receive from the council their traveling and other necessary expenses incurred in connection with the business of the council, as provided by law, but they shall draw no salaries or other compensation.

(Laws of Fla. ch. 73-594, § 4; Laws of Fla. ch. 74-586, § 2; Laws of Fla. ch. 76-473, § 5; Laws of Fla. ch. 88-464, § 1)

Sec. 134-50. - Powers and duties.

In the performance of its duties and in the execution of its functions under this article, the council has and shall exercise the following powers and duties:

(1)

To maintain a permanent office at the place or places within Pinellas County as it may designate. Additional sub-offices may be maintained at such place or places within Pinellas County as it may designate.

(2)

To employ and to compensate such personnel, consultants, and technical and professional assistants as it may deem necessary.

(3)

To make and enter into contracts and agreements.

(4)

To hold public hearings and sponsor public forums.

(5)

To sue and be sued in its own name.

(6)

To accept and expend funds and grants from and accept and use services from:

a.

The federal government or any agency thereof;

b.

The state government or any agency thereof;

c.

The county government or any agency thereof, including the district school board;

d.

The several municipalities in Pinellas County or agencies thereof;

e.

The Tampa Bay Regional Planning Council; and

f.

Civic groups, nonprofit agencies, etc.

(7)

g.
To develop a countywide future land use plan with a countywide managed growth perspective and compatible with the other elements of the comprehensive plan.

h.

To develop rules, standards, policies, and objectives that will implement the countywide future land use plan. The rules, standards, policies, and objectives shall establish parameters that will be used to determine whether or not local governments' comprehensive plans and land development regulations are consistent with the countywide future land use plan and the land use categories within the plan. Each land use category shall be defined in terms of the types of uses included and specific standards for the density or intensity of use. A continuum established by rule or standard shall be formulated by the council which shall specifically identify which land uses are more intense than others. At a minimum, the rule or standard shall include intensity concepts such as maximum floor area to land area ratios, impervious surface provisions, and traffic generation rates.

(8)

To develop other elements of a countywide comprehensive plan which shall include:

a.

A countywide capital improvements element;

b.

A countywide traffic circulation element that includes mass transit and other transportation facilities and that recognizes the responsibilities of the metropolitan planning organization as defined by law and joint agreement;

c.

A countywide general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element;

d.

A countywide housing element;

e.

A countywide conservation element;

f.

A countywide recreation and open space element;

g.

A countywide coastal management element;

h.

A countywide intergovernmental coordination element; and

i.

Any other elements determined by the council to be necessary to establish effective countywide planning.

The council shall develop the elements described in this subsection (8) in sufficient detail to provide a basis for reviewing local governments' comprehensive plans, including the local governments' future land use plan elements. These elements are not required to comply with F.S. §§ 163.3177 and 163.3178; however, they shall not conflict with these provisions.

(9)

To coordinate countywide growth management issues and procedures consistent with this article.

(10)

To review each element of the countywide comprehensive plan with the local governments on a routine basis, in order to assure coordination with local goals and policies and to identify specific countywide growth management problem areas and to determine progress toward solutions to identified problems.

(11)

When processing amendments to the countywide comprehensive plan, to consider the countywide future land use plan; the rules, standards, policies, and objectives contained in that plan; and the other elements of the comprehensive plan.

(12)

To review and make a recommendation to the affected municipality of each proposed annexation within Pinellas County to such municipality with reference to the ability of said municipality to provide municipal

services to the territory which is proposed to be annexed, provided that no review or recommendation shall be required hereunder for parcels of less than ten acres in size.

(13)

To act as the countywide land planning agency for Pinellas County. This article does not prevent the Pinellas County board of county commissioners from designating a local planning agency for the county.

(Laws of Fla. ch. 73-594, § 5; Laws of Fla. ch. 74-584, §§ 3, 4; Laws of Fla. ch. 76-473, § 6; Laws of Fla. ch. 88-464, § 1; Laws of Fla. ch. 90-396, § 1)

Sec. 134-51. - Countywide planning department.

(a)

The council shall establish a planning department. The administrative head of the council's planning staff shall be a planning professional serving as the executive director of the council. The executive director shall serve at the pleasure of the council. Pursuant to subsection (2) of section 134-51 of this article the council shall employ such other staff as may be needed for the planning department. The executive director shall have the sole authority to manage the activities of the planning staff. Nothing herein shall prevent the executive director and the planning staff from being classified or exempt employees of the Pinellas County unified personnel system.

(b)

Directors of individual local government planning departments shall automatically become members of the planners advisory committee. Said committee may, at the direction of the council, perform a professional planning review of the council planning staff recommendations of plans that are to be acted upon by the council. The committee may perform such other duties assigned to it by the council but may not be involved in the administration or executive functions of the council. For the purpose of this article, the term "individual local government planning departments" means the planning departments now maintained by the local governments. In the performance of local planning, each unit of local government shall either establish a professional planning department, retain a professional planning consulting firm, or contract with the Pinellas County planning council for professional services.

(c)

The planning department, as recognized herein, shall prepare all plans or other documents that the council may direct under the provisions of this article and shall assist any committee and the executive director in day-to-day activities. Said department shall be governed by such operating procedures as may from time to time be set forth by the council.

(Laws of Fla. ch. 73-594, § 6; Laws of Fla. ch. 74-584, § 5; Laws of Fla. ch. 88-464, § 1)

Sec. 134-52. - Budget; fiscal year; appropriations; contributions; annual audits and reports.

(a)

The executive director of the council shall annually prepare the budget of the council. Said budget shall be kept within the limit of funds annually available to the council, and each item in the budget shall be fully

explained. The council shall approve and adopt the annual budget and all deliberations on the budget by the council shall be done at meetings open to the public. Each organization contributing to the maintenance of the council shall be provided a copy of the proposed and adopted budget. Copies of the proposed and adopted budget shall be supplied to the governing body of each local government unit and to the news media of Pinellas County. The fiscal year of the council shall be the same as the board of county commissioners of Pinellas County. Notwithstanding the above, the board of county commissioners of Pinellas County shall have the right to review the budget, raising or reducing it as it deems necessary.

(b)

The tax collector of Pinellas County shall remit directly to the council from the total taxes collected from the millage certified by the board of county commissioners of Pinellas County for county purposes, an amount equal to the annual budget but not to exceed one-sixth of a mill on each dollar of the assessed valuation of taxable property made annually by the property appraiser of Pinellas County. The funds collected pursuant to this subsection shall only be expended for Pinellas County planning council purposes.

(c)

Any person or civic group may contribute monetarily to special studies performed by the council, provided that the council approves said contribution.

(d)

In the event the auditor general does not audit each year, the council or the board of county commissioners of Pinellas County shall cause an independent audit to be performed, to be paid for by the council. The council shall also prepare an annual progress report on its activities as a whole.

(Laws of Fla. ch. 73-594, § 7; Laws of Fla. ch. 74-584, § 1; Laws of Fla. ch. 88-464, § 1)

Sec. 134-53. - Public hearings; notice.

(a)

At least one public hearing shall be required prior to the adoption or amendment of any plans, rules, standards, policies, objectives, or operating procedures of the council. More than one public hearing may be required at the discretion of the council. The location of public hearings shall be determined by the council.

(b)

At least two weeks prior to a scheduled hearing, notice of the time and place of the hearing shall be given in writing to the local governments. Notice shall be sent to any other federal, state, public, semipublic, civic, or public body that the council determines has an interest in the scheduled public hearing. At least two weeks' notice of the time and place of the scheduled hearing shall also be given by publication in a newspaper of general circulation in Pinellas County.

(Laws of Fla. ch. 73-594, § 8; Laws of Fla. ch. 88-464, § 1)

Sec. 134-54. - Adoption of plans, rules, standards, policies, objectives, or operating procedures; amendment.

The adoption of any plan, rule, standard, policy, objective, or operating procedure as provided in this article shall be by an affirmative vote of the majority plus one of the entire council. Any amendment of such plan,

rule, standard, policy, objective, or operating procedure shall be by an affirmative vote of a majority of the members present and constituting a quorum.

(Laws of Fla. ch. 73-594, § 9; Laws of Fla. ch. 74-584, § 2; Laws of Fla. ch. 88-464, § 1; Laws of Fla. ch. 90-396, § 2)

Sec. 134-55. - Proposed changes to land use plan; procedures.

(a)

Countywide planning authority of the board of county commissioners. The countywide planning authority of the Pinellas County board of county commissioners is limited to the authority provided for in the county charter and as provided herein.

(b)

Plan adoption by the State of Florida. The Pinellas Planning Council Countywide Land Use Plan, including related documents and elements of such plan, as adopted by the board of county commissioners of Pinellas County on May 17, 1988, and filed pursuant to the records of minute book 163, page 977, is incorporated by reference and adopted herein. All local governments' comprehensive plans and land development regulations shall be consistent with the countywide comprehensive plan. The board of county commissioners shall have the authority to enforce the countywide comprehensive plan. Amendments to the countywide comprehensive plan adopted pursuant to this subsection shall be made pursuant to this article. Paragraph (1) of subsection (c) applies to subsequent plan adoptions.

(c)

Plan adoption by the Pinellas County board of county commissioners.

(1)

The board of county commissioners shall adopt the countywide future land use plan and the elements enumerated in subsection (8) of section 134-51 of this article prepared by the council by a majority vote of the entire board. A majority plus one of the entire board of county commissioners is required to make any amendments, additions, or deletions to the future land use plan and the elements enumerated in subsection (8) of section 134-51 of this article as recommended for adoption by the council.

(2)

Upon adoption by the board of county commissioners, the countywide future land use plan and the elements enumerated in subsection (8) of section 134-51 of this article will have the full force and effect of law countywide. All local governments' comprehensive plans and land development regulations shall be consistent with the countywide comprehensive plan. The board of county commissioners shall have the authority to enforce the countywide comprehensive plan.

(3)

Local governments' future land use plans shall be considered to be consistent with the countywide future land use plan if the local governments' land use designations are less intense or at a lower density. If a local government's future land use plan provides for a less intense land use or a lesser density, the local plan shall

regulate development for the subject property as to the less intense or lower density use of the property. However, a local future land use plan or subject property is not exempt from such other standards, rules, or procedures of the countywide comprehensive plan as are applicable.

(d)

Amendments.

(1)

Amendments to the adopted countywide future land use plan relating to a land use designation for a particular parcel of property may be initiated only by a local government that has jurisdiction over the subject property. Amendments to a rule, standard, policy, or objective of the countywide future land use plan or the elements enumerated in subsection (8) of section 134-51 of this article may be initiated by the council or any local government. All amendments initiated by a local government or the council shall be transmitted to the board of county commissioners with a recommendation by the council. A majority plus one of the entire board of county commissioners is required to take any action on the proposed amendment which is contrary to the council's recommendation. A recommendation shall be received by the board of county commissioners prior to its taking action on an amendment.

(2)

The council shall have 60 days after the day an application is filed with the council to act on that amendment and forward the recommendation to the board of county commissioners. Action by the council may include recommendation for approval, denial, continuation, or an alternative compromise amendment, any of which shall constitute action by the council within the stipulated 60-day period. Provision for the council to make a recommendation for an alternative compromise amendment shall be as approved and set forth in the rules concerning the administration of the countywide future land use plan.

(3)

If the council recommends denial of a proposed amendment to the countywide future land use plan relating to a change in a land use designation for a particular parcel or a change in the rules, standards, policies, or objectives of the countywide future land use plan, any substantially affected person may seek a hearing pursuant to F.S. ch. 120. Any substantially affected person may participate in the hearing. At the conclusion of the hearing, the hearing officer's recommended order shall be forwarded to and considered by the board of county commissioners in a final hearing. The basis for the board of county commissioners' approval or denial of the proposed amendment is limited to the findings of fact of the hearing officer. This paragraph does not apply to any amendments made to the elements enumerated in subsection (8) of section 134-51 of this article.

(4)

If the council recommends approval of a proposed amendment to the countywide future land use plan relating to a change in a land use designation for a particular parcel or a change in the rules, standards, policies, or objectives of the countywide future land use plan, the recommendation shall be directly forwarded to the board of county commissioners. After a hearing is held, if the board of county commissioners votes by a majority plus one to deny the amendment, any substantially affected person, the council, or the board of county commissioners may seek a hearing pursuant to F.S. ch. 120. Any substantially affected person may participate in the hearing. At the conclusion of the hearing, the hearing officer's recommended order shall be forwarded to and considered by the board of county commissioners in a final hearing. The basis for the board

of county commissioners' final decision approving or denying the proposed amendment is limited to the findings of fact of the hearing officer. This paragraph does not apply to any amendments made to the elements enumerated in subsection (8) of section 134-51 of this article.

(5)

The council may contract with the department of administration to provide the hearing officers required by this article. The council shall be responsible for compensating the department of administration for costs incurred by the department in the hearing process. Except as provided in paragraphs (d)(3) and (d)(4), the council and the board of county commissioners are not subject to F.S. ch. 120.

(6)

An administrative hearing under paragraph (d)(3) or paragraph (d)(4) is limited to a review of the facts pertaining to the subject property, the countywide future land use plan, and those rules, standards, policies, and procedures applicable thereto. An administrative hearing is not the appropriate forum for a constitutional challenge.

(7)

Decisions by the board of county commissioners, acting in its capacity under this article, are legislative in nature. Decisions made by the board of county commissioners subsequent to a final order pursuant to a hearing under paragraph (d)(3) or paragraph (d)(4) may be challenged by writ of certiorari in a court of competent jurisdiction.

(e)

Public hearing and notice requirements. An ordinance adopted by the board of county commissioners which adopts or amends the provisions of the countywide comprehensive plan or the countywide future land use plan shall be enacted or amended pursuant to the following procedure:

(1)

For an adoption of or amendment to plans, rules, standards, policies, or objectives of the countywide comprehensive plan pursuant to section 134-54 or an amendment to the adopted countywide future land use plan relating to a land use designation for a particular parcel of property involving more than five percent of the county:

a.

The board of county commissioners shall hold two advertised public hearings on the proposed ordinance. At least one of the hearings shall be held after 5:00 p.m. on a weekday, and the first shall be held approximately seven days after the day that the first advertisement is published. The second hearing shall be held approximately two weeks after the first hearing and shall be advertised approximately five days prior to the public hearing. The day, time, and place at which the second public hearing will be held shall be announced at the first public hearing.

b.

The required advertisement may not be less than one-quarter page in a standard size or a tabloid size

newspaper, and the headline in the advertisement may not be in a type smaller than 18 point. The advertisement may not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement must be published in a newspaper of general paid circulation in the county and of general interest and readership in the community pursuant to F.S. ch. 50, not one of limited subject matter. The advertisement shall be in the following form:

"NOTICE OF … (adoption or amendment) … OF PLANS, RULES, STANDARDS, POLICIES, OR OBJECTIVES OF THE COUNTYWIDE COMPREHENSIVE PLAN

"The Board of County Commissioners, acting as the Countywide Planning Authority, proposes to adopt or change a regulation affecting the use of land for the area shown in the map in this advertisement.

"A public hearing on the regulation affecting the use of land will be held on … (date and time) … at … (meeting place) …."

The advertisement shall also contain a geographic location map which clearly indicates the area covered by the proposed ordinance or resolution. The map shall include major street names as a means of identification of the area.

c.

In lieu of publishing the advertisements set out in this paragraph, the board of county commissioners may mail a notice to each person owning real property within the area covered by the ordinance. Such notice must clearly explain the proposed ordinance and shall notify the person of the time, place, and location of both public hearings on the proposed ordinance.

(2)

For an amendment to the adopted countywide future land use plan relating to a particular parcel of property involving less than five percent of the county, the board of county commissioners shall direct its clerk to notify, by mail, each real property owner whose land is affected by the change in land use designation enacted by the ordinance and whose address is known by reference to the latest ad valorem tax records. The notice must state the substance of the proposed ordinance or resolution as it affects that property owner and shall set a time and place for one or more public hearings on such ordinance or resolution. Such notice must be given at least 30 days prior to the date set for the public hearing, and a copy of such notice shall be kept available for public inspection during the regular business hours of the office of the board of county commissioners.

(Laws of Fla. ch. 73-594, § 10; Laws of Fla. ch. 88-464, § 1; Laws of Fla. ch. 90-396, § 3)

Sec. 134-56. - Contractual services.

The council and local governments shall have the authority to contract with one another, with the Tampa Bay regional planning council, or with the department of community affairs for the furnishing of such services and assistance as may be necessary or proper under the provisions of this article. The council may make available any plan, code or regulation to any other county, federal agency, planning agency, or municipality upon such terms as may be mutually agreed upon.

(Laws of Fla. ch. 73-594, § 12; Laws of Fla. ch. 88-464, § 1; Laws of Fla. ch. 90-396, § 5)

Secs. 134-57—134-80. - Reserved.

ARTICLE III. - COMPREHENSIVE PLAN[3]

Footnotes:

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State Law reference— Local Government Comprehensive Planning and Land Development Regulation Act, F.S. § 163.3161 et seq.; comprehensive plans, F.S. §§ 163.3177, 163.3184 et seq.

Sec. 134-81. - Authority.

This article is adopted in compliance with and pursuant to the local government comprehensive planning and land development regulation act, F.S. § 163.3161 et seq.

(Ord. No. 89-4, § 1, 1-31-89; Ord. No. 89-32, § 1, 8-8-89)

Sec. 134-82. - Purpose and intent.

(a)

It is hereby declared that the purpose and intent of this article is to preserve and enhance present advantages; encourage the most appropriate use of land, water, and resources consistent with the public interest; overcome present handicaps; and deal effectively with future problems which may result from the use and development of land within the county. Through the use of the Pinellas County Comprehensive Plan, and those elements thereto adopted by this article, it is the intent of the board of county commissioners to preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement, fire prevention, and general welfare; prevent the overcrowding of land and avoid undue concentration of populations; facilitate the adequate and efficient provision of transportation, water, sewerage, parks and recreation facilities, solid waste, drainage, and other services; and conserve, appropriately develop, utilize, and protect natural and historic resources; adequately plan for and guide growth and development within the county; coordinate local decisions relating to the economy, growth and development; and ensure that the existing rights of property owners be preserved in accord with the constitutions of the state and of the United States.

(b)

The provisions of the elements adopted by this article are declared to be the minimum requirements necessary to accomplish the aforesaid stated intent, purpose, and objectives of this article; and they are declared to be the minimum requirements to maintain, through orderly growth and development, the character and stability of present and future land use and development in the unincorporated areas of the county. Nothing in this article is to be construed to limit the powers and authority of the board of county commissioners to enact ordinances, rules or regulations that are more restrictive than the provisions of this article.

(c)

Nothing in this article or the comprehensive plan adopted in this article, or in the land use regulations adopted consistent with the requirements of this article, shall be construed or applied so as to result in an unconstitutional temporary or permanent taking of private property or the abrogation of validly existing vested rights.

(Ord. No. 89-4, § 2, 1-31-89; Ord. No. 89-32, § 2, 8-8-89; Ord. No. 09-7, § 3, 2-17-09)

Sec. 134-83. - Adopted.

The Pinellas County Comprehensive Plan, and all amendments thereto, are hereby adopted as required by, and pursuant to, the provisions of the local government comprehensive planning and land development regulation act, F.S. § 163.3161 et seq., as the local comprehensive plan of the Pinellas County Board of County Commissioners.

(Ord. No. 89-4, § 3, 1-31-89; Ord. No. 89-32, § 3, 8-8-89; Ord. No. 05-32, §§ 1, 2, 5-3-05; Ord. No. 09-7, § 4, 2-17-09; Ord. No. 10-31, §§ 1, 2, 6-1-10; Ord. No. 10-42, § 1, 8-24-10; Ord. No. 10-59, § 1, 10-26-10)

State Law reference— Adoption and amendment of comprehensive plan, F.S. § 163.3184 et seq.

Sec. 134-84. - Administration.

The county administrator or designee shall be responsible for the general administration of the comprehensive plan. The planning director or designee shall be responsible for reviewing all ordinances and, pursuant to F.S. § 163.3194(2), to identify those which pertain to land development for submission to the local planning agency for its review, consideration, and recommendation to the board of county commissioners.

(Ord. No. 89-4, § 4, 1-31-89; Ord. No. 89-32, § 4, 8-8-89; Ord. No. 09-7, § 5, 2-17-09)

Sec. 134-85. - Appeals.

(a)

The board of county commissioners or its designee shall hear appeals relating to any administrative decision or determination concerning implementation or application of the comprehensive plan's provisions. The board of county commissioners shall establish procedures and proceedings and times for appeals to be heard.

(b)

In order to prevent the taking of property pursuant to the provisions of subsection 134-82(c), the board of county commissioners shall establish administrative procedures which any party challenging the denial of a development order as a temporary or permanent taking of private property or an abrogation of vested rights must exhaust before any action on a request for development is deemed final by any court or quasijudicial proceeding.

(Ord. No. 89-4, § 5(a), (b), 1-31-89; Ord. No. 89-32, § 5(a), (b), 8-8-89)

Sec. 134-86. - Protection of vested rights.

(a)

Definitions.

(1)

Final local development order. For the purpose of this article, a "final local development order" shall be that

last approval necessary to carry out the development provided that the proposed project has been precisely defined and development has commenced and is continuing in good faith. The last approval for a given type of development activity shall be deemed as provided in attachment A to the ordinance from which this section is derived. Terms used in this definition shall be as defined in chapter 138.

(2)

Final site plan approval. For the purpose of this article, "final site plan approval" means that a site development plan has been reviewed and approved by the county water, sewer, engineering, environmental management, and planning departments for compliance with all currently applicable rules, regulations, and ordinances and has subsequently been reviewed, approved, and signed by the county administrator and is the last review needed for issuance of a building permit. However, no exemptions shall apply to environmental/health policies set forth in the comprehensive plan.

(b)

Final site plan. Final site plans shall, at a minimum, require:

(1)

Project identification:

a.

Title of project or development.

b.

Name of engineer, architect, and developer.

c.

North point, scale, date, and legal description of proposed site.

(2)

Location, dimensions, and character of construction of existing and proposed buildings, streets, driveways, curb cuts, entrances, exits, parking and loading areas (including the number of off-street parking and loading spaces), outdoor lighting systems, if any, storm drainage, and sanitary facilities.

(3)

Location and dimensions of proposed lots, setback lines and easements, proposed reservations for parks, open space, and recreational areas.

(4)

Detailed construction plans showing proposed location and size of proposed sanitary sewers, water main, culverts, drainage structures, and other underground structures in and adjacent to the project.

(5)

Location and size of all outdoor advertising structures.

(6)

A tree survey, as defined in section 166-36, for all areas of the project to be altered from the predevelopment condition.

(7)

Shallow wells and retention ponds shall be included for irrigation purposes. An adequate distribution system to serve that need for irrigation shall be installed and operated for that purpose, and the plan submitted shall indicate such a system. This distribution system for irrigation shall not be connected to any county or municipal potable water source without benefit of a variance. The drainage system shall be approved by the county engineering department and environmental management department for compliance with state and local water quality and volume requirements. Maximum use of lakes and retention ponds and natural or manmade wetlands to reduce runoff shall be encouraged.

Such plan taken through construction will ensure that infrastructure requirements, including but not limited to water, sewer, roads, and drainage, and code compliance, including but not limited to tree protection, wetland protection, water quality, landscaping, zoning, and land use regulations, are enforced.

The development process includes on-site review during construction activity to ensure such compliance with infrastructure and code requirements.

(c)

Special exemptions based on previous approval of development orders.

(1)

Notwithstanding any other provisions of this comprehensive plan, it shall be the policy of the county to consider granting special exemption status to a development order which may be deemed inconsistent with a policy or operative provision in this comprehensive plan if a project phase or a project as indicated in an approved development order in its entirety is completely contained on a site for which one or more of the following development orders has received final approval by the county, and development must have commenced and is continuing in good faith, prior to the date of adoption of this comprehensive plan for purposes of consistency or prior to January 1, 1990, for purposes of concurrency:

a.

Final approved development orders relating to a development of regional impact (DRI) project or Florida Quality Development (FQD) pursuant to F.S. ch. 380.

b.

Valid and approved final local development order.

(2)

Additionally, it shall be the policy of the county to consider granting special exemption status to a proposed development order which may be deemed inconsistent with a policy or operative provision in this

comprehensive plan if that project in its entirety or project phase as indicated in an approved development order is completely contained on a site which has one of the following determinations, provided development commences within one year of the determination and continues in good faith:

a.

A development order or rights determined to be vested pursuant to any prior judicial determination or any judicial determination by an appropriate court overturning a vested right determination made through any administrative procedure subsequently established by the board of county commissioners.

b.

A development order or right determined to be vested pursuant to a vested right determination made through any administrative procedure subsequently established by the board of county commissioners based on the owner's establishment by the presentation, at a public hearing, of competent, substantial evidence that he acted in good faith and in reasonable reliance upon some act or omission of the county and has made such a substantial change in position or has incurred such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the rights he has acquired. A land use designation in a prior comprehensive plan, or a zoning designation, is not sufficient to constitute an act or omission of the county. The treatment of similar cases by state courts, as reviewed by the county attorney or his designated representative, as well as recommendations of staff, shall be relevant to the determination of the extent of vested rights established, if any. Any person who claims that he has vested rights must file an application for a vested rights determination on or before August 8, 1990. Such application not filed by that date shall not be accepted or reviewed, and any such rights claimed after that date shall be irrevocably waived and abandoned. Vested rights determinations shall be deemed to be an action taken on a development order and shall be subject to challenge in the manner provided in F.S. § 163.3215.

(3)

Projects with special exemptions under subsections (c)(1)a and (c)(1)b of this section shall not be required to comply with the provisions of this article as to concurrency. Development orders determined to have "vested rights" under subsections (c)(2)a and (c)(2)b of this section shall be required to comply with the provisions of this article except to the extent provided in the vested rights determination or judicial order.

(4)

To the extent that any subsequent amendment to development orders with a special exemption status established pursuant to the foregoing procedures may alter existing development rights otherwise preserved under the special exemption status, such subsequent amendments shall not qualify for the special exemption and shall be reviewed in accordance with the then-existing comprehensive plan.

(5)

It is not the intent of this section to preclude the consideration of appropriate extensions of development orders or phasing deadlines. Special exemption status shall, however, terminate upon expiration, repeal, or rescission of any approved development order that created the special exemption status on the project or project phase or extension thereof. Any project, or all phases thereof, that are made a special exemption under this policy, or any development that does not comply with the then-existing comprehensive plan, shall be considered nonconforming and shall lose such special exemption status upon the expiration of any final plan or permit, or the missing of any phasing deadline for such project.

(6)

In the event that a phased project in its entirety qualifies as a special exemption, succeeding phases of that project shall retain that status so long as the following conditions are met:

a.

For the first phase, no more than one year has passed since the approval of the final site plan and/or no more than six months have passed since the issuance of a building permit and the commencement of development, which must continue in good faith.

b.

Each subsequent phase shall utilize the initial final site plan approval date as a base, and the approved phase number will be the date in years for required commencement of development for that phase. (Example: In a three-phased project, the third phase shall commence development within three years of the final site plan approval.) All phases must continue development in good faith to retain special exemption status.

(7)

Any proposed development order considered under the exemption provisions of this section must be consistent with the development orders previously approved and issued prior to the plan adoption for the proposed project or project phase. A developer may elect to be processed under this comprehensive plan, in its entirety, as it exists at the time of the request for development order approval. Unless a developer indicates that the special exemption provisions, as set forth in this section, apply to a request for development order approval at the time of application for such development order, then such project shall be processed under the terms of the comprehensive plan in existence at the time of such application.

(8)

Nothing in this section precludes review of a proposed project or project phase that has been determined to have special exemption status under this section for compliance with other applicable development regulations not contained in this comprehensive plan. Nothing in this section precludes review of a proposed project or project phase that has been determined to have special exemption status under this section for compliance with the provisions of this comprehensive plan, provided that requiring compliance with those provisions shall not substantially impair rights deemed to be vested pursuant to this section.

(Ord. No. 89-4, § 5(c), 1-31-89; Ord. No. 89-32, § 5(c), 8-8-89)

Sec. 134-87. - Reserved.

Editor's note— Ord. No. 12-32, § 1, adopted July 24, 2012, deleted § 134-87, which pertained to nonconformities and derived from Ord. No. 89-4, § 5(d), adopted Jan. 31, 1989; and Ord. No. 89-32, § 5(d) adopted Aug. 8, 1989.

Sec. 134-88. - Contents.

Along with the provisions of this article, the Pinellas County Comprehensive Plan shall consist of the adopted principles, goals, objectives, policies, maps and tables, including the future land use map and the future land use map category descriptions and rules, and the monitoring and concurrency management procedures, as

well as the implementation strategies, supporting data and analysis, glossary, and appendices.

(Ord. No. 89-4, § 6, 1-31-89; Ord. No. 89-32, § 6, 8-8-89; Ord. No. 09-7, § 6, 2-17-09)

Sec. 134-89. - Legal status.

(a)

All development undertaken by and all actions taken in regard to development orders of the board of county commissioners shall be consistent with the Pinellas County Comprehensive Plan adopted in this article.

(b)

The board of county commissioners shall be the sole authority for enacting or implementing the provisions of the Pinellas County Comprehensive Plan, unless otherwise delegated to a specific designee.

(c)

All land development regulations enacted or amended shall be consistent with the Pinellas County Comprehensive Plan adopted by this article. No land development regulations, land development code, or amendment thereto shall be adopted by the board of county commissioners until such regulations, code, or amendment has been referred to the county's local planning agency for review and recommendation as to the relationship of such proposal to the Pinellas County Comprehensive Plan.

(d)

For purposes of this section, the terms "land development regulations" and "regulations for the development of land" shall include land use and zoning designations, zoning regulations, subdivision regulations, or other regulations controlling the development of land within the unincorporated areas of the county, or within the incorporated areas of the county as applicable for such regulations.

(e)

It is the specific intent of this article that the Pinellas County Comprehensive Plan adopted in this article shall have the legal status set forth in F.S. § 163.3194, as amended. No public or private development of land within the unincorporated (or incorporated where applicable) areas of the county shall be permitted, except in conformity with the Pinellas County Comprehensive Plan adopted in this article.

(Ord. No. 89-4, § 7, 1-31-89; Ord. No. 89-32, §§ 7, 10, 8-8-89; Ord. No. 09-7, § 7, 2-17-09)

Sec. 134-90. - Evaluation and amendment.

The Pinellas County Comprehensive Plan is subject to periodic evaluation and amendment, as allowed by F.S. ch. 163.3191, in order to ensure that the plan remains an effective long-range planning tool for the county, and at a minimum, address changes in local conditions as well as any new state planning requirements. In order to achieve this, the comprehensive plan, as referenced in this article, shall be the plan as originally adopted in 1989 and amended through subsequent amendment cycles, including the 1998, and any succeeding, evaluation and appraisal report-based amendments, as prescribed by F.S. § 163.3184.

(Ord. No. 98-25, § 1, 2-17-98)

Secs. 134-91—134-120. - Reserved.

ARTICLE IV. - ADMINISTRATIVE PROCEDURES FOR REVIEW AND REMEDY OF TAKING CLAIMS

Sec. 134-121. - Definitions.

(a)

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Developer shall have the definition provided in F.S. § 163.3164(4).

Final site plan shall have the specific meaning set forth in section 134-86(a).

Landowner means any owner of a legal or equitable interest in real property, and includes the heirs, successors and assigns of such ownership interests.

Sworn statement means the sworn statement supplied by a takings claimant as described in section 134-125(a)(2)—(a)(5), and includes all accompanying documents, witness lists and other information supporting the takings claim.

Takings administrator means the county administrator.

Takings claim means any claim that falls within the scope of this article, as set forth in section 134-124(a), whether claimed to be temporary or permanent in character.

(b)

The following terms shall have the specific meaning set forth in section 134-221:

(1)

Development.

(2)

Development order.

(3)

Development permit, except that this term shall include tree permits and grubbing permits where appropriate to further the purposes of this article.

(Ord. No. 90-66, § IV, 7-24-90)

Cross reference— Definitions generally, § 134-2.

Sec. 134-122. - Legislative findings and intent.

(a)

Legislative findings. The board of county commissioners finds and declares that:

(1)

The provisions of F.S. § 163.3161 et seq. establish the local government comprehensive planning and land development regulation act ("the act");

(2)

The provisions of F.S. § 163.3202(2)(g) provide that counties shall have the power and responsibility to plan comprehensively for their future development and growth, including the adoption and implementation of appropriate land development regulations which are necessary or desirable to implement a comprehensive plan;

(3)

The county adopted its comprehensive plan (the "county plan") on August 8, 1989, through the adoption of Ordinance No. 89-32;

(4)

The county plan establishes the minimum requirements necessary to maintain, through orderly growth and development, the character and stability of present and future land use and development in the unincorporated areas of the county;

(5)

Section 134-82(b) provides that the board of county commissioners retains the power and authority to enact ordinances, rules and regulations that are more restrictive than those originally adopted in the county plan;

(6)

Section 134-82(c) provides that nothing in the county plan or its subsequent land use regulations shall be construed or applied so as to result in the taking of property; and

(7)

Section 134-85(b) provides that the board of county commissioners shall establish administrative procedures which any party challenging denial of a development order or a development permit as a taking of property must exhaust before any action on a request for development is deemed final by any court or quasijudicial proceeding.

(b)

Intent.

(1)

It is the intent of the board of county commissioners to ensure that each and every landowner has a beneficial use of owned property in accordance with the requirements of the Fifth and 14th Amendments to the United States Constitution, and thus, to provide an administrative procedure whereby landowners believing they

have been or may be subjected to a taking of their private property by application of any law or regulation promulgated by the county may obtain relief through an efficient, nonjudicial procedure.

(2)

The establishment of an administrative review and remedy procedure will promote the goals of the county plan in a manner which is consistent with section 2 of article I of the state constitution, guaranteeing all natural persons the inalienable right to acquire, possess and protect property.

(3)

It is the specific intent of the board of county commissioners that no provision of its laws or ordinances be interpreted so as to take private property in an unconstitutional manner.

(4)

It is the specific intent of the board of county commissioners that no administrative determinations made under its laws or ordinances result in either a temporary or permanent taking of private property without just compensation as required under the United States or state constitution.

(5)

The board of county commissioners specifically intends that it shall be the duty and responsibility of the party alleging a taking of property to affirmatively demonstrate the legal requisites of the claim alleged.

(6)

It is the board's specific intention that the procedures provided for in this article not be utilized routinely or frivolously, but rather, be solely limited to those extreme circumstances where a potential taking of private property or development rights would otherwise result.

(7)

It is the intent of the board of county commissioners, consistent with the provisions of F.S. § 163.3161(9), that the provisions of this article be utilized to sensitively administer the county comprehensive plan and its land development regulations.

(8)

It is the intent of the board of county commissioners, consistent with the provisions of F.S. § 163.3161(9), that the provisions of this article not be utilized as a substitute for judicial relief from takings that have already occurred but to provide an opportunity to make a final decision regarding the applicability of certain ordinances or comprehensive planning provisions to prevent inadvertent takings.

(9)

It is the additional intent of the board of county commissioners to simplify the judicial inquiry regarding the "ripeness doctrine" as enunciated in Williamson County Regional Planning Council v. Hamilton Bank, 473 U.S. 172 (1985) and its progeny by providing a final decision after which a taking claim may be instituted in court.

(Ord. No. 90-66, § I, 7-24-90; Ord. No. 93-91, art. I, 10-19-93)

Sec. 134-123. - Authority.

(a)

This article is adopted in compliance with and pursuant to the local government comprehensive planning and land development regulation act (F.S. § 163.3161 et seq.), and F.S. § 125.01(1)(t) and (1)(w).

(b)

This article is adopted pursuant to the constitutional and home rule powers of Fla. Const. art. VIII, § 1(g) and article II of the Pinellas County Home Rule Charter.

(c)

This article is specifically adopted in furtherance of the legislative intent as expressed in F.S. § 163.3161(9) that the county recognize and respect judicially acknowledged or constitutionally protected private property rights and that all regulations and programs adopted under the local government comprehensive planning and land development regulation act (F.S. § 163.3161 et seq.) be developed, promulgated, implemented, and applied with sensitivity for private property rights.

(Ord. No. 90-66, § II, 7-24-90; Ord. No. 93-91, art. II, 10-19-93)

Sec. 134-124. - Scope.

(a)

This article shall apply to:

(1)

A landowner's or developer's claim which would otherwise arise in a court of competent jurisdiction as a taking of property without just compensation under any law applicable to the county and that arises from:

a.

The denial of property or development rights sought as part of a final site plan, development permit or development order; or

b.

The application of any other provision of the county plan, its implementing land development regulations, or other ordinances;

(2)

Persons denied a claimed remedy sought as part of a vested rights determination under article V of this chapter; and

(3)

Any aggrieved or adversely affected party meeting the standard for "standing" defined in F.S. § 163.3215(2), and alleging that the grant or issuance to another person of a final site plan, development order or development permit by the county constitutes a taking of his property.

(b)

Notwithstanding the provisions set forth in subsection (a) of this section, this article shall not apply to takings claims arising as part of a condemnation or eminent domain action to which the county is, or may be, a party.

(Ord. No. 90-66, § III, 7-24-90)

Sec. 134-125. - Administrative procedures for review of takings claims.

(a)

Filing and documentation of takings claims.

(1)

All takings claims must be filed with the takings administrator and be accompanied by such fee as the board of county commissioners, or its designee, may require.

(2)

Any person filing a takings claim must affirmatively demonstrate the validity of the claim alleged by submitting a sworn statement setting forth the facts upon which the takings claim is based. The sworn statement should include any information the applicant considers necessary. As such, a statement may contain attachments, appendices or exhibits that substantiate those facts supporting the claim. The guide for inclusion of information should be whether the information would constitute competent, substantial evidence in a quasijudicial or judicial proceeding.

(3)

In addition to a demonstration of a potential taking claim, the applicant's evidence should also provide that information necessary to fashion a remedy, should a potential taking claim be found to exist. As part of a typical claim package, the sworn statement required by this subsection (a) should support the claim for a remedy by including any affidavits, copies of drawings, contracts, recordings, reports, letters, appraisals, or any other form of documentation or information that may apply, including, but not limited to:

a.

The transcript or record of any previous hearing where the claim is alleged to have arisen.

b.

Evidence of the expenditure of funds for land, the acquisition of which provides the basis of the taking claim.

c.

Evidence of expenditures of funds for planning, engineering, environmental, and other consultants for site plan preparation, site improvement or other preparation, or construction.

d.

Evidence of expenditures for construction of actual buildings in accordance with an existing or prior development order or development permit issued by the county.

e.

Any relevant donations or dedications of real property or any other property interest made to the county for the following purposes:

1.

Roads or other transportation facilities;

2.

Access (ingress/egress) or rights-of-way;

3.

Drainage easements;

4.

Parks or recreation/open space;

5.

Retention/detention areas;

6.

Conservation areas;

7.

Any other purpose consistent with the provision of services for any element of the county plan;

which are either on- or off-site with respect to the property involved in the claim.

f.

Evidence of costs of construction of any roads, sidewalks, stormwater detention/retention or drainage facilities, sewer or water facilities, parks, etc., which would be either on- or off-site, and part of a plan permitting development on the subject property.

g.

Other development orders or development permits issued by the county with respect to the property involved in the takings claim, and any related federal, state or regional permits.

(4)

As part of a sworn statement, the claimant is required to provide a list of the names and addresses of any witnesses which the claimant shall present in support of the claim and a summary of the testimony of each witness.

(5)

Additionally, the claimant should consider submitting as part of its sworn statement information which:

a.

Demonstrates that the claimant has acted in good faith and without knowledge that changes to applicable ordinances, resolutions, or regulations might effect his development expectations.

In establishing "good faith," the claimant should consider submitting information which affirmatively states that the claimant:

1.

Has not waived, abandoned, or substantially deviated from related prior county development approvals;

2.

Has not, by act or failure to act, consented or assented to changes in related prior county development approvals;

3.

Has, at all times relevant, conformed with the applicable laws, rules, and regulations of the state and the county.

b.

If applicable, details the specific governmental act, ordinance, resolution, regulation or comprehensive plan provision that the claimant believes gave rise to the takings claim.

(6)

The signature of the claimant, or any attorney for the claimant, upon any document submitted as part of a sworn statement shall constitute certification that the person signing has read the document and that to the best of the person's knowledge it is supported by good grounds and that it has not been submitted solely for purposes of delay. Further, the claimant and any attorney for the claimant shall have a continuing obligation to amend or correct any document submitted which is incorrect because of changed circumstances or was found to have been incorrect.

(7)

If the board of county commissioners makes a determination and finding that the sworn statement submitted as part of a taking claim is:

a.

Based on facts that the claimant or any attorney for the claimant knew or should have known was not correct or true; or

b.

Frivolous or filed solely for the purposes of delay;

then the board of county commissioners, in addition to the penalties set forth in section 134-8, may pursue any remedy or impose any penalty provided for by law or ordinance.

(b)

Review, hearing and standards for takings claims.

(1)

Within five working days of filing a sworn statement (and any accompanying information) as part of a takings claim, the takings administrator or his designee shall determine whether the statement received is complete. If the statement is deficient, then the claimant shall be notified, in writing, of the deficiencies.

(2)

Once a statement is complete, or the claimant has informed the takings administrator that no further information is forthcoming, the takings administrator or his designee shall timely review the application, provide requisite public notice, and schedule a public hearing before the board of county commissioners on the takings claim.

(3)

At the scheduled public hearing, sworn testimony and evidence which meets the criteria of subsection (a) of this section should be offered into the record to support the claimant's position. The takings administrator, county staff and county attorney personnel may offer testimony and evidence relevant to the hearing.

(4)

No later than 30 days after the board of county commissioners closes the public hearing, the board shall make and report a conclusive, final decision based upon the record presented. Nothing in this subsection shall prevent the board's decision to continue the hearing to give staff the opportunity to prepare alternatives, in consultation with the applicant, or to give staff or the applicant the opportunity to prepare responses to questions which the board may have regarding information presented at the hearing.

(5)

Because the law in the area of takings is constantly changing in both substance and interpretation, the board of county commissioners shall be guided by advice from the office of the county attorney regarding interpretations of appropriate considerations in its deliberations. In evaluating whether a valid taking claim is presented by the record, and what the measure of relief to be provided to the claimant should be, if any, the following factors shall be taken into consideration:

a.

Whether and to what degree the challenged regulation or combination of regulations has resulted in any physical invasion of the claimant's property by the county or others;

b.

Whether the challenged regulation, or combination of regulations, has resulted in a denial of all beneficial use of the claimant's property by the county and, if so, whether the logically antecedent inquiry into the nature of the owner's estate shows that the prescribed use interests were not part of his title to begin with;

c.

Whether and to what degree the claimant's expectations of use were investment-backed;

d.

Whether and to what degree the claimant's expectations of use were reasonable in light of the following circumstances as they may apply:

1.

The logically antecedent inquiry into the nature of the owner's estate shows that the prescribed use interests were not part of his title to begin with;

2.

The existing land use and zoning classification of the subject and nearby properties, as may be relevant;

3.

The development history of the subject property and nearby properties;

4.

The suitability of the subject property for the intended or challenged development or use;

e.

Whether and to what degree the intended or challenged development or use has or would cause any diminution in value of the subject properties, or any relevant properties arising from section 134-124(a)(3);

f.

Whether and to what degree any such diminution of property values has promoted the public health, safety, morals, aesthetics or general welfare, and was consistent with the county plan; and

g.

To what extent the public would gain from the intended or challenged development or use compared to any resulting hardship upon the claimant alone.

(6)

Any relief to be provided a claimant shall be limited to the minimum necessary to provide a reasonable, beneficial use of the subject property and may be in the form of alternative uses of additional development intensity which may be severed and transferred, or other such nonmonetary relief as is deemed appropriate by the board of county commissioners. Any relief granted shall be presumed abandoned and expire if not utilized for its proper purpose within one year from the date it was granted. Subsequent applications under this article may review the expired decision for possible reinstatement, with or without modification as deemed necessary under then existing conditions.

(c)

Appeal of takings claim. Any claimant aggrieved by the final decision of the board of county commissioners may seek judicial review of the board's decision by timely filing an action in a court of competent jurisdiction.

(Ord. No. 90-66, § V, 7-24-90; Ord. No. 93-91, arts. IV, V, 10-19-93)

Sec. 134-126. - Exhaustion of administrative remedies required.

Any development order, permit or other governmental act of the county relating to the approval or denial of rights that pertain to the development of land shall not be deemed a final order in any court or quasijudicial proceeding challenging the denial of a development order or permit, or other governmental act as a temporary or permanent taking of private property, unless the administrative remedies provided for by this article have been exhausted.

(Ord. No. 90-66, § VI, 7-24-90)

Secs. 134-127—134-155. - Reserved.

ARTICLE V. - PROCEDURES FOR ADMINISTRATIVE REVIEW AND REMEDY OF CLAIMS OF VESTED DEVELOPMENT RIGHTS

Sec. 134-156. - Definitions.

(a)

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant, application for vested rights determination includes the following:

(1)

Landowner means any owner of a legal or equitable interest in real property, and includes the heirs, successors and assigns of such ownership interests; or

(2)

Developer shall have the definition provided in F.S. § 163.3164(5), and is one whose application for development has been accepted by the county or its designee, who submits a timely request for a vested rights determination that meets the requirements of section 134-160.

Commencement of development means the onset of construction, such that actual, on-site grade alterations or

other material physical changes have been made to the appearance of land in conformance with:

(1)

An approved final site plan;

(2)

A habitat management permit that is consistent with an associated site plan; or

(3)

Final construction plans approved by the county.

Continue in good faith means that all necessary and required development orders or permits have been applied for prior to the expiration of any previously received county development order, expressly including any development agreement, such that development and construction continue in a reasonably prudent, commercial manner that is of a real, actual and genuine nature as opposed to a sham or deception, and which meets the standards for "good faith" outlined in section 134-160(a)(5)a.1.—(a)(5)a.5. A rebuttable presumption of not having continued in good faith shall arise from the lapse, expiration or abandonment of any development order or permit issued by the county, or from any other voluntary act of the claimant which has the same effect.

Divest means to abrogate or revoke preexisting vested rights.

Vested right means any property right that would attach to and run with a described property that authorizes the development and use of that property; and includes, but is not limited to: a special exemption status provided for in section 134-86(c)(1) and (c)(2); an authorized land use designation or density or intensity of development; and any other specifically identified condition of development or mitigation.

Vested rights determination means those administrative procedures defined in this article used for reviewing a landowner's or developer's request for a remedy under this article that would recognize and define vested rights.

Vested rights determination administrator means the county administrator.

Zoning examiner means the zoning examiner established in the comprehensive zoning ordinance and in addition to the usual staff participants shall consist of representatives of the county administrator's office, the county attorney's office, the planning, engineering, and environmental management departments, and where necessary or appropriate, representatives from other departments affected in the application. To the maximum extent possible, hearings on vested rights applications shall occur at the regularly scheduled zoning examiner's hearings and shall follow the general notice and hearing procedures applicable to the zoning examiner.

(b)

The following terms shall have the specific meanings set forth in section 134-86(a):

(1)

Final local development order.

(2)

Final site plan.

(c)

The following terms shall have the specific meanings set forth in section 134-221:

(1)

Acceptance of or accepted application for development.

(2)

Application for development.

(3)

Development.

(4)

Development order.

(5)

Development permit, except that this term shall include tree permits and grubbing permits where appropriate to further the purposes of this article.

(Ord. No. 90-67, § IV, 7-24-90; Ord. No. 92-10, 2-18-92)

Cross reference— Definitions generally, § 134-2.

Sec. 134-157. - Legislative findings and intent.

The board of county commissioners finds and declares that:

(1)

The provisions of F.S. § 163.3161 et seq. establish the local government comprehensive planning and land development regulation act (referred to in this article as "the act").

(2)

The provisions of F.S. § 163.3202(2)(g) provide that counties shall have the power and responsibility to plan comprehensively for their future development and growth, including the adoption and implementation of appropriate land development regulations which are necessary or desirable to implement a comprehensive plan.

(3)

The county adopted its comprehensive plan (the "county plan") on August 8, 1989, through the adoption of

Ordinance No. 89-32.

(4)

The county plan establishes the minimum requirements necessary to maintain, through orderly growth and development, the character and stability of present and future land use and development in the unincorporated areas of the county.

(5)

The provisions of F.S. § 163.3167(8) provide for statutory vesting of certain development rights as they may further be defined by local government.

(6)

Section 134-82(b) provides that the board of county commissioners retains the power and authority to enact ordinances, rules and regulations that are more restrictive than those originally adopted in the county plan.

(7)

Section 134-82(c) provides that nothing in the county plan or its subsequent land use regulations shall be construed or applied so as to result in the abrogation of validly existing vested rights.

(8)

Section 134-85(b) provides that the board of county commissioners shall establish administrative procedures which any party challenging denial of a development order or a development permit as an abrogation of vested rights must exhaust before any action on a request for development is deemed final by any court or quasijudicial proceeding.

(9)

Section 134-86(c)(2)b. provides that a development order or right may be determined to be vested through any administrative procedure subsequently established by the board of county commissioners.

(10)

It is necessary and desirable that administrative determinations of vested property rights be made so as to ensure reasonable certainty, stability, and fairness in the land use planning process in order to stimulate economic growth, secure the reasonable investment-backed expectations of landowners, and foster cooperation between the public and private sectors with respect to growth management.

(11)

The establishment of an administrative determination procedure will promote the goals of the county plan in a manner which is consistent with section 2 of article I of the state constitution guaranteeing all natural persons the inalienable right to acquire, possess and protect property.

(12)

It is the specific intent of the board of county commissioners that no provision of this article be interpreted so

as to abrogate validly existing vested private property rights which would exist under the United States or state constitutions.

(13)

It is the specific intent of the board of county commissioners that no administrative determination made under this article result in either a temporary or permanent taking of private property without just or full compensation under the United States or the state constitutions.

(14)

The board of county commissioners specifically intends that it shall be the duty and responsibility of the party alleging vested rights to affirmatively demonstrate the legal requisites of the rights alleged.

(15)

It is the board of county commissioners' specific intention that the procedures provided for in this article not be utilized routinely or frivolously, but rather, only in those extreme circumstances where a potential denial of private property or development rights would otherwise result.

(16)

The delays attendant the full hearing process may be deemed unnecessary for applications for vested rights which are of such a limited nature and are based on clear provisions of a development order.

(17)

In order to effectively administer a program of vested rights applications, it is often necessary to fashion variable forms of relief, consistent with the equitable nature of vested rights decisions. Thus it is the intent of the board of county commissioners for the county administrator, acting in his designated capacity on vested rights matters, to have the authority to fashion the relief necessary to protect the legitimate vested rights of property owners while at the same time protecting the rights of the citizens of the county.

(18)

Both the purpose and intent of the various land development regulations, the provisions of the comprehensive plan and the statutory and case law governing vested rights provide the county administrator with ample guidance in exercising his authority under this article.

(Ord. No. 90-67, § I, 7-24-90; Ord. No. 92-10, § 1, 2-18-92)

Sec. 134-158. - Authority.

(a)

This article is adopted in compliance with and pursuant to the local government comprehensive planning and land development regulation act (F.S. § 163.3161 et seq.), with specific reliance on F.S. §§ 163.3167(1)(a), (d), (8), and 163.3171(2).

(b)

This article is adopted pursuant to the constitutional and home rule powers in Fla. Const. art. VIII, § 1(g), and article II of the Pinellas County Home Rule Charter.

(Ord. No. 90-67, § II, 7-24-90)

Sec. 134-159. - Scope.

(a)

This article shall apply to:

(1)

Vested rights determinations sought under article III of this chapter, and its implementing regulations, or the provisions of this article, for:

a.

Final approved development orders issued pursuant to a development of regional impact (DRI) project or a Florida quality development (FQD) authorized under F.S. ch. 380 which are subjected to consistency or concurrency regardless of when issued:

1.

Through application of the specific terms and conditions of a DRI's or FQD's particular development order; or

2.

Through an amendment to a DRI or FQD development order but only as to those development rights that were a part of or affected by the amendment.

b.

Final local development orders, as defined in section 134-86(a)(1) regardless of when issued:

1.

For any proposed development which has not, after August 10, 1989, for vested rights relating to consistency, or after December 31, 1989, for vested rights relating to concurrency:

i.

Commenced development within, and then,

ii.

Continued development in,

good faith throughout the time periods provided for by those development permits obtained as part of a final local development order;

2.

Through application of the specific terms and conditions of the final local development order; or

3.

Through an amendment to the final local development order but only as to those development rights that were a part of or affected by the amendment.

(2)

Amendments to development orders issued after August 11, 1989, for vested rights relating to consistency, or after December 31, 1989, for vested rights relating to concurrency, and which alter any development right within a particular development order, regardless of whether the change is a substantial or nonsubstantial deviation, but only to the extent of the development rights changed by the deviation.

(3)

Any landowner or developer, or designee of either, who desires a vested right determination regarding rights which may exist for property which is included as part of a proposed development agreement or an amendment to an existing development agreement adopted pursuant to F.S. §§ 163.3220—163.3243.

(4)

Any applicant alleging that the county plan, as applied to the applicant's proposed development order or development permit, would constitute an abrogation of his vested rights.

(5)

Development orders or development permits which may otherwise be subject to a divestment of development rights as provided for in section 134-161.

(b)

This article shall not apply to:

(1)

Nonconforming uses, as defined in chapter 138.

(2)

Issues relating primarily to development impact fees.

(Ord. No. 90-67, § III, 7-24-90)

Sec. 134-160. - Procedures for vested rights determinations.

(a)

Applications for vested rights determinations.

(1)

All applicants for vested rights determinations must file an application for a vested rights determination with the vested rights determination administrator through the county zoning department. Vested rights claims arising under section 134-86(c)(2)b. must be filed by August 8, 1990, unless the filing date therefor has been otherwise extended.

(2)

A vested rights application must meet the requirements of this section, and each application should include any information the applicant considers necessary to demonstrate compliance with the standards outlined in this section. As such, applications may contain attachments, appendices or exhibits that substantiate those facts supporting the applicant's claim. The guide for inclusion of information in an application should be whether the information would constitute competent, substantial evidence in a quasijudicial or judicial proceeding.

(3)

A typical application package might contain affidavits, drawings, contracts, recordings, or any other form of documentation or information that may apply, including, but not limited to:

a.

The transcript or record of any previous hearing where action on the challenged development order or permit was taken.

b.

Any donations or dedications of real property or any other property interest made to the county for the following purposes:

1.

Roads or other transportation facilities;

2.

Access (ingress/egress) or rights-of-way;

3.

Drainage easements;

4.

Parks or recreation/open space;

5.

Retention/detention areas;

6.

Conservation areas;

7.

Any other purpose consistent with the provision of services for any element of the county plan;

which are either on- or off-site with respect to the property involved in the vested rights determination.

c.

Other development orders or development permits issued by the county with respect to the property involved in the vested rights determination, and any related federal, state or regional permits.

d.

The construction of roads, sidewalks, stormwater detention/retention or drainage facilities, sewer or water facilities, parks, etc., which are either on- or off-site, especially where such construction is in excess of capacity for the development seeking a vested rights determination.

e.

Expenditures of funds for planning, engineering, environmental, and other consultants or projects, including site preparation or grading.

f.

Construction of actual buildings in accordance with an existing or prior development order or development permit issued by the county.

g.

Expenditure of funds for land acquisition made specifically for the proposed development.

(4)

The information in subsection (a)(3) of this section should be limited, however, to those actions by the applicant (or his predecessor) made in reasonable reliance upon an affirmative act or approval of the county which formally authorized, accepted, or approved a course of development on the land in question. To that extent, the applicant is encouraged to so specifically identify the acts relied upon.

(5)

Additionally, the applicant should consider submitting information which:

a.

Demonstrates that the applicant has acted in good faith and without knowledge that subsequent changes to applicable ordinances, resolutions, or regulations might affect his development expectations.

In establishing "good faith," the applicant should consider submitting information which affirmatively states that the applicant:

1.

Has not waived, abandoned, or substantially deviated from prior related county development approvals;

2.

Has not, by act or failure to act, consented or assented to changes in prior county development approvals;

3.

Has, at all times relevant, conformed with the applicable laws, rules, and regulations of the state and the county;

4.

Is not otherwise estopped from claiming vested rights through acts or omissions which arose in the development or marketing of preexisting county development approvals, upon which others have relied to their detriment.

b.

Details the specific ordinance, resolution, regulation or comprehensive plan provision that the applicant alleges should not apply because of the vested rights claimed.

(b)

Review, hearing and standards for vested rights determinations.

(1)

Within five working days of receipt of an application for a vested rights determination, the vested rights determination administrator or his designee shall determine whether the application received is complete. If the application is deficient, then the applicant shall be notified in writing of the deficiencies.

(2)

Once an application is complete, or the applicant has informed the vested rights determination administrator or his designee that no further information is available, the vested rights determination administrator shall timely review the application and decide, in his sole discretion, and in consultation with his staff and the office of the county attorney:

a.

If the nature of the application addresses only those issues which can be reasonably characterized as being clearly, completely and specifically documented provisions of a final local development order, for which, pursuant to subsection (c) of this section, a form of special exemption, as referenced in article III of this chapter, may be issued. For such applications, and with the applicant's consent, the right to a formal hearing may be avoided and an administrative decision issued, based upon the information provided by the applicant, staff review, and consultation with a representative of the office of the county attorney.

b.

If the applicant does not consent, as required in subsection (b)(2)a, above, or the vested rights determination administrator decides that administrative review should follow a public hearing, the zoning administrator shall schedule a public hearing on the application before the zoning examiner.

(3)

At the public hearing sworn testimony and evidence, which meets the recommendations of subsection (a) of this section, should be offered into the record before the zoning examiner to support the applicant's position. County staff and county attorney personnel may offer testimony and evidence relevant to the hearing, which shall also become part of the record along with the testimony and evidence of other interested parties.

(4)

Within 30 working days of the zoning examiner's public hearing, the vested rights determination administrator shall make and report findings of fact and conclusive decisions based upon the record presented and consideration of the following standards:

a.

An affirmative determination of vested rights may be made by the administrator only upon sufficient demonstration by the applicant that:

1.

A legally valid, unexpired act or omission of the county had approved or authorized the proposed development which is the subject of the determination;

2.

Substantial expenditures or obligations were made or incurred in developing the subject proposal; "substantial" shall be considered relative to the total estimated cost of the project/phase being reviewed, and the applicant's typical or ordinary business practice;

3.

The expenditures and obligations made in subsection (b)(4)a.2, above were incurred in good-faith reliance on the acts or omissions of subsection (b)(4)a.1, above;

4.

A denial of the application, destroying those rights which would otherwise be acquired, would be highly unfair and unjust because there are no other reasonable uses permitted for the expenditures and obligations of subsection (b)(4)a.2, above, under the land development regulations now in effect; to demonstrate that denial would be highly unfair and unjust, the applicant must show that the expenses or obligations incurred are unique to the proposed development such that a reasonable return on these expenses or obligations would have been made under preexisting regulations, but could not be made under the regulations now in effect; and that

5.

The applicant was without actual or record knowledge of the changes made in the regulations prior to the

expenditures and obligations of subsection (b)(4)a.2, above, unless considerable doubt can be shown to have existed about the actual adoption of the regulation, or about the actual prohibition of the proposed development.

b.

A negative determination would not be highly unfair or unjust if substantial, competent evidence in the record demonstrates that construction has not commenced or that the expenditures and obligations incurred are not unique to the otherwise approved development or that the public cost outweighs the private injury or that the expenses or obligations were incurred with notice of a change in regulations or that the applicant's development can make a reasonable return on the expenditures and obligations incurred under the present regulation.

c.

In addition to the factors in subsections (b)(4)a and (b)(4)b of this section, the administrator should also consider the following factors when it appears from the plans or documents submitted by an applicant that the proposed project would or reasonably could be completed in discrete phases:

1.

The extent to which the plans or documents submitted are more conceptual master plans or final site plan/construction drawings derived from detailed surveying, engineering or architectural work;

2.

The extent to which infrastructure, such as streets, sidewalks, utilities or other facilities, has been constructed for the entire project; and

3.

The extent to which infrastructure already constructed would be unsuitable for use as part of any uncompleted phases if such phases were built out in conformity with existing regulations; "unsuitable" should be considered relative to the applicant's investment loss resulting from the manner, location, or scale of constructed infrastructure which could not be utilized due to the change in regulations.

(c)

Forms of relief available. The three forms of relief deemed appropriate for applications are special exemptions, conditional relief, and denial without prejudice, and are described as follows:

(1)

Special exemptions. With respect to those issues which can be reasonably characterized as being clearly, completely and specifically documented provisions of a final local development order, a form of special exemption, as referenced in article III of this chapter, may be issued to the extent that such a vesting would prevent the limitation or modification of the applicant's right to complete its development. An applicant may be said to have vested rights in the provisions of its development order to the extent that no nonenvironmental or health related land development provisions may deprive him of those rights. This form of special exemption may be broad-based and complete, depending upon the terms of the development order and the

relief necessary to protect any rights under the development order.

(2)

Conditional relief. The comprehensive plan prohibits special exemption status against the application of environmental and health related land development regulations. The form of relief available, rather than a blanket special exemption, should be reviewed on a factually intensive basis for the possibility that conditional variances or other forms of conditional relief may be available. Any such relief must be analyzed to determine if the conditions under which it is granted are consistent with the purpose and intent of the various land development regulations, the provisions of the comprehensive plan and the statutory and case law governing vested rights. Conditions may be initial, after satisfaction of which the right becomes vested, or may be ongoing. Conditional variances will address the appropriateness of relief, allowing the county to fashion that form of relief necessary to equitably address the legitimate concerns of the applicant while at the same time protecting the legitimate interests of the citizens of the county.

(3)

Denial without prejudice. The applicant may reserve or be entitled to reserve the right to address other land development regulations at such time as they become an issue. Such a reservation of rights is an appropriate mechanism to address future questions that may arise from the applicant's development status.

(d)

Appeal of vested rights determinations.

(1)

Any applicant denied any claimed vested rights must file, in writing, a request for an appeal with the clerk of the board of county commissioners within ten days of the applicant's notification of the vested rights determination administrator's decision.

(2)

Upon receipt of a timely filed appeal, the clerk of the board of county commissioners shall schedule and properly notice a public hearing to be held before the board of county commissioners as soon as practicable.

(3)

At the public hearing, the board of county commissioners may consider the record developed from subsections (a) and (b) of this section, as well as all testimony and evidence presented.

(4)

The board of county commissioners shall make its determination based upon this record in light of the standards and factors outlined in subsections (b)(4)a to (b)(4)c of this section, and such other factors as the board of county commissioners may deem relevant.

(5)

An applicant denied claimed vested rights may seek judicial review of the board of county commissioners' determination by timely filing an action in a court of competent jurisdiction.

(Ord. No. 90-67, § V, 7-24-90; Ord. No. 92-10, §§ 3, 6, 7, 2-18-92)

Sec. 134-161. - Divestiture of certain vested rights.

(a)

Whenever protection of the public's health or safety from new perils may so require, or upon a showing that a holder of vested development rights has failed to continue in good faith, the vested rights determination administrator, upon proper showing, may divest otherwise proper development rights. Divestiture under these circumstances may also apply to any certificates of concurrency issued for development proposed within the area affected.

(b)

Any change or modification to a development plan that is inconsistent with the county plan or would result in increased or greater development impacts sufficient to degrade a level of service below that provided for by the county plan creates a rebuttable presumption that the developments rights causing the impact are divested.

Notwithstanding this provision, changes or modifications to development plans, orders or permits that are consistent with the county plan, and do not increase impacts or degrade a level of service provided for by the county plan, are presumed to retain any preexisting development rights so long as all other development review requirements are complied with.

(c)

Upon a finding that a holder of vested development rights has continued in good faith but has filed for an extension of time because of a failure to fully comply with time limitations associated with those rights, the vested rights determination administrator may grant reasonable extensions of time to exercise those development rights. Extensions of time up to six months may be issued without the need for a public hearing. Also, under circumstances where the development rights have not been timely exercised because of a bona fide legal challenge or permitting issue, the vested rights determination administrator may, without the need for a public hearing, issue further extensions of time commensurate with the schedule associated with the legal challenge or permitting issue. All other extensions of time are to be considered at a public hearing of the zoning examiner.

(d)

Persons adversely affected by an alleged divestiture of development rights under subsection (a), (b) or (c) of this section may seek administrative review thereof through the procedures outlined in subsection (c), above.

(Ord. No. 90-67, § VI, 7-24-90; Ord. No. 92-10, §§ 8—10, 2-18-92)

Sec. 134-162. - Legal effect of vested rights determinations.

(a)

Vested rights resulting from determinations made pursuant to this article shall have the same legal effect as rights otherwise acquired under a validly issued development order or permit that most closely resembles the governmental act the applicant relied upon as part of its vested rights determination.

(b)

Vested rights determinations arising from subsection 134-159(a)(3), pertaining to development agreements, shall be considered valid for a period of one year from the date of the determination.

(Ord. No. 90-67, § VII, 7-24-90)

Sec. 134-163. - Exhaustion of administrative remedies required.

Any development order, permit or agreement that provides vested rights as the result of a court or quasijudicial proceeding challenging the denial of a development order or permit as the abrogation of vested rights shall not be deemed a final order unless the administrative remedies provided for by this article have been exhausted.

(Ord. No. 90-67, § VIII, 7-24-90)

Secs. 134-164—134-195. - Reserved.

ARTICLE VI. - CONCURRENCY SYSTEM[4]

Footnotes:

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State Law reference— Concurrency, F.S. §§ 163.3180, 163.3202(2)(g).

DIVISION 1. - GENERALLY

Secs. 134-196—134-220. - Reserved.

DIVISION 2. - CONCURRENCY MANAGEMENT

Sec. 134-221. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Acceptance of or accepted application for development means that an application for development contains sufficient information, pursuant to existing regulations, to allow continuing review under this division or other regulatory ordinances.

Application for development means any documentation which contains a specific plan for development, including the densities and intensities of development, where applicable, that is presented by any person for the purpose of obtaining a development order or development permit.

Approved final site plan means any site development plan, as defined in subsection 134-86(a)(2), and as it may be further defined in other county regulations, that has been accepted, reviewed, and approved by the county.

Backlogged roadways means roads not designated as constrained that are operating at peak hour level of service E or F and/or a volume-to-capacity of 0.9 or higher and scheduled or planned for construction after the first three years of either the Florida Department of Transportation (FDOT) adopted work program or the six-year schedule of improvements within the county capital improvements element.

Certificate of concurrency means that document issued by the county administrator, or his designee, that is a

prerequisite for the issuance of any development order or development permit, except that certificates of concurrency for re-zonings shall only be issued such that further development in the rezoned parcel is conditioned upon the availability of sufficient capacity of those public facilities and services required for any project which may be subsequently proposed for that rezoned parcel, or any portion thereof. At a minimum, the certificate of concurrency shall provide information on the following:

(1)

Type of proposal;

(2)

Effective date of the concurrency test statement utilized in the comparison;

(3)

Date of issuance of the certificate of concurrency;

(4)

Status of each public facility and service after comparison with the current concurrency test statement; and

(5)

Whether or not the development proposal is subject to development limitations, pursuant to application of the transportation management plan for properties located within a concurrency management corridor and any other limitations that may be identified in an adopted concurrency test statement.

Concurrency means that the necessary public facilities and services to maintain the adopted level of service standards are available when the impacts of development occur.

Concurrency management corridor is designated in this section as constrained, congestion containment, long-term concurrency management or state facilities operating below adopted level of service standards with no mitigating improvements planned or scheduled within the first three years of the capital improvements element.

Concurrency management monitoring system means the data collection, processing and analysis performed by the county to determine levels of service for public facilities and services. Data maintained by the concurrency management monitoring system shall be the most current information available to the county.

Concurrency management system means the procedure and process that the county utilizes to ensure that development orders and permits issued by the county shall not result in an unacceptable degradation of the adopted level of service adopted in the county comprehensive plan.

Concurrency test statement means a public facility and service status report, approved and adopted by ordinance, which, at a minimum, establishes for each public facility and service the following:

(1)

The existing and committed development in each service area;

(2)

The existing levels of service for each public facility and service;

(3)

Concurrency management corridor designations for roads;

(4)

Provisions and measures that shall apply within concurrency management corridors to prevent unacceptable degradation of levels of service for any corridor;

(5)

Updates of items (1)—(4), above, based upon the most recently adopted six-year schedule of capital improvements from the capital improvements element; and

(6)

The methods used in determining the nature of projected development impacts on public facilities and services.

Congestion containment corridor. These include roads that operate with deficient levels of service where improvements may be planned or scheduled, beyond the next three years, to alleviate the substandard LOS conditions.

Constrained roadway means a county roadway with deficient operating conditions that can not be improved as necessary to alleviate these conditions due to a physical or policy constraint. Physical barriers occur when intensive land use development is immediately adjacent to highways making roadway expansion cost prohibitive, or when a facility has reached the maximum through-lane standards. Policy barriers are based on concerns about the impacts of roadway expansion on the environment, neighborhoods and/or local communities. Constrained facilities may be more specifically defined through subsequent amendments to this division or the concurrency test statement.

Corridor means the area within one-half mile of the centerline and within a one-half mile arc radius beyond the terminus of the road segment centerline, and includes properties that are subject to at least one of the following conditions:

(1)

Sole direct access. A condition where the only means of site ingress/egress is directly onto the road facility, regardless of the distance of that site from the facility.

(2)

Direct access. A condition in which one or more existing or potential site ingress/egress points makes a direct connection to the road facility and the site is within one-half mile of the road facility.

(3)

Sole indirect access. A condition where the only point of site ingress/egress is onto a public non-arterial roadway which makes its first and shortest arterial level connection onto a road facility regardless of the distance of that site from the facility. This definition is subject to change by amendment of this division upon review of anticipated traffic analysis consistent with the comprehensive plan and procedures of this division.

Currently available revenue sources means an existing source and amount of revenue available to the county.

Deficient facility means a road operating below the adopted level of service standard. Deficient facilities operate at level of service E and F and/or a volume-to-capacity (v/c) ratio of 0.9 or higher.

Development has the definition provided in F.S. § 380.04.

Development order means any order granting, denying, or granting with conditions, an application for development.

Development permit means any approved final site plan, building permit, zoning clearance, rezoning, special exception, variance, conditional use, or any other official action of the county having the effect of permitting the development of land.

Final local development order means, for the purposes of this division, that last approval necessary to carry out the development requested, provided that the proposed project has been precisely defined. The last approval for a given type of development activity shall be as provided in article III of this chapter. Terms used in that definition shall be as further defined in this Code.

Financial feasibility, according to F.S. ch. 163, means "that sufficient revenues are currently available or will be available from committed funding sources for the first three years, or will be available from committed or planned funding sources for years four and five, of a five-year capital improvement schedule for financing capital improvements, such as ad valorem taxes, bonds, state and federal funds, tax revenues, impact fees, and developer contributions, which are adequate to fund the projected costs of the capital improvements identified in the comprehensive plan necessary to ensure that adopted level-of-service standards are achieved and maintained within the period covered by the five-year schedule of capital improvements. The requirement that level of service standards be achieved and maintained shall not apply if the proportionate-share process set forth in F.S. § 163.3180(12) and (16) is used."

Florida Intrastate Highway System (FIHS) means a statewide system of limited access facilities and controlled access facilities developed for high-speed and high-volume traffic movements and managed by FDOT to meet standards and criteria established for the FIHS. The FIHS is part of the Strategic Intermodal System (SIS), which is defined later in this section.

Level of service (LOS) means a measure of performance and/or of demand versus available capacity of public services and facilities. Regarding roadways, LOS is based primarily on travel speeds on a scale of A through F. Roads operating at LOS A are at optimum efficiency with the lower grade roads reflecting travel conditions that are progressively worse. For the purposes of this division and the county concurrency management system, LOS reported for roadways is based on peak hour conditions. Level of service E and F roads and/or roads with a volume-to-capacity (v/c) ratio of 0.9 or more are operating below the adopted level of service standard established in the comprehensive plan and the concurrency test statement.

Long-term concurrency management corridor means a road designated for application of long-term concurrency management provisions which are designed to correct existing level of service deficiencies over a planning period of up to 15 years through the establishment of priorities, implementation of a long-term

schedule of capital improvements and through commitment of local resources, such as earmarked impact fee revenues, intended to reduce backlogged conditions.

Proportionate fair-share is a provision that allows for development projects to mitigate their impacts through "fair-share" contributions to facilities identified for capacity improvements in the capital improvements element.

Public facilities and services means those necessary public facilities and services covered by a comprehensive plan element for which level of service standards have been adopted by the county. The necessary public facilities and services are: roads, sanitary sewer, solid waste, drainage, potable water, recreation, and mass transit.

Strategic Intermodal System (SIS) is made up of statewide and regionally significant facilities and services including the state's largest and most significant commercial service airports, spaceport, deepwater seaports, freight rail terminals, passenger rail and intercity bus terminals, rail corridors, waterways and highways.

Transportation concurrency means "transportation facilities needed to serve new development shall be in place or under actual construction within three years after the local government approves a building permit or its functional equivalent that results in traffic generation" [F.S. § 163.3180(2)(c)].

Transportation management plan, as developed by an applicant representing a proposed development, is submitted in conjunction with individual site plans seeking to utilize transportation management strategies to mitigate development impacts, protect roadway capacity and to increase mobility. These strategies include, but are not limited to, density/intensity reductions, project phasing, access controls, capital improvements and/or incentives encouraging mass transit, bicycle or pedestrian travel, ride-sharing or roadway improvements.

Transportation Regional Incentive Program (TRIP) is a funding program created to improve regionally significant transportation facilities in "regional transportation areas". State funds are available throughout Florida to provide incentives for local governments and the private sector to help pay for critically needed projects that benefit regional travel and commerce.

Volume-to-capacity (v/c) ratio means the rate of traffic flow of an intersection approach or group of lanes during a specific time interval divided by the capacity of the approach or group of lanes. Volume-to-capacity ratios provide a measure of traffic congestion and are utilized in the concurrency management system to identify congested road segments and to minimize the transportation impacts of development projects that affect them.

(Ord. No. 89-69, § III, 12-19-89; Ord. No. 90-61, § 2, 7-24-90; Ord. No. 91-52, §§ 1—4, 10-29-91; Ord. No. 95-30, art. III, 4-18-95; Ord. No. 96-58, § 1, 7-16-96; Ord. No. 98-58, § 1, 6-16-98; Ord. No. 99-65, § 1, 7-20-99; Ord. No. 06-81, § 1, 11-21-06; Ord. No. 08-79, § 1, 12-16-08)

Cross reference— Definitions generally, § 134-2.

Sec. 134-222. - Authority; adoption of legislative findings.

(a)

This division is adopted in compliance with, and pursuant to, the local government comprehensive planning and land development regulation act, F.S. § 163.3184 et seq.

(b)

This division is adopted pursuant to the constitution and home rule powers in Fla. Const. art. VII, F.S. ch. 125 and article II of the Pinellas County Home Rule Charter.

(c)

The legislative findings are as follows:

(1)

The board of county commissioners adopted amendments to the Pinellas County Comprehensive Plan based on the findings of the state-required evaluation and appraisal report on February 17, 1998. The board also adopted subsequent amendments to the plan on April 21, 1998 regarding the establishment of a long-term concurrency management system on U.S. Highway 19 pursuant to a compliance agreement between the Florida Department of Community Affairs (FDCA) and Pinellas County. The execution of the compliance agreement is prerequisite to receiving notification from the department of community affairs that the comprehensive plan is in compliance with F.S. ch. 163 and Rule 9J-5, F.A.C. Pinellas County received this notification of compliance from FDCA on May 22, 1998;

(2)

The transportation element of the comprehensive plan identifies a number of highway system facilities operating under deficient level of service conditions; county and state roads operating with deficient level of service conditions that are not scheduled for a mitigating improvement or designated in the concurrency test statement ordinance as constrained. These require the application of concurrency management provisions in order to minimize transportation impacts until such time when the improvements necessary to alleviate the deficient level of service conditions, as identified in the comprehensive plan and the MPO long-range transportation plan, are implemented;

(3)

F.S. ch. 163, was amended in 1993 to provide a long-term concurrency option, and for the designation of transportation concurrency management areas, if certain conditions are met. Rule 9J-5 F.A.C. specifies the conditions which must be met in order for a local government to utilize these options. The county incorporated supporting policies for the implementation of long-term concurrency management in the transportation element of the county comprehensive plan, as amended by the board of county commissioners on April 21, 1998, as well as the plan's concurrency management system provisions;

(4)

The 2005 Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), which sets forth requirements for metropolitan transportation planning, promotes integrated transportation systems that maximize mobility and accessibility and the preservation, rather than the construction, of highways;

(5)

The Florida Department of Community Affairs (FDCA), and the Florida Department of Transportation (FDOT) District 7 office agreed to allow the county to apply long-term concurrency management, as

described in Chapter 9J-5, F.A.C., to U.S. Highway 19 segments that are operating with deficient levels of service and that are not scheduled for improvements necessary to alleviate the deficient LOS conditions. Impact fee revenues generated from development within the corridor and earmarked by the county must be committed to improving the facility in this interim period;

(6)

Implementation of U.S. Highway 19 and other state road improvements, as identified in the comprehensive plan and the policy element of the metropolitan planning organization long-range plan, that are not scheduled for a mitigating improvement or designated in the concurrency test statement ordinance as constrained are reliant upon state and federal funding;

(7)

The county comprehensive plan provides data, analysis, and policies supporting the intent of the county to minimize the impacts of development on state facilities operating with deficient level of service conditions through the application of its concurrency management system and supporting land use policies;

(8)

Transportation management plan strategies are important components of concurrency management for purposes of minimizing development impacts and maximizing mobility and accessibility consistent with the comprehensive plan and SAFETEA-LU;

(9)

Volume-to-capacity (v/c) ratios indicate the level of congestion on a roadway and, used in conjunction with level of service grades (based primarily on travel speeds), provide a more comprehensive assessment of operating conditions;

(10)

The amendment of F.S. ch. 163 in 2005 required local governments to adopt proportionate fair-share programs by December 2006;

(11)

The purpose of the proportionate fair-share provisions in this section is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, to be known as the proportionate fair-share program, as required by and in a manner consistent with F.S. ch. 163.3180(16); and

(12)

The amendment of F.S. ch. 163 in 2005 calls for local governments to apply concurrency management provisions in a coordinated and cooperative manner.

(Ord. No. 89-69, § I, 12-19-89; Ord. No. 90-61, § 1.B, 7-24-90; Ord. No. 95-30, art. II, 4-18-95; Ord. No. 96-58, § 2, 7-16-96; Ord. No. 98-58, § 2, 6-16-98; Ord. No. 99-65, § 2, 7-20-99; Ord. No. 06-81, § 2, 11-21-06; Ord. No. 08-79, § 2, 12-16-08)

Sec. 134-223. - Purpose and intent.

(a)

It is the purpose of this division to establish a concurrency management system to ensure that facilities and services needed to support development are available concurrent with the impacts of such development. Prior to the issuance of a development order and/or development permit, this concurrency management system shall ensure that the adopted level of service standards required for roadways, potable water, wastewater, solid waste, stormwater, recreation, and mass transit shall be maintained.

(b)

The concurrency management system is intended to serve the long-term interests of the citizens of the county by implementing a managed growth perspective that preserves the capacity of important infrastructure facilities and services.

(Ord. No. 89-69, § II, 12-19-89; Ord. No. 08-79, § 3, 12-16-08)

Sec. 134-224. - Areas embraced.

The provisions of this division shall apply to any property within the unincorporated areas of the county. The provisions of this division shall also apply to incorporated areas of the county that are provided service by a county facility or service evaluated in this division and may apply to incorporated areas provided service by a state facility or service evaluated in this division.

(Ord. No. 89-69, § XIV, 12-19-89; Ord. No. 90-61, § 6, 7-24-90)

Sec. 134-225. - Concurrency management system; procedure.

(a)

Application for development. The concurrency management system is accessed by the property owner, or his/her representative, when an application for development containing the required documentation for the given development order or permit is submitted to the county. A county representative shall then ascertain the completeness of the documentation, in a timely manner, to ensure that the required information is sufficient to accept the application for development for review.

(b)

Review of application for development.

(1)

When the application for a development order or permit has been accepted, it shall be processed and reviewed in accordance with adopted procedures. These procedures shall include a review of the application for development for the seven public facilities and services identified in this division, as they may apply.

(2)

If the application for development is not reviewable as submitted, then the application for development shall be returned to the property owner or representative clearly stating what the deficiencies are and why the

application for development cannot be further reviewed.

(c)

Concurrency test statement applied.

(1)

After an application for development is accepted and passes review, it will be compared to the most recently adopted concurrency test statement. The county shall compare the application for development to the seven public facilities and services on the current concurrency test statement, as they may apply to the location described on the application for development.

(2)

If the application for development being proposed is found to be exempt from the formal concurrency review, a certificate of concurrency, or its functional equivalent, is not required.

(3)

If the application for development is found to be located within a concurrency management corridor, then a certificate of concurrency or its functional equivalent shall indicate whether the proposal is acceptable or acceptable with conditions. In those instances where conditions are required, the specific conditions will be identified during site plan review. The conditions that may be applied include, but are not limited to, those listed in section 134-227.

(4)

If the application for development is found by the latest concurrency test statement to fall within an area with a deficient level of service for a facility or service other than roads, then a certificate of concurrency or its functional equivalent shall state that development shall either not be authorized or be authorized with conditions to be identified in the concurrency test statement.

(5)

A certificate of concurrency or its functional equivalent shall be issued within 14 days of receipt of an acceptable application for development. This period of time may be waived by the county administrator, with additional time granted, based upon the circumstances of the situation.

(d)

Certificate of concurrency determination—Continued validity.

(1)

The certificate of concurrency or its functional equivalent shall indicate the date of issuance and will be valid for purposes of the issuance of development orders or permits for 12 months from the date of issuance.

(2)

Any development order or permit that is issued within the effective period of a validly issued certificate of

concurrency or its functional equivalent shall be vested, for the purposes of concurrence, until the expiration of that development order or development permit, provided that development commences within the validity period of the development order or permit and continues in good faith, except that for purposes of a development order or development permit that authorizes construction, the validity period shall be limited to six months from the date of approval of the development order or development permit. Under no circumstances shall the validity period for a development order or permit or application for development under an existing certificate of concurrency or its functional equivalent be extended by action on a subsequent development order or permit for the same project or proposal, except when review of the subsequent development order or permit or application for development is based upon a more recently adopted or amended concurrency test statement, or subsection (d)(3), below, applies.

(3)

For those certificates of concurrency or its functional equivalent issued for a development agreement entered into by the county, pursuant to the provisions of F.S. §§ 163.3220—163.3243, as amended, the duration of such certificate of concurrency, as issued, shall be for the time period stated within the development agreement.

(e)

Same—Development order or development permit compliance. All development orders and development permits issued and approved after the effective date of this division shall be based upon and in compliance with, the certificate of concurrency or its functional equivalent issued for that development proposal. A development order or development permit shall be in compliance with its underlying certificate of concurrency or its functional equivalent if the impacts associated with that development order or development permit are equal to or less than the allocations made in association with the underlying certificate of concurrency or its functional equivalent.

(f)

Site plan requirements.

(1)

Credits for previous uses. The application of trip credits attributable to the number of trips generated by a previous and existing on-site use, may be used in concurrency management areas, as depicted in the most recently adopted concurrency test statement, with certain limitations. The previous use and subsequent trips generated by that use must have been accounted for in the current adopted concurrency test statement. The applicant will be required to provide proof of such existing uses in a form acceptable to the county administrator or his designee. Such documentation will be required to verify that the trips associated with the property in question were accounted for in the most current adopted concurrency test statement. The applicant may receive a traffic generation credit up to the number of trips consistent with the highest documented use the applicant is able to substantiate under the above conditions, as deemed appropriate by the county administrator, or his designee.

(2)

Submittal of a new site plan. Consistent with the county's comprehensive zoning ordinance, and as accepted by the county administrator or his designee, modifications may be made to an already submitted site plan. This will constitute a revision to the existing certificate of concurrency documentation, and the county's

records will reflect such revision. A revision will not result in any extension to the validity time frames associated with the certificate of concurrency or its functional equivalent issued for the initial site plan, and will not justify the issuance of a new certificate or functional equivalent. Modifications in demand on facilities will be reflected in the tracking mechanism. If the county administrator or his designee determines that such modifications constitute substantial deviation, as defined in the comprehensive zoning ordinance, from the original project proposal, submittal of a new site plan will be required. In such instances, the certificate of concurrency or its functional equivalent issued for the original site plan submittal will no longer be valid, and the site plan will be subject to a concurrency review against the most current adopted concurrency test statement and all provisions within.

(3)

For a parcel legally described in an approved final development plan which lies within an area subject to concurrency management requirements there can be no accumulation of development through subsequent and/or separate site plan submittals for such property, which allows for a cumulative total that exceeds the density and intensity limits associated with the applicable concurrency management corridor designation.

(Ord. No. 89-69, § IV, 12-19-89; Ord. No. 90-61, §§ 1.C—E, 3.A—C, 7-24-90; Ord. No. 91-52, § 5, 10-29-91; Ord. No. 96-58, § 5, 7-16-96; Ord. No. 98-58, § 3, 6-16-98; Ord. No. 08-79, § 4, 12-16-08; Ord. No. 09-7, § 8, 2-17-09)

Sec. 134-226. - Concurrency test statement and monitoring system.

(a)

On an annual basis, the planning department shall develop and recommend a concurrency test statement, or any proposed amendments to the existing statement, to the county administrator. The county administrator shall convey such proposed statement or amendment, along with the local planning agency recommendations, to the board of county commissioners for final adoption.

(b)

The planning department, in coordination with the department of building and development review services, shall establish and maintain a concurrency management monitoring system for the purposes of monitoring the status of public facilities and services and establishing concurrency test statements.

(c)

The remaining capacity reported for each public facility and service on the annual concurrency test statement should be determined by calculating the existing demand as well as the committed impacts, including those associated with multi-year, phased development proposals or projects (including developments of regional impact, development agreements, etc.). These calculations are based upon data accumulated in the concurrency monitoring system, data supplied by individual county departments, as well as a reasonable projection for the progress of each proposal or project, population growth projections, or such other considerations as good planning practices would deem appropriate.

(d)

A concurrency test statement shall be issued every year. Nothing in this division precludes the issuance and effectiveness of amendments to the current concurrency test statement if updating or correction is deemed

necessary by the board of county commissioners for, including, but not limited to, the following circumstances: Errors in preparation and adoption are noted; the impact of issued development orders or permits, as monitored by the planning department, indicate an unacceptable degradation to the adopted level of service; or where changes in the status of capital improvement projects, of the state or any local government, change the underlying assumptions of the current concurrency test statement.

(e)

Under no circumstances will an amended concurrency test statement divest those rights acquired, pursuant to subsection 134-225(d), under the concurrency test statement as it existed prior to amendment, except where a divestiture of such rights is clearly established by the board of county commissioners to be essential to the health, safety or welfare of the general public.

(f)

A concurrency test statement shall include, at a minimum, the following:

(1)

For potable water, wastewater, solid waste, and stormwater, that the following are minimum standards that, when met, will satisfy the concurrency requirement:

a.

The necessary facilities and services are in place at the time a development order or permit is issued;

b.

A development order or permit is issued subject to the condition that, at the time of issuance of a certificate of occupancy or its functional equivalent, the necessary facilities and services are in place of and available to serve the new development;

c.

At the time the development order, or permit is issued, the necessary facilities and services are guaranteed in an enforceable development agreement that includes the provisions of subsections (f)(1)a, and b of this section. An enforceable development agreement may include, but is not limited to, development agreements pursuant to F.S. §§ 163.3220 et seq., or an agreement or development order issued pursuant to F.S. ch. 380.

(2)

For recreation, the county shall satisfy the concurrency requirement by complying with the following standards:

a.

At the time the development order or permit is issued, the necessary facilities and services in place or under actual construction; or

b.

A development order or permit is issued subject to the condition that, at the time of the issuance of a certificate of occupancy or its functional equivalent, the acreage for the necessary facilities and services to serve the new development is dedicated or acquired by the local government, or funds in the amount of the developer's fair-share are committed; and

c.

A development order or permit is issued subject to the conditions that the necessary facilities and services needed to serve the new development are scheduled to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent as provided in the adopted six-year schedule of capital improvements in the Pinellas County Capital Improvements Element; or

d.

At the time the development order or permit is issued, the necessary facilities and services are the subject of a binding executed agreement which requires the necessary facilities and services to serve the new development to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent; or

e.

At the time the development order or permit is issued, the necessary facilities and services are guaranteed in an enforceable development agreement, pursuant to F.S. § 163.3220, or an agreement or development order issued pursuant to F.S. ch. 380, to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent.

(3)

For roads and mass transit, where the county has committed to provide the necessary public facilities and services in accordance with the six-year schedule of capital improvements, the county will satisfy the concurrency requirement by assuring that the following provisions are met, except as otherwise provided in sections 134-228, 134-229 and 134-230:

a.

The capital improvements element and a six-year schedule of capital improvements, in addition to meeting all of the other statutory and rule requirements, is financially feasible.

b.

The six-year schedule of capital improvements includes both necessary facilities to maintain the adopted level of service standards to serve the new development proposed to be permitted and the necessary facilities required to eliminate that portion of existing deficiencies which are a priority to be eliminated during the six-year period under the county's plan schedule of capital improvements.

c.

The funding system is realistic, financially feasible, and based on currently available revenue sources which are adequate to fund the public facilities required to serve the development authorized by the development order and development permit and those public facilities which are included in the six-year schedule of

capital improvements.

d.

The six-year schedule of capital improvements includes the estimated date of commencement of actual construction and the estimated date of project completion.

e.

Actual construction of the necessary road or mass transit facilities and services needed to serve new development shall be in place or under actual construction within three years after the local government approves a building permit or its functional equivalent that results in traffic generation.

f.

A plan amendment shall be required to eliminate, defer, or delay construction of any facility or service which is needed to maintain the adopted level of service standard and which is listed in the six-year schedule of improvements.

g.

The county shall implement this and other local development regulations, in conjunction with the capital improvement element, so as to ensure that development orders and permits are issued in a manner that will assure that the necessary public facilities and services will be available to accommodate the impact of that development.

h.

In determining the availability of services or facilities, a developer may propose, and the county may approve, developments in stages or phases so that facilities and services needed for each phase will be available in accordance with the standards required by subsection (f) of this section.

(Ord. No. 89-69, § V, 12-19-89; Ord. No. 90-61, §§ 1, F, 4, 7-24-90; Ord. No. 94-35, art. I, 4-19-94; Ord. No. 96-58, § 6, 7-16-96; Ord. No. 98-58, § 4, 6-16-98; Ord. No. 06-81, § 3, 11-21-06; Ord. No. 08-79, § 5, 12-16-08)

Sec. 134-227. - Transportation management plan.

(a)

Transportation management plans are to be submitted by applicants of development projects in conjunction with their site plans. Transportation management plans are required for development applications seeking to utilize transportation management strategies/improvements to mitigate development impacts in order to exceed the minimum density/intensity requirements associated with the different roadway designations. The extent of the strategies/improvements included in an approved transportation management plan in terms of the scale of the project(s) and roadway capacity and/or mobility benefits provided shall be based primarily on the projected impact of the development project on the surrounding traffic circulation system. Specific conditions of the particular concurrency management corridor impacted by the development will also be considered. Transportation management plan strategies/improvements applicable to development projects within concurrency management corridors will be determined at the time of site plan review. Transportation

management plans must be developed by the applicant and accepted by the county. Transportation management plan strategies/improvements include, but are not limited to, the following:

(1)

Intensity reduction. The intensity of the proposal may be reduced through an across-the-board reduction of the permitted floor area ratio, as it would otherwise normally apply to the proposal. Other such corrective actions that would reduce the intensity of the proposal may also apply.

(2)

Density reduction. The density of the proposal may be decreased by a reduction in the number of units per acre below that which would otherwise normally apply to the proposal.

(3)

Project phasing. A project may be divided into logical phases of development by area, with later phases of the development proposal's approval withheld until the needed facilities are available.

(4)

Outparcel deletion. Those portions of the proposal characterized as outparcels that create separate and unique impacts may be deleted from the total proposal.

(5)

Physical highway improvements. A project may construct link capacity improvements, acceleration/deceleration lanes, intersection improvements or frontage roads.

(6)

Operational improvements (signal). This includes efforts involving signal removal or signal timing improvements.

(7)

Access management strategies. These include access management controls such as the preclusion of a direct connection to an LOS deficient facility, right-in/right-out driveways, alternative driveway locations, single point access, shared access or the implementation of median controls.

(8)

Mass transit initiatives. A project may implement a plan to encourage transit (e.g., employer-issued bus passes). Other mass transit initiatives may include direct route subsidies, provision of feeder service or the construction of bus stop amenities.

(9)

Ride-sharing incentives. These include efforts to encourage ride-sharing (e.g., designated parking spaces for carpools, employer-sponsored carpool program, participation in transportation management organization/initiative programs).

(10)

Bicycle/pedestrian improvements. These would involve structural improvements or construction of a bikeway or sidewalk connecting an existing bikeway/sidewalk network or providing access to a school, park, shopping center, etc.

(11)

Intelligent transportation system improvements. This includes improvements pertaining to computerized traffic signal systems that automatically adjust to maximize traffic flow and to permit emergency vehicles to pass through intersections quickly. It also includes freeway management systems, such as electronic message signs, and electronic fare payment on public buses that reduce passenger boarding time.

(b)

Transportation management plans seeking to implement strategies that do not involve structural improvements, such as ride-sharing and transit incentive programs, must include a monitoring program to ensure the strategies are carried out in accordance with the plan, as developed by the applicant and accepted by the county.

(Ord. No. 89-69, § VI, 12-19-89; Ord. No. 90-61, § 5, 7-24-90; Ord. No. 96-58, § 7, 7-16-96; Ord. No. 98-58, § 5, 6-16-98; Ord. No. 08-79, § 6, 12-16-08)

Sec. 134-228. - Congestion containment corridors; transportation management plan strategies applied.

(a)

Congestion containment corridors include parcels, all or a portion of which lie within a corridor as defined in this section. Development projects may not exceed 50 percent of the maximum floor area, dwelling units/rooms allowed under the applicable zoning district. If the applicant agrees to implement one or more transportation management plan strategy(ies) that will further reduce transportation impacts, the 50 percent density/intensity maximum may be exceeded commensurate with the extent of the impact reductions.

(b)

In support of the provisions of this subsection regarding congestion containment corridors, policies in the future land use and transportation elements of the comprehensive plan seek to discourage future land use map (FLUM) amendments, that allow for an increase in trips generated from sites proposed for amendment.

(Ord. No. 89-69, § VII, 12-19-89; Ord. No. 96-58, § 8, 7-16-96; Ord. No. 98-58, § 6, 6-16-98; Ord. No. 99-65, § 3, 7-20-99)

Sec. 134-229. - Constrained areas and deficient state facilities with no mitigating improvements scheduled or planned; transportation management plan strategies applied.

(a)

It is recognized by the department of community affairs and the county that some roadway facilities may never be improved sufficiently to meet the minimum level of service standard. These facilities under county jurisdiction are generally referred to as constrained as defined in section 134-221. The county shall participate in the MPO annual process of establishing a countywide concurrency corridor map. The

transportation element of the comprehensive plan contains supporting policies regarding the designation of these facilities and the management of transportation impacts that affect them. The department of transportation does not recognize this constrained designation. Therefore, state facilities operating with deficient levels of service that are not scheduled or planned for improvement necessary to alleviate these conditions are not identified as constrained.

(b)

The provisions in this section apply to parcels, all or a portion of, which lie within a corridor, as defined in section 134-221.

(c)

Roadways designated as constrained facilities are considered to be operating at deficient levels of service under current conditions or within the previous three years as identified in the concurrency test statement as identified in the county's transportation element of the comprehensive plan or the policy element of the MPO long-range transportation plan.

(d)

Development projects may not exceed 50 percent of the maximum floor area/dwelling units/rooms allowed under the applicable zoning district. If the applicant agrees to implement one or more transportation management plan strategy(ies) that will further reduce transportation impacts, the 50 percent density/intensity maximum may be exceeded. The amount of the additional density/intensity allowed above the 50 percent maximum will be based on the extent of the impact reduction and consideration of the traffic impacts of the project and the congestion level of the roadway as determined by the volume-to-capacity ratio indicated in the MPO level of service report.

(e)

In support of the provisions of this subsection regarding constrained corridors, policies in the future land use and transportation elements of the comprehensive plan seek to discourage future land use map (FLUM) amendments that allow for an increase in trips generated from sites proposed for amendment.

(Ord. No. 89-69, § VII, 12-19-89; Ord. No. 91-52, § 6, 10-29-91; Ord. No. 96-58, § 9, 7-16-96; Ord. No. 98-58, § 7, 6-16-98; Ord. No. 99-65, § 4, 7-20-99; Ord. No. 06-81, § 4, 11-21-06; Ord. No. 08-79, § 7, 12-16-08)

Sec. 134-230. - Long-term concurrency management corridors; transportation management plan strategies applied.

(a)

It is recognized by the department of community affairs, the department of transportation and the county that FIHS facilities are strategically important as high speed and high volume inter-city and inter-regional roads. Therefore, given the need to protect the capacity of these roads, development should be mitigated and phased appropriately in order to minimize the impacts on levels of service until the state-funded improvements necessary to alleviate the deficient conditions on a long-term basis can be implemented. The department of transportation and the department of community affairs have approved the application of long-term concurrency management by the county on U.S. Highway 19. Impact fee revenues generated from

development within the corridor will be earmarked to provide some of the funding needed for the improvements.

(b)

Long-term concurrency management provisions contained in this section apply to the portion of U.S. Highway 19 designated as a long-term concurrency management corridor in the transportation element of the comprehensive plan and the concurrency test statement.

(c)

Development projects within long-term concurrency management corridor segments may not exceed 50 percent of the maximum floor area, dwelling units/rooms allowed under the applicable zoning district. If the applicant agrees to implement a transportation management plan strategy(ies) that will reduce transportation impacts, the 50 percent density/intensity maximum may be exceeded commensurate with the extent of the impact reduction(s).

(d)

The state-funded improvements to U.S. Highway 19 identified in the comprehensive plan and the policy element of the MPO long-range transportation plan are necessary for the facility to operate at an acceptable level of service in the future. Remaining development not permitted under the provisions of subsection (c) of this section may be phased in upon the scheduling of these improvements within the first three years of the FDOT District 7 five-year work program.

(e)

In support of the provisions of this subsection regarding long-term concurrency management corridors, policies in the future land use and transportation elements of the comprehensive plan seek to discourage future land use map (FLUM) amendments that allow for an increase in trips generated from sites proposed for amendment.

(Ord. No. 96-58, § 10, 7-16-96; Ord. No. 98-58, § 8, 6-16-98; Ord. No. 99-65, § 5, 7-20-99; Ord. No. 08-79, § 8, 12-16-08)

Sec. 134-231. - Proportionate fair-share program.

(a)

General requirements.

(1)

An applicant may choose to satisfy the transportation concurrency requirements of the county by making a proportionate fair-share contribution, pursuant to the following requirements:

a.

The proposed development is consistent with the comprehensive plan and applicable land development regulations.

b.

The six-year schedule of capital improvements in the Pinellas County CIE includes a transportation improvement(s) that, upon completion, will satisfy the requirements of this subsection. The provisions of subsection 134-231(a) may apply if a project or projects needed to satisfy concurrency requirements are not presently contained within the CIE.

(2)

The applicant may also choose to satisfy transportation concurrency by contributing to an improvement that, upon completion, will satisfy the requirements of this subsection, but that is not contained in the CIE where the following apply:

a.

Pinellas County adopts, by resolution or ordinance, a commitment to add the improvement to the CIE no later than the next regularly scheduled update. To qualify for consideration under this subsection, the proposed improvement must be determined to be financially feasible pursuant to F.S. § 163.3180(16)(b)1, consistent with the comprehensive plan, and in compliance with the provisions of this subsection. Financial feasibility for this subsection means that additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed ten years to fully mitigate impacts on the transportation facilities.

b.

If the funds allocated for the CIE are insufficient to fully fund construction of a transportation improvement required for the applicant to comply with the terms of this subsection, the county may enter into a binding proportionate fair-share agreement with the applicant authorizing construction of that amount of development on which the proportionate fair-share is calculated if the proportionate fair-share amount in such agreement is sufficient to pay for one or more improvements which will significantly benefit the impacted transportation system.

c.

The improvement or improvements funded by the proportionate fair-share component must be adopted into the CIE.

d.

Any improvement project proposed to meet the applicant's fair-share obligation must meet design standards of the county and FDOT as applicable.

(b)

Proportionate fair-share mitigation agreement.

(1)

Upon notification that a proposed development project is subject to transportation concurrency regulations and is eligible to participate in the proportionate fair-share program, the applicant shall be notified in writing of such during the site plan review process pursuant to the requirements of subsection 134-231(a).

(2)

If the applicant chooses to exercise this concurrency option, a meeting shall be held to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. This may occur during a site plan review process pre-application meeting at the department of building and development review services. If the impacted facility is on the SIS or a TRIP funded facility, then the FDOT will be notified and invited to participate in the meeting.

(3)

Pursuant to F.S. § 163.3180(16)(e), proposed proportionate fair-share mitigation for development impacts to facilities on the SIS or TRIP funded facility requires the concurrence of the FDOT. Therefore, agreements involving improvements to SIS facilities will require approval by FDOT.

(4)

After a mitigation project is identified and agreed upon by the county, the applicant and FDOT (if the project affects an SIS or TRIP funded facility), a proposed proportionate fair-share obligation and binding agreement will be prepared by the county or the applicant with direction from the county. The final agreement will become a part of the site plan submittal which will be delivered to the appropriate parties for review. Final approval of the site plan and agreement rests with the county administrator.

(c)

Determining proportionate fair-share obligation.

(1)

The proportionate fair-share obligation shall be based on the impact a development has on a transportation facility as determined by a traffic impact analysis that assesses the distribution and volume of traffic generated by the proposed development.

(2)

A facility shall be considered impacted when the net trips generated by the proposed development meets or exceeds five percent of the facility's peak hour capacity.

(3)

Should the impacted facility be operating at an LOS that meets the locally adopted LOS standard, it would not be eligible for the application of proportionate fair-share provisions.

(4)

Should the impacted facility be operating at a substandard LOS based on existing conditions or as a result of the impacts of a proposed development, the facility would be identified as eligible for proportionate fair-share provisions and the applicant would be notified as such.

(5)

Proportionate fair-share mitigation for concurrency impacts may include, without limitation, separately or

collectively, private funds, contributions of land, and construction and contribution of facilities.

(6)

A development shall not be required to pay more than its proportionate fair-share. The fair market value of the proportionate fair-share mitigation for the impacted facilities shall not differ regardless of the method of mitigation.

(7)

The methodology used to calculate an applicant's proportionate fair-share obligation shall be as provided for in F.S. § 163.3180(12) as follows:

The cumulative number of trips from the proposed development expected to reach roadways during peak hours from the complete build out of a stage or phase being approved, divided by the change in the peak hour maximum service volume (MSV) of roadways resulting from construction of an improvement necessary to maintain the adopted LOS, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted LOS.

OR

Proportionate Fair-share = σ[[(Development Trips;sub\sub;)/(SV Increase;sub\sub;)] × Cost;sub\sub;]

Where:

Development Trips;sub\sub; = Those trips from the stage or phase of development under review that are assigned to roadway segment "i" and have triggered a deficiency per the CMS;

SV Increase;sub\sub; = Service volume increase provided by the eligible improvement to roadway segment "i" per subsection 134-231(a);

Cost;sub\sub; = Adjusted cost of the improvement to segment "i". Cost shall include all improvements and associated costs, such as design, right-of-way acquisition, planning, engineering, inspection, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.

(8)

For the purposes of determining proportionate fair-share obligations, the county shall determine improvement costs based upon the actual cost of the improvement as obtained from the CIE or the MPO Transportation Improvement Program. Where such information is not available, improvement cost shall be determined using one of the methods described below.

a.

An analysis by Pinellas County of construction costs that incorporates data from recent projects and is updated annually; or

b.

The most recent issue of FDOT Transportation Costs, as adjusted based upon the type of cross-section (urban or rural); locally available data from recent projects on acquisition, drainage and utility costs; and significant

changes in the cost of materials due to unforeseeable events. Cost estimates for state road improvements not included in the adopted FDOT work program shall be determined using this method in coordination with the FDOT district.

(9)

The value of a proportionate fair-share mitigation project proposed by the applicant and accepted by the county shall be determined using one of the methods provided in this section.

(10)

The county may also accept right-of-way dedication for the proportionate fair-share payment. Credit for the dedication shall be based on fair market value established by an independent appraisal approved by the county and at no expense to the county. The applicant shall supply a drawing and legal description of the land and a certificate of title or title search of the land to Pinellas County at no expense to the county. If the estimated value of the right-of-way dedication proposed by the applicant is less than the estimated total proportionate fair-share obligation for that development, then the applicant must also pay the difference.

(d)

Impact fee credit for proportionate fair-share mitigation.

(1)

Proportionate fair-share contributions shall be applied as a credit against impact fees consistent with the terms of the impact fee section of the Pinellas County Land Development Code.

(2)

Impact fee credits for the proportionate fair-share contribution will be determined when the transportation impact fee obligation is calculated for the proposed development. Impact fees owed by the applicant will be reduced per the proportionate fair-share agreement as they become due per the impact fee section of the Pinellas County Land Development Code. If the applicant's proportionate fair-share obligation is less than the development's anticipated road impact fee for the specific stage or phase of development under review, then the applicant or its successor must pay the remaining impact fee amount to the county.

(e)

Proportionate fair-share agreements.

(1)

Upon execution of a proportionate fair-share agreement, the applicant shall receive transportation concurrency approval or functional equivalent. Should the applicant fail to apply for a development permit in accordance with section 134-225, then the agreement shall be considered null and void, and the applicant shall be required to reapply.

(2)

Payment of the proportionate fair-share contribution is due in full prior to Issuance of the final development order or recording of the final plat and shall be non-refundable. If the payment is submitted more than 12

months from the date of execution of the agreement, then the proportionate fair-share cost shall be recalculated at the time of payment based on the best estimate of the construction cost of the required improvement at the time of payment, pursuant to subsection 134-231(c) and adjusted accordingly.

(3)

All proportionate fair-share mitigation improvements authorized under this subsection must be completed prior to issuance of a development permit, or as otherwise established in a binding agreement that is accompanied by a security instrument that is sufficient to ensure the completion of all required improvements. It is the intent of this subsection that any required improvements be completed before issuance of building permits or certificates of occupancy.

(4)

Dedication of necessary right-of-way for facility improvements pursuant to a proportionate fair-share agreement must be completed prior to issuance of the final development order or recording of the final plat.

(5)

Any requested change to a development project subsequent to a development order may be subject to additional proportionate fair-share contributions to the extent the change would generate additional traffic that would require mitigation.

(6)

Applicants may submit a letter to withdraw from the proportionate fair-share agreement at any time prior to the execution of the agreement.

(7)

The county may enter into proportionate fair-share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.

(f)

Appropriation of fair-share revenues.

(1)

Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the CIE, or as otherwise established in the terms of the proportionate fair-share agreement. Proportionate fair-share revenues may be used for operational improvements prior to construction of the capacity project from which the proportionate fair-share revenues were derived. Proportionate fair-share revenues may also be used as the 50 percent local match for funding under the TRIP.

(2)

In the event a scheduled proportionate fair-share improvement is removed from the CIE, then the revenues collected for its construction may be applied toward the construction of another improvement within the same corridor or planning sector that would mitigate the impacts of development pursuant to the requirements of subsection 134-231(a)(2)b.

(3)

Where an impacted facility has been designated as a regionally significant transportation facility in an adopted regional transportation plan as provided in F.S. § 339.155 the county may coordinate with other impacted jurisdictions and agencies to apply proportionate fair-share contributions and public contributions to seek funding for improving the impacted regional facility under the FDOT TRIP. Such coordination shall be ratified by the county through an interlocal agreement that establishes a procedure for earmarking the developer contributions for this purpose.

(4)

Where an applicant constructs a transportation facility that exceeds their proportionate fair-share obligation calculated under subsection 134-231(c)(3), the county shall reimburse them for the excess contribution using one or more of the following methods:

a.

An impact fee credit account may be established for the applicant in the amount of the excess contribution, a portion or all of which may be assigned and reassigned under the terms and conditions acceptable to the county.

b.

An account may be established for the applicant for the purpose of reimbursing the applicant for the excess contribution with proportionate fair-share payments from future applicants on the facility.

c.

The county may compensate the applicant for the excess contribution through payment or some combination of means acceptable to the county and the applicant.

(g)

Cross jurisdictional impacts.

(1)

In the interest of intergovernmental coordination and to reflect the shared responsibilities for managing development and concurrency, the county may enter into an agreement with one or more adjacent local governments to address cross jurisdictional impacts of development on multi-jurisdictional transportation facilities. The agreement shall provide for application of the methodology in this subsection to address the cross jurisdictional transportation impacts of development.

(2)

A development application submitted subject to transportation concurrency requirements and meeting all of the criteria listed below shall be subject to this subsection.

a.

All or part of the proposed development is located within one-half mile of the area which is under the

jurisdiction, for transportation concurrency, of an adjacent local government.

b.

If the additional traffic from the proposed development would use five percent or more of the adopted peak hour LOS maximum service volume of a multi-jurisdictional transportation facility within the concurrency jurisdiction of the adjacent local government ("impacted multi-jurisdictional facility").

c.

The impacted multi-jurisdictional facility is projected to be operating below the level of service standard, adopted by the adjacent local government, when the traffic from the proposed development is included.

(3)

Upon identification of an impacted multi-jurisdictional facility pursuant to subsection 134-231(2)(g)(c), the county shall notify the applicant and the affected adjacent local government in writing of the opportunity to derive an additional proportionate fair-share contribution, based on the projected impacts of the proposed development on the impacted adjacent facility.

(4)

The adjacent local government shall have up to 90 days in which to notify the county of a proposed specific proportionate fair-share obligation, and the intended use of the funds when received. The adjacent local government must provide reasonable justification that both the amount of the payment and its intended use comply with the requirements of F.S. § 163.3180(16). Should the adjacent local government decline proportionate fair-share mitigation under this subsection, then the provisions of this subsection would not apply and the applicant would be subject only to the proportionate fair-share requirements of the county.

(5)

If the subject application is subsequently approved by the county, the approval shall include a condition that the applicant provides, prior to the issuance of any building permit covered by that application, evidence that the proportionate fair-share obligation to the adjacent local government has been satisfied.

(Ord. No. 06-81, § 5, 11-21-06; Ord. No. 08-79, § 9, 12-16-08)

Sec. 134-232. - Recognition of the establishment of levels of service in the county comprehensive plan.

The county shall recognize those adopted levels of service, as defined in the comprehensive plan, as stated in the following subsections:

(1)

Stormwater. The following level-of-service standards are adopted for major drainage projects to support stormwater management goals:

a.

All applicable federal, state, and local regulations (as indicated in the regulatory framework section of the surface water management element) relating to flood control, stormwater treatment and wetland protection,

shall continue to be met in public and private project design.

b.

The 25-year storm design standard shall confine the runoff from a 25-year, 24-hour rainfall event within drainage channel banks, or within designated 25-year floodplains, in order to protect human life and minimize property damage.

c.

The 100-year storm design standard shall protect homes and commercial buildings against flooding by a 100-year, 24-hour rainfall event.

d.

Preference shall be given to stormwater management options which restore floodplains and remove obstructions from floodways.

(2)

Recreation and open space. The county's adopted level of service standard is 14.0 acres of parks and environmental lands, in combination, available for every 1,000 residents (permanent and seasonal).

(3)

Solid waste and resource recovery. Disposal of 1.3 tons of solid waste per person per year.

(4)

Potable Water supply. Except as otherwise provided in the master water supply contract and in the associated interlocal agreement, all potable water required by Pinellas County Utilities to serve its customers shall be supplied by Tampa Bay Water.

In the event that Tampa Bay Water determines that the regional system has experienced a "shortfall" or "production failure" as defined in the interlocal agreement, Pinellas County shall respond with one or more of the following actions and alternatives:

a.

Institute additional water conservation measures;

b.

Halt or otherwise restrict the issuance of development orders and permits;

c.

Develop new sources of potable water within the parameters of the interlocal agreement;

d.

Purchase potable water from suppliers other than Tampa Bay Water;

e.

Cooperate with Tampa Bay Water, the Southwest Florida Water Management District, and the affected local governments to develop a regional response to the situation; and

f.

Use actions and alternatives not identified in this policy.

Pinellas County shall use the following level of service when preparing its annual five-year and 20-year potable water demand projections for the Pinellas County Water Demand Planning Area, which are required by the master water supply contract to enable Tampa Bay Water to formulate its capital improvement program:

Pinellas County Water Demand Planning Area:

Year	1990	1994	1995	1997	2000	2005	2010	2015	2020	2025
gpcd	150	145	135	125	125	120	120	120	115	115

gpcpd - gallons per capita per day

(5)

Wastewater. The concurrency management program adopted by the Pinellas County Board of County Commissioners shall recognize that wastewater treatment plants must be in compliance with the operational permit requirements of the state department of environmental protection regarding the availability of capacity. Additionally, wastewater flows associated with existing and permitted development cannot exceed the wastewater treatment plant's permitted design capacity.

a.

Wastewater flows associated with existing and permitted development cannot exceed the wastewater treatment plant's permitted design capacity.

b.

Treated effluent and biosolids shall meet all pertinent federal, state and local standards and regulations for treatment, reuse and disposal.

c.

Pinellas County will, for concurrency management purposes, annually compare wastewater flows to permitted treatment capacity to determine the percentage of available capacity and assess whether permitted treatment capacity exceeds the needs of existing and committed development. If available treatment capacity meets this standard, development can be permitted.

d.

Unpredictable situations where permitted capacity is temporarily exceeded due to unanticipated situations such as limited/extreme weather conditions shall not impact the determination of level of service conditions.

e.

If an annual assessment evidences that a capacity deficit could occur within ten years, Pinellas County Utilities will prepare a more detailed capacity analysis as directed by 62-600.405, F.A.C, and determine whether facility expansion is required or if the service area is built out.

f.

Peak design flow capacity shall be between 1.5 and 2.5 times the average daily flow for each sanitary sewer system, based on the individual characteristics of the system.

(6)

Traffic circulation. The county shall maintain LOS C average daily/D peak hour and a v/c ratio of less than 0.9 on county and state roads with the exception of constrained and congestion containment facilities. The LOS standard on constrained and congestion containment facilities is LOS F. The transportation element contains policies regarding the maintenance of these LOS standards as well as the review of impacts associated with development and redevelopment projects within concurrency management corridors. Additional policies are included in the transportation element to implement and maintain the level of service standards for traffic circulation within the municipalities.

(7)

Mass transit. The county, in cooperation with PSTA, shall ensure transit access to all major traffic generators and attractors with at least a 30-minute headway in the peak hour and no greater than a 60-minute headway in the off-peak hour. (Major generators and attractors are defined as businesses with 500 or more employees or regional shopping centers.)

(Ord. No. 89-69, § IX, 12-19-89; Ord. No. 91-52, § 6, 10-29-91; Ord. No. 94-35, art. I, 4-19-94; Ord. No. 95-30, art. IV, 4-18-95; Ord. No. 96-58, § 11, 7-16-96; Ord. No. 98-58, § 10, 6-16-98; Ord. No. 99-65, § 7, 7-20-99; Ord. No. 06-81, § 6, 11-21-06; Ord. No. 08-79, § 10, 12-16-08)

Sec. 134-233. - Intergovernmental coordination.

(a)

Provision of public facilities or services to other governmental entities. The county shall provide service to other local governmental entities within the county in accordance with the policies included in the comprehensive plan. The county shall administer this division such that development in those areas shall be consistent with the comprehensive plan and implementing ordinances, and actions of the county.

(b)

Receipt of public facilities or services from other governmental entities. Concerning those services that are provided by other governmental entities, the county shall recognize the level of service provided by such entities in accordance with the policies of the comprehensive plan. The county shall ensure that all development within its area shall be in accordance with such policies as identified in the comprehensive plan.

(Ord. No. 89-69, § X, 12-19-89; Ord. No. 91-52, § 6, 10-29-91; Ord. No. 96-58, § 12, 7-16-96; Ord. No. 98-58, § 11, 6-16-98; Ord. No. 99-65, § 8, 7-20-99; Ord. No. 06-81, § 6, 11-21-06)

Sec. 134-234. - Appeals, reviews, and variances.

(a)

Definitions. As used in this section:

Applicant means any person making an official request to the county for a development permit, as that term is defined in this division.

Concurrency review and variance heating administrator means the county administrator.

Concurrency review and variance hearing board means representatives of the county administrator's office, the county attorney's office, the department of development review services and the planning, public works, and environmental management departments, and where necessary or appropriate, representatives from other departments affected in the application.

(b)

Eligibility for concurrency variance. Any applicant who applies for a hearing under subsection (d) of this section and demonstrates by competent, substantial evidence that the strict interpretation or enforcement of the provisions of this division would cause an exceptional and unique hardship, peculiar to the applicant's parcel and not shared by other property owners in the area, may be granted a variance to the provisions of this division. Variances may only be granted to the extent necessary to relieve the hardship. Upon granting concurrency variances, additional safeguards and conditions may be required to ensure proper compliance with the general spirit, purpose and intent of this division and of the comprehensive plan.

(c)

Eligibility for review of an administrative decision. Any applicant who has been aggrieved by an administrative decision in the application or interpretation of the provisions of this division to his particular application for development may apply for a review of that decision to the concurrency review and variance hearing board.

(d)

Review hearing procedure.

(1)

Any applicant who requests a concurrency review and variance hearing shall do so in writing to the planning department of development review services. Requests need not be in any particular form but must clearly indicate when the original application was made, what the variance or review concerns, what property or project the application involved, and be accompanied by a payment determined to be sufficient to cover the cost of providing the hearing procedure. Notice shall be that same notice provided for a board of adjustment case.

(2)

The concurrency review and variance hearing board shall conduct a public hearing on all requests.

(3)

An applicant's failure to appear or be represented at a scheduled review hearing shall be sufficient cause to deny the application on the strength of lack of evidence.

(4)

Within 21 days after the applicant's review hearing, the concurrency review and variance hearing administrator shall have considered the findings of the concurrency review and variance hearing board and have made available to the public, in writing, his decision of denial or approval, with or without conditions. Such report shall be released through the planning department. If agreed to by all parties, this requirement may be waived.

(e)

Appeals procedure.

(1)

Any applicant who wishes to contest the validity of a concurrency determination by the concurrency review and variance hearing administrator after a review hearing may file for an appeal before the board of adjustment. Appeal filings shall not be required to be in any particular form, but shall be filed with the planning department within ten days after the denial, with a copy sent to the clerk of the board of county commissioners. Each appeal filing must clearly indicate when the original application was heard by the concurrency review and variance hearing board, what property or project the application involved, and be accompanied by a payment in sufficient amount to cover the cost of processing the appeal, providing the public hearing, and publishing notice which shall be the same as required for other hearings before the board of adjustment.

(2)

The board of adjustment shall conduct the public hearing on all appeals as soon as practicable.

(3)

An applicant's failure to appear or be represented at a scheduled appeal hearing shall be sufficient cause to deny the application on the strength of lack of evidence.

(4)

The applicant is required to present substantial competent evidence, on the record, that establishes the applicant's right to a more favorable decision.

(5)

In passing upon applications, the board of adjustment or the review and variance hearing administrator shall consider all technical evaluations, all relevant factors, standards specified in other sections of this division or in the comprehensive plan, and shall utilize the following generalized guidelines and criteria:

a.

That the variance, review, or decision on appeal will not confer on the applicant any special privilege that is otherwise denied by this division to other similarly situated lands;

b.

That any variance, review, or decision on appeal is the minimum increase in intensity or density that will make possible the reasonable use of the land, building, or structure, consistent with the need to protect public facilities or services;

c.

That the variance, review, or decision on appeal is not inconsistent with the general intent, purpose, and spirit of this division, or with the county comprehensive plan;

d.

That the variance, review, or decision on appeal will not be injurious to the area involved or otherwise detrimental to the public welfare;

e.

That the variance, review, or decision on appeal shall not authorize a development in conflict with any other county ordinance or the county comprehensive plan; and

f.

That the variance, review, or decision on appeal is based upon evidence submitted by the applicant that factually supports the variance, review, or decision on appeal.

(6)

Further, the board of adjustment or the review and variance hearing administrator may consider the following site-specific guidelines and criteria:

a.

The expected timing of traffic impacts associated with the particular proposed use, and the status of levels of service associated with those impacts;

b.

The proximity of intersections or highway links with identified service problems, the resolution of which involve solutions that will be impaired or prevented by the issuance of a variance, review, or appeal;

c.

The ability of the applicant to utilize transportation management strategies as options to reduce the amount of the required variance, review, or appeal; and

d.

The availability of alternative locations, not subject to concurrency management corridor requirements for the proposed use.

(7)

Appeals of the decisions of the board of adjustment made pursuant to this division shall be by petition for writ of certiorari to the circuit court.

(8)

The department of planning shall maintain a summary record of all appeals that have been acted on by the board of adjustment with a report then submitted on a quarterly basis to the county administrator to file with the board of county commissioners.

(f)

Applicability of appeals procedures.

(1)

This section shall not be interpreted to limit or enhance the applicability of F.S. § 163.3215.

(2)

This section shall apply to all decisions, determinations and results of applications made under the concurrency management system as soon as it becomes effective, as provided for in this division and Ordinance No. 89-49. In the event of any conflict between this division and Ordinance No. 89-49 as to the effective date or applicability of this division, the provisions of this division shall control.

(3)

As provided for in section 134-85, in order to prevent the taking of property, any party challenging a decision, determination or result made under this division as a temporary or permanent taking of private property must exhaust the provisions of this section and any other subsequently enacted administrative procedures, including special master procedures under F.S. ch. 70.001, before any action on a request for development is deemed final by any competent court or quasi-judicial proceeding having jurisdiction.

(Ord. No. 89-69, § XI, 12-19-89; Ord. No. 90-61, § 1.G, 7-24-90; Ord. No. 91-52, § 6, 10-29-91; Ord. No. 96-58, § 13, 7-16-96; Ord. No. 98-58, § 12, 6-16-98; Ord. No. 99-65, § 9, 7-20-99; Ord. No. 06-81, § 6, 11-21-06; Ord. No. 09-7, § 9, 2-17-09)

Secs. 134-235—134-255. - Reserved.

DIVISION 3. - ANNUAL CONCURRENCY TEST STATEMENT

Sec. 134-256. - Purpose and intent.

(a)

The concurrency test statement is a status report on the ability of public services and facilities to meet the demands of existing and committed development and provide an acceptable level of service. In section 134-259 of this division, which contains detailed information on county services and facilities, state roads,

and mass transit, it was determined that with the exception of certain state and county roads shown in section 134-259(6), all public services and facilities evaluated in this division are currently providing an acceptable level of service based on the level of service standards contained in the concurrency management system for the county and the county comprehensive plan. For the purpose of determining the ability of a municipal service or facility to provide an acceptable level of service for unincorporated areas within a municipal service area, the county will rely upon information from the applicable jurisdiction indicating capacity availability.

(b)

This division also identifies concurrency management corridors for county and state roads and contains provisions and measures that shall apply within these areas to prevent additional deterioration of facilities operating at or below the adopted level of service standard.

(c)

Section 134-258 provides a summary of the level of service conditions for utilities, recreation/open space, drainage, county and state roads, and mass transit. If the existing level of service as shown in the table in section 134-258 equals or exceeds the adopted level of service standard, and all other level of service conditions are met, then that facility or service is considered to be providing an acceptable level of service. In section 134-259, the calculated existing levels of service for county services and facilities are compared to level of service standards contained in the adopted concurrency management system ordinance and the adopted county comprehensive plan. The source of the population figures used in section 134-259 is explained in section 134-260. The population figures used to evaluate public facilities/services in section 134-259 are the sum of the estimated existing population and the population associated with committed residential dwelling units.

(d)

Section 134-260 describes the methodology used to determine the level of service conditions.

(Ord. No. 94-39, § I, 4-19-94; Ord. No. 95-26, § I, 4-18-95; Ord. No. 96-59, § I, 7-16-96; Ord. No. 98-59, § I, 6-16-98)

Sec. 134-257. - Applicability.

(a)

The provisions of this division shall apply to any property within the unincorporated areas of the county. The provisions of this division shall also apply to incorporated areas of the county that are provided service by a county facility or service evaluated in this division and may apply to incorporated areas provided service by a state facility or service evaluated in this division.

(b)

This division will not divest those rights acquired under a previous approval pursuant to section 134-225(d) under the previous concurrency test statement as it existed prior to repeal, unless the county can demonstrate that substantial changes in conditions underlying the approval have occurred or the approval was based on substantially inaccurate information or that divestiture is essential to the public health, safety, or welfare. Furthermore, any conditions applied to a development proposal under the previous concurrency test statement

as it existed prior to repeal and directly related to the concurrency issue shall continue to remain in effect, except for those specific instances where part of a proposal has been deferred, in which case the county administrator or his/her designee, at the request of the applicant, may modify the phasing of the site plan and development based upon the availability of the services.

(Ord. No. 94-39, § VII, 4-19-94; Ord. No. 95-26, § VII, 4-18-95)

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Sec. 134-258. - Level of service conditions—For utilities, recreation/open space, stormwater, roadways and mass transit.

The following table sets out a summary of level of service (LOS) conditions for utilities, recreation and open space, drainage, roadways and, mass transit:

Public Facility/Service	Existing LOS	Adopted LOS Standard	Status of Public Facility/Service of this Code
Pinellas County Water Demand Planning Area (PCWDPA)	Tampa Bay Water is able to meet annual demand	Refer to section 134-259(1)(b) of the Pinellas County Code	Acceptable
Pinellas County Wastewater System			
1) William E. Dunn	1) 6.38 mgd based on a capacity of 9.00 mgd	Refer to section 134-259(2) of the Pinellas County Code	1) Acceptable
2) So. Cross Bayou	2) 21.11 mgd based on a capacity of 33.00 mgd		2) Acceptable
Recreation and Open Space (Countywide)	16.08 acres/1,000 residents	14.0 acres/1,000 residents	Acceptable
Solid Waste and Resource Recovery (Countywide)	County is able to dispose of the solid waste for which it is responsible (current generation rate is 0.85 tons/person/year)	1.30 tons/person/year	Acceptable
Stormwater		Refer to section 134-259(5) of the Pinellas County Code	Acceptability determined at time of site plan review
Mass Transit	All major generators and attractors are served	Service to all major generators and attractors	Acceptable
County Roads	Varies per road segment	C average daily/D peak hour and v/c ratio less than 0.9 with the exception of constrained and congestion containment facilities.	See section 134-259(6) of this Code

		The LOS standard on constrained and congestion containment facilities is LOS F.	

(Ord. No. 94-39, § II, 4-19-94; Ord. No. 95-26, § II, 4-18-95; Ord. No. 96-59, § II, 7-16-96; Ord. No. 97-54, § I, 7-1-97; Ord. No. 98-59, § II, 6-16-98; Ord. No. 99-64, § I, 7-20-99; Ord. No. 00-62, § I, 8-15-00; Ord. No. 01-48, § I, 7-17-01; Ord. No. 02-57, § I, 7-23-02; Ord. No. 03-64, § I, 9-1-03; Ord. No. 06-75, § I, 10-24-06; Ord. No. 07-49, § I, 10-16-07; Ord. No. 08-78, § I, 12-16-08; Ord. No. 09-64, § I, 12-15-09; Ord. No. 10-65, § I, 11-30-10; Ord. No. 11-57, § I, 12-20-11; Ord. No. 12-42, § I, 12-11-12; Ord. No. 13-36, § I, 12-10-13; Ord. No. 15-15, § 1, 3-24-15)

Sec. 134-259. - Same—For public services and facilities.

The level of service conditions for public services and facilities are as follows:

(1)

Pinellas County Water Demand Planning Area (PCWDPA).

a.

Existing level of service. Tampa Bay Water is able to supply all potable water required by Pinellas County Utilities to service its customers.

b.

Adopted level of service standard.

1.

Except as otherwise provided in the master water supply contract and in the associated interlocal agreement, all potable water required by Pinellas County Utilities to serve its customers shall be supplied by Tampa Bay Water.

2.

In the event that Tampa Bay Water determines that the regional system has experienced a shortfall or a production failure as defined in the Interlocal Agreement, Pinellas County shall respond with one or more of the following actions and alternatives:

i.

Institute additional water conservation measures;

ii.

Halt or otherwise restrict the issuance of development orders and permits;

iii.

Develop new sources of potable water within the parameters of the interlocal agreement;

iv.

Purchase potable water from suppliers other than Tampa Bay Water;

v.

Cooperate with Tampa Bay Water, the Southwest Florida Water Management District, and the affected local governments to develop a regional response to the situation; and

vi.

Use actions and alternatives not identified in this policy.

3.

Pinellas County shall use the following level of service when preparing its annual five-year and 20-year potable water demand projections for the Pinellas County Water Demand Planning Area, which are required by the master water supply contract to enable Tampa Bay Water to formulate its capital improvement program:

Pinellas County Water Demand Planning Area
gallons per capita per day (gpcd)

Year	1990	1994	1995	1997	2000	2005	2010	2015	2020	2025
gpcpd	150	145	135	125	125	120	120	120	115	115

c.

Potable water use for Pinellas County Water Demand Planning Area (PCWDPA).

Average daily flow (August 2013 through August 2014) for the PCWDPA = *57.33 million gallons per day (mgd)

57.33 mgd based on: 51.77 mgd from Pinellas County Utilities + 5.06 mgd from the City of Clearwater Utilities + 0.50 mgd from the City of Tarpon Springs Utilities

Calculation: Pinellas County 51.77 + Clearwater 5.06 + Tarpon Springs 0.50 = 57.33

PCWDPA population as of August 2014 = 701,528

Existing level of service = 57.33 mgd ÷ 701,528 = 82 gpcd

Calculation: 57.33 ÷ 701,528 = 8.17216133 × 1,000,000 = 81.7 = 82

Maximum daily flow (Pinellas County Utilities only) = 56.90 mgd

Projected population increase in the PCWDPA (based on the difference between the August 2015 projected

population and the August 2014 population) = 1,527

Calculation: 703,055 - 701,528 = 1,527

Projected 2015 water demand = 57.33 mgd + [1,527 × 82) = 0.13 mgd] = 57.33 mgd + 0.13 mgd = 57.46 mgd

Calculation: 57.33 + 1,527 × 82 ÷ 1,000,000 = 0.129 = 0.13 57.33 + 0.13 = 57.46

Status of potable water level of service conditions: acceptable; no existing or projected capacity deficits.

(2)

Sanitary sewer system/wastewater treatment. Adopted level of service standards for wastewater treatment: William E. Dunn Wastewater Treatment Plant and South Cross Bayou Wastewater Treatment Plant.

a.

Wastewater flows associated with existing and permitted development cannot exceed the wastewater treatment plant's permitted design capacity.

b.

Pinellas County will, for concurrency management purposes, annually compare wastewater flows to permitted treatment capacity to determine the percentage of available capacity and assess whether permitted treatment capacity exceeds the needs of existing and permitted development.

c.

If an annual assessment evidences that a capacity deficit could occur within ten years, Pinellas County Utilities will prepare a more detailed capacity analysis as directed by 62-600.405, F.A.C., and determine whether facility expansion is required or if the service area is built out.

d.

System-wide considerations. Treated effluent and sludge shall meet all pertinent federal, state and local standards and regulations for treatment, reuse and disposal.

Peak design flow capacity shall be between 1.5 and 2.5 times the average daily flow for each wastewater system, based on the individual characteristics of the system.

Pinellas County Utilities Wastewater System Capacity Analysis:
Summary of Level of Service Conditions

	Year	Estimated or Projected Service Area Population	Facility Design Capacity (MGD)	Estimated or Projected Average Daily Flow (MGD)*	Estimated or Projected Average Daily Flow Per Person (GPCPD)*	Capacity Surplus (or Deficit) (MGD)	Percent of Plant Capacity
William E. Dunn							
actual data	2009	109,772	9.00	6.38	60	2.62	71%

actual data	2010	103,006	9.00	6.40	62	2.60	72%
actual data	2011	103,155	9.00	6.19	62	2.45	72%
actual data	2012	103,304	9.00	6.72	65	2.28	75%
actual data	2013	102,577	9.00	6.56	64	2.44	73%
	2014	103,091	9.00	6.60	64	2.40	73%
	2015	103,200	9.00	6.60	64	2.40	73%
	2020	103,757	9.00	6.64	64	2.36	74%
	2025	104,207	9.00	6.67	64	2.33	74%
South Cross							
actual data	2009	255,158	33.00	21.02	84	11.98	64%
actual data	2010	256,446	33.00	21.00	82	12.00	63%
actual data	2011	256,730	33.00	23.17	90	9.83	70%
actual data	2012	257,014	33.00	23.21	90	9.79	70%
actual data	2013	258,199	33.00	21.42	83	11.58	65%
	2014	260,767	33.00	21.64	83	11.36	66%
	2015	261,214	33.00	21.68	83	11.32	66%
	2020	263,311	33.00	21.85	83	11.15	66%
	2025	265,035	33.00	22.00	83	11.00	67%

Source: Pinellas County Comprehensive Plan—Potable Water Supply, Wastewater and Reuse Element) and Pinellas County Department of Environment & Infrastructure. 2013-2014.

* Flow data and per capita data for 2014 based on actual figures (Pinellas County Department of Environment and Infrastructure 2013-2014); population estimates and projections prepared by Pinellas County Department of Planning & Development Services, 2014.

(3)

Solid waste/resource recovery.

a.

Population as of August 2014 = *1,103,677*

Projected August 2015 population = 1,106,305

Difference between August 2015 population and August 2014 population is 2,628

Calculation: (1,106,305 -
1,103,677 = 2,628)

* Total population (permanent, seasonal and tourist) was used in establishing the solid waste/resource recovery level of service standard.

b.

Operating capacity of solid waste disposal system:

Resource recovery plant: 985,500 tons/year = (3,000 tons per day × 365 days per year × 0.90**)

Bridgeway Acres Landfill: Expected to last at least 30 years, based on current design and disposal rate.

** Normal operating efficiency is 100 percent -90 percent of the time.

c.

Existing level of service: The county is able to dispose of the solid waste for which it is responsible.

Projected demand on solid waste disposal system is based on:

Current demand (August 2013 through August 2014) = 915,084 tons/year (805,252 tons per year, resource recovery plant + 109,832 tons, landfill)

Current generation rate = 0.83 tons/person/year

Calculation: (915,084 tons ÷ 1,103,677 people = 0.83)

Projected demand = 915,084 tons/year current demand (August 2013 through August 2014) + 2,181 tons (associated with service area population increase from August 2014 through August 2015) = 917,285 tons/year

Calculation: (915,084 tons + (2,628 people × 0.83 tons/person) = 917,285 tons)

d.

Adopted level of service standard = disposal of 1.30 tons/person/year (resource recovery plant and landfill).

Status of solid waste disposal level of service conditions: acceptable; no existing or projected capacity deficits.

(4)

Recreation/open space.

a.

Population as of August 2014 = 1,012,180*

Projected August 2015 population = 1,014,675

Difference between August 2015 population and August 2014 population = 2,495

b.

Capacity of the county park/preserve system: 16,279 acres total (accessible to the public).

c.

Existing level of service = (16,279 acres/1,012,180) × 1,000 = 16.08 acres per 1,000 county residents.

Projected level of service as of August 2015 = (16,279 acres/1,014,675) × 1,000 = 16.04 acres/1,000 residents.

d.

Adopted level of service standard = 14.0 acres/1,000 county residents.

e.

Status of level of service conditions: acceptable; capacity exceeds demand.

* Permanent and seasonal population rather than total population (permanent, seasonal and tourist) were used in establishing the recreation/open space level of service standard.

Status of recreation level of service conditions: acceptable; no existing or projected capacity deficits.

(5)

Stormwater. On-site and major stormwater facilities will be required to meet the level of service standards adopted within the Pinellas County Comprehensive Plan and division 2 of this article. Therefore, applications for development will not be approved unless they conform to the adopted level of service standards. In addition, the Capital Improvements Element of the County Comprehensive Plan and the Pinellas County Capital Improvement Program have scheduled stormwater improvements needed to eliminate existing stormwater deficiencies. The necessary funds are available for those projects identified in the six-year schedule of improvements.

(6)

Traffic circulation.

a.

Level of service standards. The level of service standard for state and county roads is LOS C average daily/D peak hour with a volume-to-capacity (v/c) ratio less than 0.9 with the exception of congestion containment and constrained facilities. The LOS standard for these facilities is LOS F. These LOS standards have been established in the transportation element and the concurrency management system section of the county comprehensive plan. Roadway operating conditions that are below the adopted level of service standard are termed "deficient" in this section.

b.

Transportation management plan.

1.

Transportation management plans are generally required to be developed and submitted by those development applicants who propose to locate a development project within a designated concurrency management corridor. The application of transportation management strategies/improvements will be an option available to the developer to exceed current density and intensity restrictions. The development applicant will coordinate with county staff to develop the transportation management plan applicable to their particular development project. The determination of appropriate strategies/improvements will be primarily dependent upon the projected impact of the development project on the surrounding traffic circulation system. Specific conditions of the particular concurrency management corridor impacted by the development will also be considered. Any specific strategies/improvements identified will be applied as conditions to the final site plan approval. Transportation management plans must be developed by the applicant and accepted by Pinellas County. The next subsection provides examples of the initiatives that may be applied in the concurrency management corridors. It is not meant to be a definitive listing nor is it meant to infer that a development's effect on adjacent roadway traffic can be fully eliminated through the application of these provisions.

2.

Transportation management plan strategies.

i.

Intensity reduction: The intensity of the proposal may be reduced through an across-the-board reduction of the permitted floor area ratio, as it would otherwise normally apply to the proposal. Other such corrective actions that would reduce the intensity of the proposal may also apply.

ii.

Density reduction: The density of the proposal may be decreased by a reduction in the number of units per acre below that which would otherwise normally apply to the proposal.

iii.

Outparcel deletion: Those portions of the proposal characterized as outparcels that create separate and unique impacts may be deleted from the total proposal.

iv.

Physical highway improvements: Link capacity improvements, acceleration/deceleration lanes, intersection improvements, frontage roads, etc.

v.

Operational improvements (signal): Signal removal, no signalization, signal timing improvements, etc.

vi.

Access management strategies: No direct connection, right-in/right-out, substantial alternative access, one point access, shared access, median controls, etc.

vii.

Mass transit initiatives: Implementation of a plan to encourage transit usage (e.g., employer-issued bus passes). Other mass transit initiatives may include direct route subsidies, provision of feeder service or the construction of bus stop amenities.

viii.

Ride-sharing incentives: Implementation of a plan to encourage ride-sharing (e.g., designated parking spaces for carpools, employer-sponsored carpool program, and participation in transportation management organization/initiative programs).

ix.

Bicycle/pedestrian improvements: Structural improvements or construction of a bikeway or sidewalk connecting an existing bikeway/sidewalk network or providing access to a school, park, shopping center, etc.

x.

Intelligent transportation system (ITS) improvements: This includes improvements pertaining to computerized traffic signal systems that automatically adjust to maximize traffic flow and to permit emergency vehicles to pass through intersections quickly; freeway management systems, such as electronic message signs, and electronic fare payment on public buses that reduce passenger boarding time.

Transportation management plans seeking to implement strategies that do not involve structural improvements, such as ride-sharing and transit incentive programs, must include a monitoring program to ensure the strategies are carried out in accordance with the plan, as developed by the applicant and accepted by Pinellas County. The specific monitoring requirements will be applied as conditions in the final site plan approval.

c.

Proportionate fair share mitigation. Proportionate fair share mitigation may be applied as an option to allow properties within concurrency corridors to be developed to the maximum density/intensity permitted under the applicable zoning district. Under this option, the applicant would pay a portion of the cost of a project scheduled in the capital improvements element that is designed to improve a facility to meet the county's roadway level of service standard or to mitigate the traffic impacts of the proposed development. Provisions regarding the application of proportionate fair share mitigation are included in section 134-231 of the Pinellas County Land Development Code.

d.

Provisions to apply to development served by roadways below the adopted level of service standard.

1.

Congestion containment corridors. These include roads that operate with deficient level of service (LOS) conditions where improvements may be planned or scheduled beyond the next three years to alleviate these conditions.

Development projects within one-half mile of the centerline or one-half mile arc radius of the terminus of a congestion containment road may not exceed 50 percent of the maximum floor area, dwelling units/rooms

allowed under the applicable zoning district. If the applicant agrees to implement one or more transportation management plan strategies that will further reduce transportation impacts, the 50 percent density/intensity maximum may be exceeded commensurate with the extent of the impact reduction(s).

Designated congestion containment corridors include the following:

Road Segment	From	To
Forest Lakes Blvd. (CR 667)	Tampa Road (SR 584)	SR 580
Gandy Blvd. (SR 694)	4th Street (SR 687)	Brighton Bay Boulevard NE
Gandy Blvd. (SR 694)	I-275	Grand Avenue
I-275 (SR 93)	Gandy Blvd. (SR 694)	I-175
W. Roosevelt Blvd (SR 686)	49th Street North (CR 611)	Ulmerton Road (SR 688)
Starkey Road (CR 1)	East Bay Drive (SR 686)	Ulmerton Road (SR 688)
US 19 (SR 55)	Mainlands Boulevard	Park Boulevard North (SR 694)
US 19 (SR 55)	Klosterman Road (CR 880)	Beckett Way
Belcher Road (CR 501)	Gulf-To-Bay Blvd (SR 60)	Druid Road

2.

Long-term concurrency management corridor.

i.

It is recognized by the department of economic opportunity, the department of transportation and the county that FIHS facilities are strategically important as high speed and high volume inter-city and inter-regional roads. Therefore, given the need to protect the capacity of these roads, development should be mitigated and phased appropriately in order to minimize the impacts on levels of service until the state-funded improvements necessary to alleviate the deficient conditions on a long-term basis can be implemented. The department of transportation and the department of economic opportunity have approved the application of long-term concurrency management by the county on US Highway 19. Impact fee revenues generated from development within the corridor will be earmarked to provide some of the funding needed for the improvements.

ii.

Long-term concurrency management provisions contained in this subsection apply to the portion of US Highway 19 designated as a long-term concurrency management corridor, from Klosterman Road to Whitney Road.

iii.

Development projects within one-half mile of the centerline or one-half mile arc radius of the terminus of any long-term concurrency management road segment may not exceed 50 percent of the maximum floor area, dwelling units/rooms allowed under the applicable zoning district. If the applicant agrees to implement

transportation management plan strategies that will reduce transportation impacts, the 50 percent density/intensity maximum may be exceeded commensurate with the extent of the impact reduction(s). The following roadway is subject to the requirements of long-term concurrency management corridors in accordance with the provisions of this subsection.

Road Segment	From	To
US 19 (SR 55)	Klosterman Road (CR 880)	Whitney Road (CR 438)

3.

Constrained roadways.

i.

Constrained roads designated in this section include county and state facilities operating at deficient levels of service that are precluded from mitigating capacity improvements due to physical or policy constraints.

ii.

Development projects within one-half mile of the centerline or one-half mile arc radius of the terminus of facilities identified in this section may not exceed 50 percent of the maximum floor area, dwelling units/rooms allowed under the applicable zoning district. If the applicant agrees to implement transportation management plan strategies that will further reduce transportation impacts, the 50 percent density/intensity maximum may be exceeded. The amount of additional density/intensity allowed above the 50 percent maximum will be based on the extent of the impact reduction and consideration of the congestion level of the roadway as determined by the volume-to-capacity ratio indicated in the MPO level of service report. The following roadways include those designated as constrained roads:

Road Segment	From	To
102nd Avenue (CR 296)	Ridge Road	131st Street
22nd Avenue North	34th Street (SR 55)	22nd St
38th Avenue North (CR 184)	49th Street North (CR 611)	34th Street North
Alternate US 19 (SR 595)	Main Street (SR 580)	Pinellas/Pasco CL
Bay Drive (SR 686)	Clwtr Largo Road (CR 321)	US 19 (SR 55)
Bay Pines Blvd (SR 595)	Park Street (CR 1)	East of 94th Street
Belcher Road (CR 501)	Druid Road	Belleair Road (CR 464)
Belleair Road (CR 464)	Keene Road (CR 1)	US 19 (SR 55)
Belleair Beach Causeway (SR 686)	Indian Rocks Road	Gulf Boulevard
Drew Street (CR 528)	US 19 (SR 55)	NE Coachman Road (SR 590)
East Lake Road (CR 611)	Woodlands Parkway	Keystone Road (CR 582)
Forest Lakes Blvd (CR 667)	Pine Avenue	Pinellas/Hillsborough CL
Ft. Harrison Avenue	Belleair Road (CR 464)	Drew St (SR 590)

Gulf Boulevard	Belleair Beach Causeway (SR 686)	Walsingham Road
Gulf-To-Bay Blvd (SR 60)	Keene Road (CR 1)	Pinellas/Hillsborough CL
Gulf-To-Bay Blvd (SR 60)	Highland Avenue (CR 375)	Missouri Avenue (SR 595)
Indian Rocks Road (CR 233)	West Bay Drive (CR 416)	Walsingham Road (CR 330)
Keene Road (CR 1)	Druid Road	Belleair Road (CR 464)
Keene Road (CR 1)	Sunset Point Road (CR 576)	SR 580
McMullen-Booth Road (CR 611)	Curlew Road (SR 586)	Gulf-To-Bay Blvd (SR 60)
Memorial Causeway (SR 60)*	Causeway Boulevard	Island Way
Park Blvd (CR/SR 694)	US 19 (SR 55)	49th Street North
Park Blvd (CR/SR 694)	66th Street North	Duhme Road/113th Street North (CR 321)
SR 580	Phillipe Parkway (CR 590)	Forest Lakes Blvd. (CR 667)
Tampa Road (SR 584)	Curlew Road (SR 586)	SR 580
Tarpon Avenue (SR 582)	Alternate US 19 (SR 595)	US 19 (SR 55)
US 19 (SR 55)	Gandy Boulevard (SR 600)	54th Avenue North (CR 202)
Walsingham Road	Ulmerton Road (SR 688)	Seminole Blvd (SR 595)

* West end of road is municipal jurisdiction.

4.

Deficient roadways with scheduled mitigating improvements. Certain roadways operating with deficient level of service conditions have mitigating improvements scheduled over the next three years. These roadways will not be subject to the provisions of the county concurrency management system. The roadways listed in the following table are designated as having scheduled mitigating improvements. The improvement number listed by each segment corresponds to the number in the table listing the specific improvement.

Road Segment	From	To	Improvement	Construction Date*
22nd Avenue North	19th Street	22nd Street	Dual Left Turn Lanes at I-275	FY 2014/15
Ulmerton Road (SR 688)	East of 119th Street	El Centro/Ranchero	Six Lanes Divided	UC
Ulmerton Road (SR 688)	49th Street North (CR 611)	E. Roosevelt Boulevard (SR 686)	Six Lanes Divided	UC
Gandy Blvd. (SR 694)	West of 9th Street North/Dr. Martin Luther King Jr. Street North	East of 4th Street North (SR 687)	Four/Six Lanes with Frontage Roads	UC

* FY = Fiscal Year, UC = Under Construction

(Ord. No. 94-39, § III, 4-19-94; Ord. No. 95-26, § III, 4-18-95; Ord. No. 96-59, § III, 7-16-96; Ord. No. 97-54, § II, 7-1-97; Ord. No. 98-59, § III, 6-16-98; Ord. No. 99-64, § II, 7-20-99; Ord. No. 00-62, § II, 8-15-00; Ord. No. 01-48, § II, 7-17-01; Ord. No. 02-57, § II, 7-23-02; Ord. No. 03-64, § II, 9-1-03; Ord. No. 05-69, § I, 10-18-05; Ord. No. 06-32, § I, 4-4-06; Ord. No. 06-75, § II, 10-24-06; Ord. No. 07-49, § II, 10-16-07; Ord. No. 08-78, § II, 12-16-08; Ord. No. 09-64, § II, 12-15-09; Ord. No. 10-65, § II, 11-30-10; Ord. No. 11-57, § II, 12-20-11; Ord. No. 12-42, § II, 12-11-12; Ord. No. 13-36, § II, 12-10-13; Ord. No. 15-15, § 2, 3-24-15)

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Sec. 134-260. - Methodology used to determine the level of service conditions.

(a)

Since the level of service standards for recreation/open space, wastewater, potable water and solid waste/resource recovery facilities and services are partially based on per capita standards, information on the existing and projected populations for the service areas are used to evaluate existing and future impacts on services and facilities. For the purposes of this division, the source used in developing the population estimates, for permanent, seasonal, and tourist (depicted as a permanent population equivalent impact upon public services), were derived from the Pinellas County Population Projections 2010-2035 at the Traffic Analysis Zone (TAZ) level. The projections were at five-year intervals. Population estimates for the interim years were calculated by interpolation. However, short-term permanent population estimates have been updated based on results of the 2010 decennial census and subsequent annual estimates from the University of Florida.

(b)

An additional consideration in determining the existing level of service for recreation/open space, wastewater, and solid waste/resource recovery facilities and services is the impact of anticipated near term population growth. The impact of projected population growth over the next year (obtained by multiplying the projected increase in population for each service area by the existing level of service) is added to the actual demand (e.g., annual average flow) for the facilities. In this way, the additional demands associated with this anticipated population growth are factored into the assessment of existing level of service conditions. Flow data is obtained from Pinellas County Department of Environment and Infrastructure. Park and open space acreages are obtained from the parks and conservation resources.

(c)

For potable water supply, the existing levels of service and level of service standard is based upon Tampa Bay Water being able to meet the needs of the Pinellas County Water Demand Planning Area. For informational purposes, however, estimates of the Pinellas County Water Demand Planning Area population are applied to average daily flow figures to arrive at an estimate of existing per capita use.

(d)

In determining the existing levels of service (LOS) on roads for the purposes of the concurrency test statement, peak hour traffic counts were derived from average daily traffic (ADT) volume counts. The ADT counts were compiled from data provided by the Pinellas County Metropolitan Planning Organization, the

Florida Department of Transportation (FDOT) and various municipal governments. Based upon current roadway travel characteristics, various peak hour factors were used to determine peak hour traffic counts from ADT volume counts.

The specific data sources include:

(1)

Pinellas County Seasonally Adjusted 2013 Traffic Counts, prepared by Florida Department of Transportation and the Pinellas County Department of Planning and Development Services;

(2)

Florida Department of Transportation 2009 Level of Service Handbook; and

(3)

Pinellas County Metropolitan Planning Organization 2014 Level of Service Report.

(Ord. No. 94-39, § IV, 4-19-94; Ord. No. 95-26, § IV, 4-18-95; Ord. No. 96-59, § IV, 7-16-96; Ord. No. 97-54, § III, 7-1-97; Ord. No. 98-59, § IV, 6-16-98; Ord. No. 99-64, § III, 7-20-99; Ord. No. 00-62, § III, 8-15-00; Ord. No. 01-48, § III, 7-17-01; Ord. No. 02-57, § III, 7-23-02; Ord. No. 03-64, § III, 9-1-03; Ord. No. 05-69, § II, 10-18-05; Ord. No. 06-75 § III, 10-24-06; Ord. No. 07-49, § III, 10-16-07; Ord. No. 08-78, § III, 12-16-08; Ord. No. 09-64, § III, 12-15-09; Ord. No. 10-65, § III, 11-30-10; Ord. No. 11-57, § III, 12-20-11; Ord. No. 12-42, § III, 12-11-12; Ord. No. 13-36, § III, 12-10-13; Ord. No. 15-15, § 3, 3-24-15)

Sec. 134-261. - Adjustments to concurrency test statement; variances.

(a)

Section 134-259 identifies programmed improvements included in the County Capital Improvements Element and the Metropolitan Planning Organization's Transportation Improvement Program, as of the effective date of this division. These will compensate for level of service deficiencies on the county and state roadway systems. Subsequent to the annual adoption of the concurrency test statement, revised level of service information or changes to improvement schedules may occur. If those revisions or changes would affect the concurrency status of roads, as identified in this division, the board of county commissioners may, by resolution and upon recommendation of the local planning agency, issue a variance to the concurrency management corridor designation status assigned to a roadway in the concurrency test statement. The extent to which a variance may be issued shall be limited to that degree of variance necessary to accommodate the effect of the revisions or changes upon the concurrency status of the roads. The local planning agency and the board of county commissioners shall hold duly noticed public hearings on any proposed variance to the concurrency test statement.

(b)

Any revised level of service information or changes in the improvement schedules which could result in roads being downgraded to concurrency management corridor status that are not identified as such in this division shall require an amendment to this division in order to effectuate that change.

(Ord. No. 94-39, § V, 4-19-94; Ord. No. 95-26, § V, 4-18-95; Ord. No. 96-59, § V, 7-16-96; Ord. No. 98-59, §

V, 6-16-98; Ord. No. 99-64, § IV, 7-20-99; Ord. No. 00-62, § IV, 8-15-00; Ord. No. 01-48, § IV, 7-17-01; Ord. No. 02-57, § IV, 7-23-02; Ord. No. 03-64, § IV, 9-1-03; Ord. No. 05-09, § III, 10-18-05; Ord. No. 06-75, § IV, 10-24-06; Ord. No. 07-49, § IV, 10-16-07; Ord. No. 08-78, § IV, 12-16-08; Ord. No. 09-64, § IV, 12-15-09; Ord. No. 10-65, § IV, 11-30-10; Ord. No. 11-57, § IV, 12-20-11)

DIVISION 4. - RESERVED[5]

Footnotes:
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Editor's note—Ord. No. 12-30, § §§ 1—5, adopted July 24, 2012, deleted Div. 4, §§ 134-262—134-266, which pertained to public school facilities concurrency procedures and derived from Ord. No. 08-44, §§ II and III, adopted Aug. 26, 2008.

Secs. 134-262—134-290. - Reserved.

ARTICLE VII. - PROCEDURAL REQUIREMENTS FOR ENTERING INTO DEVELOPMENT AGREEMENTS[6]

Footnotes:
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State Law reference— Florida Local Government Development Agreement Act, F.S. § 163.3220 et seq.

Sec. 134-291. - Statutory definitions.

For the purposes of this article, the definitions set forth in F.S. § 163.3221 shall apply and control all development agreements entered into by the county.

(Ord. No. 90-68, § III, 7-24-90)

Sec. 134-292. - Legislative intent and findings of fact.

The board of county commissioners finds and declares that each of the following statements are true and correct, and hereby adopts these statements as the legislative findings of the board, which shall be considered as further justification and authority for the adoption of this article.

(1)

The provisions of F.S. §§ 163.3220—163.3243 set forth the local government development agreement act (the "act").

(2)

The provisions of F.S. § 163.3223 provide that local governments may, by ordinance, establish procedures and requirements, as provided by the act, to consider and enter into development agreements with any person having a legal or equitable interest in real property within its jurisdiction.

(3)

The act recognizes that the lack of certainty in the approval of development can result in a waste of economic and land resources, discourage sound capital improvement planning and financing, escalate the cost of housing and development, and discourage commitment to comprehensive planning.

(4)

The act recognizes that assurance to a developer that upon receipt of his development permit he may proceed in accordance with existing laws and policies, subject to the conditions of a development agreement, strengthens the public planning process, encourages sound capital improvement planning and financing, assists in assuring there are adequate capital facilities for the development, encourages private participation in comprehensive planning, and reduces the economic costs of development.

(5)

In conformity with, in furtherance of, and in order to implement the local government comprehensive planning and land development regulation act (F.S. § 163.3161 et seq.) and the state comprehensive planning act of 1972 (F.S. § 186.001 et seq.), it was the intent of the state legislature in adopting the act to encourage a stronger commitment to comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources, and reduce the economic cost of development.

(6)

The act authorizes local governments to enter into development agreements with developers, subject to the procedures and requirements of the act.

(7)

The act provides that the act shall be regarded as supplemental and additional to the powers conferred upon local governments by other laws and shall not be regarded as in derogation of any powers now existing.

(8)

The provisions of Ordinance No. 89-32, attachment B, adopting the county comprehensive plan, in b), referencing the concurrency management system, minimum requirements for concurrency, subsections A)4. and B)2., and section 134-225(d)(3) specifically anticipate the use of development agreements to satisfy concurrency requirements for necessary facilities and services.

(9)

The provisions of F.S. § 125.01(1)(t), (11)(w), provide authority for the county to adopt ordinances which are in the common interest of the people of the county and not specifically prohibited by law.

(10)

It is the intent of this article to encourage a strong commitment to comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development concurrent with the impacts of development, encourage the efficient use of resources, and reduce the economic cost of development.

(11)

It is the intent of this article to encourage comprehensive planning by developers by affording greater predictability and reducing risks in order to lessen the costs of providing major infrastructure and public benefits.

(Ord. No. 90-68, § I, 7-24-90)

Sec. 134-293. - Authority.

(a)

This article sets forth the procedural requirements that the county shall consider and implement in order to enter into development agreements. Specific authority for adoption of this article is found in F.S. § 163.3223. In general, the provisions of this article comply with and are authorized by the provisions set forth in the local government development agreement act.

(b)

This article is adopted pursuant to the constitutional and home rules powers of Fla. Const. art. VIII, § 1(g), F.S. § 125.01(1)(t), (1)(w), and article II of the county charter.

(c)

In approving a development agreement, the board of county commissioners shall have the authority to grant, without limitation, variances, special exceptions, conditional uses or other forms of approvals otherwise delegated to other authorities in the ordinary course of approvals outside of the development agreement process.

(Ord. No. 90-68, § II, 7-24-90; Ord. No. 95-70, § 1, 10-10-95)

Sec. 134-294. - Development agreement requirements.

(a)

All development agreements shall, at a minimum, include the following:

(1)

A legal description of the land subject to the agreement;

(2)

The duration of the agreement, which shall meet the terms set forth in section 134-295;

(3)

The development uses permitted on the land, including population densities, and building intensities and height;

(4)

The land use designation under the future land use plan element of the comprehensive plan for all property included within the terms of the proposed agreement;

(5)

The current zoning classification of the property;

(6)

A description of public facilities that will service the development, including who shall provide such facilities;

(7)

The date any new facilities, if needed, will be constructed;

(8)

A schedule to assure public facilities are available concurrent with impacts of the development;

(9)

A description of any reservations or dedications of land for public purposes;

(10)

A description of all local development permits approved or needed to be approved for the development of the land;

(11)

A finding that the development permitted or proposed is consistent with the comprehensive plan and land development regulation, as required by F.S. § 163.3231;

(12)

A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the county for the public health, safety, or welfare of its citizens;

(13)

A statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction shall not relieve the developer of the necessity of complying with the law governing such permitting requirements, condition, term, or restriction; and

(14)

A statement identifying the legal and equitable interest of all persons having any interest in the property described in subsection (a)(1), above. The statement of ownership interests of any joint ventures, partnerships or corporations shall reveal all principals or directors and officers, as appropriate. Such statements shall be certified by a title company or an attorney-at-law licensed to practice in the state.

(b)

A development agreement may provide that the entire development or any phase thereof be commenced or

concluded within a specific period of time.

(Ord. No. 90-68, § IV, 7-24-90)

State Law reference— Development agreement requirements, F.S. § 163.3227.

Sec. 134-295. - Duration of development agreements.

The term of a development agreement shall not exceed five years or such time as the act may provide. A development agreement may only be extended by mutual consent of the board of county commissioners and the developer, subject to public hearings in accordance with section 134-296. No extension shall exceed five years or such time as the act may provide.

(Ord. No. 90-68, § V, 7-24-90)

State Law reference— Duration of development agreement, F.S. § 163.3229.

Sec. 134-296. - General requirements for notices and hearings.

(a)

Before entering into, amending, modifying, canceling, or revoking a development agreement, the county shall conduct at least two public hearings, one of which shall be held by the local planning agency prior to a final public hearing before the board of county commissioners.

(b)

The day, time and place at which the next scheduled public hearing under this article will be held shall be announced at the prior public hearing.

(c)

Notice of intent to consider a development agreement at a scheduled public hearing under this article shall be provided:

(1)

By advertising the required notice in a newspaper of general circulation and readership in the county approximately seven days before each public hearing on the application;

(2)

By mailing the required notice to all property owners of record listed in the county property appraiser's office records as abutting or lying within 200 feet of the subject property; these notices shall be mailed approximately seven calendar days prior to the first scheduled public hearing; and

(3)

In writing, to adjacent or affected local governments or their agencies pursuant to the intergovernmental coordination element of the county comprehensive plan.

(d)

Required notice of intent to consider a development agreement shall specify:

(1)

The time, place, and location of the scheduled hearing(s);

(2)

The location of the land subject to the development agreement;

(3)

The development uses proposed on the property, including the proposed population densities and proposed building intensities and height; and

(4)

Instructions for obtaining further information, including the place(s) where a copy of the proposed agreement can be obtained.

(Ord. No. 90-68, § VI, 7-24-90; Ord. No. 09-7, § 10, 2-17-09)

State Law reference— Notice, F.S. § 163.3225.

Sec. 134-297. - Development agreement procedures.

(a)

Submission of development agreement packages; fees.

(1)

Applications requesting consideration by the county of a developer's proposed or amended development agreement shall be submitted on such forms as may be provided by the county. In addition to the information required by section 134-294 which can be provided, the county may require an applicant to submit such information as is reasonably necessary to process and fully consider the application.

(2)

Application packages shall be accompanied by such fees and charges as may be imposed by the board of county commissioners, or its designee, for proper filing and processing.

(3)

Payment of application fees, submission of applications, engineering plans, surveys, or any other expenditures shall not vest any rights to complete development or to obtain any requested zoning or land use classification amendments.

(b)

Negotiation of development agreements.

(1)

The county administrator and staff personnel shall review the developer's application package and negotiate such further terms and conditions as the county administrator shall deem to be appropriate and necessary to protect the public's interest, safety, health or welfare.

(2)

Once a tentative agreement has been reached as to the terms and conditions of a development agreement, or further negotiations are not anticipated or will not reach a consensus on the development agreement's terms or conditions, the county administrator and staff personnel shall draft a report, including any recommendations, for consideration by the local planning agency at a properly noticed public hearing.

(3)

The local planning agency shall review the proposal and make their findings and recommendations, receive public testimony, and make their recommendation at the public hearing, which will be subsequently considered by the board of county commissioners at a public hearing.

(4)

The existence of a tentative agreement, staff report or recommendation shall not be sufficient governmental acts upon which reliance may be placed, such that further expenditures by a developer would vest any right to continue development; nor shall such actions constitute partial performance entitling the owner to a continuation or extension of the development agreement.

(c)

Adoption, amendment, extension, modification, revocation and cancellation procedures.

(1)

Following such notice and public hearings as may be otherwise required, the board of county commissioners, by majority vote, may act to adopt, amend, extend, modify, revoke, or cancel any proposed or existing development agreement.

(2)

Where mutual consent is required by law, the board of county commissioners may act to authorize such consent prior to all other parties so doing only upon the condition that the act is not complete or official until a binding agreement is contemporaneously signed by the board's chairperson and the representatives of all other parties.

(Ord. No. 90-68, § VII, 7-24-90; Ord. No. 09-7, § 11, 2-17-09)

Sec. 134-298. - Recordation.

(a)

Within 14 days after the county enters into, extends, amends, modifies, revokes, or cancels a development agreement, the clerk to the board of county commissioners shall have the agreement or the action on the

agreement recorded with the clerk of the circuit court in the official records of the county.

(b)

A copy of the recorded development agreement and any recorded action on the agreement shall be submitted to the department of community affairs within 14 days after the agreement is recorded.

(Ord. No. 90-68, § VIII, 7-24-90)

Sec. 134-299. - Periodic review.

(a)

The county shall review the land and development subject to the development agreement at least once every 12 months.

(b)

If, as part of its review, the county finds that the developer has, in good faith, complied with the terms and conditions of the agreement during the period under review, the agreement shall continue in force as is, pending the next review.

(c)

If as part of its review the county makes a finding on the basis of substantial competent evidence that there has been a failure to comply with the terms of the development agreement, the board of county commissioners, following the notice and hearing provisions of section 134-296, may:

(1)

Modify the agreement as necessary to obtain and ensure compliance with the terms of the agreement; or

(2)

Revoke the agreement in order to protect the public's interest, health, safety or welfare.

(Ord. No. 90-68, § IX, 7-24-90)

State Law reference— Periodic review of development agreement, F.S. § 163.3235.

Sec. 134-300. - Amendment, modification, extension, revocation and cancellation of agreements.

(a)

In addition to being extended pursuant to section 134-295, development agreements may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest upon proper notice and hearing as set forth in section 134-296.

(b)

If state or federal laws are enacted after the execution of a development agreement which are applicable to and preclude the parties' compliance with the terms or conditions of a development agreement, then such

agreement shall be modified or revoked as is necessary to comply with the relevant state or federal laws upon proper notice and hearing set forth in section 134-296.

(Ord. No. 90-68, § X, 7-24-90)

State Law reference— Amendment, modification, cancellation of development agreement, F.S. §§ 163.3237, 163.3241.

Sec. 134-301. - Legal status of development agreements.

(a)

The burdens of a development agreement shall be binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

(b)

The county's laws and policies governing the development of land in effect at the time of execution of a development agreement, including, but not limited to, articles III and VI of this chapter, and all other ordinances comprising land development regulations under F.S. § 163.3202, as amended, shall govern the development of all land specified in the development agreement for its stated duration.

(c)

The county may only apply subsequently adopted laws and policies to then existing development agreements if, after a duly noticed public hearing, the board of county commissioners:

(1)

Determines that such laws and policies are specifically anticipated and provided for in a development agreement;

(2)

Determines that such laws and policies are not in conflict with the prior laws and policies governing existing development agreements; and do not prevent development of the land uses, intensities, or densities set forth in existing development agreements;

(3)

Determines that such laws and policies are essential to the public health, safety or welfare, and expressly state that they shall apply to existing development agreements;

(4)

Determines and demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of certain development agreement; or

(5)

Determines that certain development agreements were based upon substantially inaccurate information

supplied by the owner/developer.

(d)

The provisions set forth in subsections (b) and (c) of this section do not abrogate any development rights that may vest pursuant to common law, as such rights may be determined through application of article V of this chapter.

(Ord. No. 90-68, § XI, 7-24-90)

State Law reference— Similar provisions, F.S. § 163.3233.

Sec. 134-302. - Enforcement.

The following may file an action for injunctive relief in the circuit court of the county to enforce the terms of a development agreement, or to challenge compliance of the agreement with the provisions of F.S. §§ 163.3220—163.3243:

(1)

Any aggrieved or adversely affected person as defined in F.S. § 163.3215(2);

(2)

Any party; or

(3)

The state land planning agency.

(Ord. No. 90-68, § XII, 7-24-90)

Secs. 134-303—134-332. - Reserved.

ARTICLE VIII. - CHANGE OF ZONING OR LAND USE BOUNDARIES OR CLASSIFICATION, OR CONSIDERATION OF A CONDITIONAL USE

Sec. 134-333. - Review, recommendation and decision-making authority.

(a)

Authority of board of county commissioners. The board of county commissioners may, upon the proper filing of notice, change the zoning or land use boundary/classification of any parcel of land, or portion thereof.

(b)

Authority of the Pinellas County Planning Review Committee. The Pinellas County Planning Review Committee (PCPRC) is a staff fact-finding committee, coordinated by the planning department, whose purpose is to review petitions to change zoning designations, land use designations or to consider conditional use applications.

(c)

Authority of the local planning agency related to changes in land use and/or zoning, and consideration of conditional use applications. Pertinent to this section of the Code, the Pinellas County Local Planning Agency (LPA) is responsible for review of changes in land use and zoning and conditional use applications, and has the responsibility to make subsequent recommendations to the board of county commissioners.

(Ord. No. 09-7, § 12, 2-17-09)

Sec. 134-334. - Application procedures and process for changes in zoning, land use, and for consideration of a conditional use

(a)

Authority to petition. Any property owner, their appointed agent, or the county planning director, may apply for a change of zoning or land use, or consideration of a conditional use by filing an application with the planning department. The application shall be signed by the owner of the subject property or, in the case of a planning director's application, by the county planning director.

(b)

Fact-finding and informational meeting(s). Following a finding by planning staff that the application is sufficient, the application will be reviewed by the Pinellas County Planning Review Committee (PCPRC) at a regularly scheduled PCPRC meeting, the PCPRC meeting is open to the public. The applicant, or their representative, is expected to attend the fact-finding meeting. Based on this meeting, the planning department will prepare a report for consideration by the LPA at a subsequent public hearing.

(c)

Local planning agency public hearing(s). At a noticed public hearing, consistent with the requirements of F.S. § 163.3174, the local planning agency will review and make a recommendation regarding each application for a future land use change, zoning change or conditional use request.

(d)

Board of county commissioners public hearing(s). At a noticed public hearing(s), the board of county commissioners will consider applicant and citizen testimony and correspondence, the staff report, and the LPA recommendation, and any other relevant information, and will render a decision(s) with regard to the proposed change in land use, zoning and/or or with regard to the development agreement or conditional use.

(e)

[Requests for rezoning.] All requests for rezoning and/or future land use map amendments associated with an existing mobile home park shall be heard by the board of county commissioners no sooner than 90 days after the scheduled PCPRC meeting. In no case shall such a request be scheduled to be heard unless the applicant has given notice to the tenants as required by F.S. §§ 723.061(1)(d) or 723.081, as appropriate. Documentation of such notice shall be provided at the time of application for rezoning and/or land use change.

(f)

Failure to appear. An applicant's failure to appear or to be represented at a scheduled LPA or BCC hearing

under this division may be sufficient cause to deny the applicant's request on the strength of lack of evidence.

(g)

Withdrawal. A withdrawal of an application for a land use or zoning change, or conditional use application shall be in writing, signed by the applicant or designated representative, and shall be delivered to the county planning department at least ten days prior to the scheduled hearing before the board of county commissioners. The applicant shall be charged a fee sufficient to pay the cost of mailing a notice to surrounding property owners to advise of such withdrawal. Except for extraordinary circumstances related to life, requests for withdrawal after this date shall result in an automatic denial of the application.

(h)

Resubmittal. No new application for an identical rezoning or land use change, or conditional use on the same parcel shall be accepted for consideration by the planning department within a period of six months following a board of county commissioners' decision of denial (unless denied without prejudice).

(i)

Existing litigation. If at the time of the application there is presently existing litigation involving:

(1)

The same parties or successors in interest to those parties;

(2)

The same or essentially the same usage, zoning request or land use designation or agreement; and

(3)

The same or essentially the same parcel of land; the board of county commissioners may, in its discretion, continue the application or may deny the application without prejudice to the applicant's right to refile the application after resolution of all or a portion of the litigation.

(Ord. No. 09-7, § 12, 2-17-09)

Sec. 134-335. - Contents of application.

The applicant for a land use change or a rezoning or conditional use shall supply all information as specified on the application form, which at a minimum shall contain:

(1)

The name and address of the current property owner.

(2)

An accurate legal description of the property in question, and an accurate description of the acreage(s) proposed to be changed, including how many acres are going from what category to what category.

(3)

The nature of the application, including the reason for requesting the change.

(4)

The application shall be signed by the current property owner except in the case of applications initiated by the planning director.

(5)

A certificate of title of the property by an attorney or licensed title insurance company, except applications submitted by the planning director.

(6)

Full disclosure of ownership, options or contracts on subject property pursuant to section 170-1 (except planning director application).

(7)

For all requests for rezoning or change of land use for lands containing existing mobile home parks, the applicant shall provide information in compliance with the provisions of Pinellas County Code sections 42-401 through 42-408, the mobile home transition program. Such information will be used by the board of county commissioners in making a finding as may be required by F.S. § 723.083 that suitable mobile home parks or other suitable facilities exist for the relocation of the mobile home owners; however, where such finding cannot be made the applicant shall comply with the relocation provisions of Pinellas County Code Sections 42-401 through 42-408 should the application be approved.

(8)

If the applicant is requesting a land use or zoning designation that would increase the maximum allowable impervious surface ratio, above what is currently allowed on the subject property, and is within the 100-year floodplain, or if the applicant is requesting an increase in density above five dwelling units per acre in the 100-year floodplain in an area of documented flooding or repetitive flood claim losses, the applicant will need to provide adequate information in their application demonstrating how the floodplain management objectives of the Pinellas County Code and the floodplain management goals, objectives and policies of the Pinellas County Comprehensive Plan will be met. The applicant is required to meet with the departments of planning, public words, environmental management and building and development review services to review their proposal, and a development agreement may be required to formalize floodplain management commitments. Applicants should consider that the county must ensure compliance of development approvals with FEMA and community rating system (CRS) program requirements, and other applicable regulations.

(9)

If the applicant is requesting an increase in density over five dwelling units per acre on the future land use map within the 100-year floodplain, where the property is also located within that area defined by the SLOSH model to be inundated by a category 3 hurricane, the applicant will be required to provide adequate information with the application demonstrating how they will mitigate the potential impacts on the demand for emergency shelter space associated with the proposed density greater than five dwelling units per acre.

(10)

In the case of a request for a land use and/or zoning change with an affordable housing density bonus, a residential density bonus may be granted up to 50 percent of the existing maximum allowable dwelling unit density as an incentive to provide increased opportunity for affordable housing. Any such bonus shall only be granted in a manner that does not negatively impact the surrounding neighborhood or the natural environment. A meeting(s) with county staff will be arranged by the county planning department with the applicant to discuss the affordable housing proposal, and additional information may be required as a part of the review process. A development agreement may be required to address commitments. No density bonus shall be granted when such development does not comply with the county's concurrency management ordinance.

(Ord. No. 09-7, § 12, 2-17-09)

Sec. 134-336. - Filing fee.

A filing fee, as specified by the board of county commissioners, shall be submitted with the application to cover the cost of advertising and administration.

(Ord. No. 09-7, § 12, 2-17-09)

Sec. 134-337. - Notice of public meetings and public hearings.

(a)

Notice of public hearing shall be as required by law. The board of county commissioners, however, recognizes the importance of community involvement in these proceedings. Therefore, it will be standard practice to provide the following additional notification:

(1)

Owners of property, as listed by the county property appraiser's office, located within 200 feet of the subject property will be mailed a notice of the upcoming public meeting and public hearings.

(2)

A sign giving notice of public hearings should be posted in a prominent location on the subject property.

(b)

Any request pertaining to residential zoning shall be forwarded to the county school district for comment.

(c)

Any adjacent local government and/or affected government agency will be informed of the proposal.

(Ord. No. 09-7, § 12, 2-17-09)

Sec 134-338. - Pinellas County Planning Review Committee (PCPRC).

(a)

Purpose. The PCPRC meeting is informational, interactive and fact-finding in nature. It is the responsibility

of the applicant to present relevant facts, and the purpose and intent of their proposal to this staff committee for discussion. The PCPRC meeting is a public meeting.

(b)

Written report and recommendation. Subsequently, the planning department will prepare a staff report with staff findings and recommendations, based on the final sufficient application reviewed at the PCPRC meeting.

(Ord. No. 09-7, § 12, 2-17-09)

Sec. 134-339. - Local planning agency public hearing.

(a)

Purpose. The local planning agency public hearing provides for staff, applicant and public testimony, and provides for the LPA to subsequently review and make a recommendation for consideration by the board of county commissioners on each proposal for a change in land use or zoning (including any associated request for a density bonus), for a proposed or amended development agreement, and for a request for a conditional use.

(b)

Sworn testimony. All testimony at the LPA hearing under this chapter shall be given under oath.

(c)

Supporting evidence submitted. All evidence and testimony necessary to support the application shall be presented, including but not limited to the following:

(1)

Existing conditions and uses in the surrounding area.

(2)

Justification for the proposed uses, designations or densities

(3)

Impacts on surrounding properties and community.

(4)

Impacts on public facilities and services.

(5)

Consistency with the comprehensive plan.

(6)

Impacts on the floodplain and how the impacts will be mitigated.

(d)

Continuance. The LPA may continue an application if necessary to obtain additional information on the request.

(e)

Alternatives discussed at the LPA hearing. Alternatives to the original application/request may be considered at the LPA hearing if the density and intensity of the proposal is less than the original and is within the same land use classification (e.g., residential). Otherwise, a proposal must be treated as a new application. The LPA may recommend a less intense alternative provided it is discussed during the hearing.

(Ord. No. 09-7, § 12, 2-17-09)

Sec. 134-340. - Staff report and local planning agency recommendation.

Written reports and recommendations. The staff report and the LPA recommendation shall be presented to the board of county commissioners at a scheduled public hearing of the board.

(Ord. No. 09-7, § 12, 2-17-09)

Sec. 134-341. - Procedure at board of county commissioners' hearings.

(a)

Review of staff report and LPA recommendation. At a public hearing, subsequent to the LPA hearing, the board of county commissioners shall consider, and take action on, the request that was considered at the LPA hearing, or the board may consider and approve an alternative proposal at their hearing, provided: (1) the density and intensity of the proposal is less than the original, and (2) the proposal is consistent with the advertised future land use category. If this is not the case, an alternative proposal must be treated as a new application. Any amendments to an application must be made in writing from the applicant. All persons so desiring shall be given the opportunity to be heard on the matter at the public hearing.

(b)

Requests for continuance. All requests for continuance of an application after the LPA hearing shall be received no later than ten days prior to the scheduled county commission meeting and shall be accompanied by a written statement outlining the reason for such continuance. The applicant shall be charged a fee sufficient to cover the cost of notifying adjacent property owners of such continuance and the cost of additional public notice, if required.

(Ord. No. 09-7, § 12, 2-17-09)

Sec. 134-342. - Records of proceedings.

(a)

Records maintained by clerk. All records of any proceeding before the LPA and the board of county commissioners (BCC) shall be filed with the clerk of the circuit court, board of county commissioners'

records division, to be held as a part of the public records of the county.

(b)

Official minutes and summaries. LPA and BCC minutes shall be kept by the clerk, and any recommendations, determinations or decisions shall be recorded.

(c)

Use of recording devices. Wherever possible, all proceedings before the LPA or the board of county commissioners shall be electronically recorded.

(d)

Applications maintained. Application forms and all information submitted with that application shall be maintained by the planning department and as provided by state law.

(Ord. No. 09-7, § 12, 2-17-09)

Sec. 134-343. - Rezoning contingent on amendment to land use plan.

Any zoning change or conditional use which is contingent on an amendment to the future land use map of the county's comprehensive plan shall not become effective until such amendment to the future land use map has been approved in accordance with the provisions of state law.

(Ord. No. 09-7, § 12, 2-17-09)

Chapter 138 - ZONING[1]
Footnotes:
--- (**1**) ---

Cross reference— Buildings and building regulations, ch. 22; airport zoning, ch. 142; historical preservation, ch. 146; site development and planning, ch. 154; floodplain management, ch. 158; signs, ch. 162; flood damage prevention, § 170-101 et seq.

State Law reference— Zoning ordinance required, F.S. § 163.3202(2)(b).

ARTICLE I. - IN GENERAL

Sec. 138-1. - Definitions and rules of construction.

(a)

For the purpose of this chapter, words used in the present tense include the future; words in the singular number include the plural and words in the plural number include the singular; the words "used for" shall include the meaning "designed for"; the word "structure" includes the word "building"; the word "shall" is mandatory and not discretionary. The words "he," "she" and "it" are interchangeable.

(b)

The following terms as used in this chapter are used only in accordance with the following definitions:

Abandon means to discontinue or terminate a use for more than 180 consecutive days.

Accessory means the term applied to a building, structure or use which:

(1)

Is subordinate to and serves a principal building or principal use;

(2)

Is subordinate in area, extent, and purpose to the principal building or principal use served;

(3)

Contributes to the comfort, convenience or necessities of the users or occupants of the principal building or principal use; and

(4)

Is located on the same lot as the principal building or principal use, provided such use is in keeping with the purpose and intent of the district in which located.

Accessory dwelling unit means a dwelling unit which is either detached or is a portion of space within a single-family dwelling which is intended to provide increased affordable housing opportunity pursuant to the county's affordable housing incentives plan adopted by the board of county commissioners (Resolution 94-60). It is intended that these be clearly accessory and incidental to the primary use of the property (single-family house) and toward that end the following conditions shall apply:

(1)

The unit shall not exceed 750 square feet or 50 percent of the living area of the primary structure, whichever is less.

(2)

There shall be only one such unit per parcel of ownership.

(3)

Either the primary dwelling or the accessory dwelling shall be owner-occupied.

(4)

All applicable district regulations pertaining to setbacks and lot coverage shall be met.

(5)

No separate metered utility connection for the accessory dwelling unit shall be permitted.

(6)

Mobile homes and recreational vehicles shall not be permitted to be used as accessory dwelling units.

Accident means an event that happens unexpectedly, without misconduct or a deliberate plan or cause.

Act of nature means an overwhelming, unpreventable event caused exclusively by forces of nature, such as an earthquake, flood, tropical cyclone, or tornado, and including all natural phenomena that are exceptional, inevitable and irresistible, the effects of which could not be prevented or avoided by the exercise of due care or foresight.

Affordable housing means housing whereby very low to moderate income households, adjusted for family size, pay no more than 30 percent of income for mortgages or rental, taxes, insurance and utilities. However, it is not the intent to limit an individual's ability to devote more than 30 percent of income for housing.

Affordable housing development means, for the purposes of determining whether or not a residential development would qualify to receive certain incentives as noted below, an affordable housing development (AHD) is defined as a single-family detached housing development in which at least 20 percent of the units are affordable to households at 80 percent of median family income, or a multifamily development in which at least 20 percent of the units are affordable to households at 60 percent of median family income.

Animated sign means any sign which includes action, motion, the optical illusion of action or motion, or color changes of all or any part of the sign facing, requiring electrical energy or set in motion by movement of the atmosphere, or a sign made up of a series of sections that turn and stop to show two or more pictures or messages in the copy area. In order to accommodate changes in technology, but to prevent such changes from creating distractions to the motoring public, "animated signs" shall include electronic reader boards unless the message changes instantaneously, without scrolling, and at a frequency of greater than one minute between message changes.

Antenna means any exterior apparatus designed for telephonic, radio, or television communications through the sending or receiving of electromagnetic waves, not including a tower.

Area inundated by a category 2 hurricane means the area determined by the Sea, Lake and Overland Surges from Hurricanes (SLOSH) model to be inundated by a category 2 hurricane, as depicted on the most recent Regional Evacuation Study, Storm Tide Atlas.

Bed and breakfast facility means a house or other building, or a portion thereof, which may provide short term lodging and meals to transient guests. It is not intended that these be apartment units, rooming or boardinghouses, or other mid- to long-term rental units. These facilities shall be licensed as required by Florida law.

Best management practices or "BMPs" as stated in FAC 62-621.300(4)(a) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Building means any structure having a roof supported by columns or walls designed or built for the support, enclosure, shelter or protection of persons, animals or property of any kind.

Building, completely enclosed means a structure with a roof and having the entire area under the roof totally enclosed by opaque walls with no more than 20 percent of the total wall surface area having openings and no more than 50 percent of any one side wall surface area having openings. It shall be the intent of this term,

where used in this chapter, to provide indoor locations for certain uses which may be noisy, odiferous, noxious, aesthetically displeasing, or which may have similarly undesirable effects on nearby properties. By requiring such indoor locations, these undesirable effects can be reduced, mitigated, and buffered to such a degree so as to provide neighboring properties with reasonable protection from such potentially undesirable effects.

Building, height of means the vertical distance from the finished ground elevation to the highest point of the building or structure, except as may otherwise be provided within this chapter (see section 138-1277). This height may be measured from the base flood elevation required by the National Flood Insurance Program when a structure is located in an area of special flood hazard.

Building setback line means a line parallel to the property line at the distance prescribed by this chapter under setback requirements.

Building site area means an area of land, exclusive of public rights-of-way and/or alleys, upon which structures are located.

Building site area requirements means those portions of this chapter which regulate the minimum size of the areas upon which structures may be located.

Business service means an occupation or service requiring the utilization of a manual, mechanical, or specialized skill which involves neither the on-premises use of heavy machinery or equipment nor primarily the sale of merchandise or conveyance of a product.

Chicken for the purpose of this Code, a chicken refers to Gallus domesticus.

Chicken enclosure means a fenced (or wire) area, or pen, required in association with a coop in order to provide an outside exercise area for chickens free from predators, and of a size that allows for access to a foraging area, sunlight, etc.

Church means any site or premises such as a church, synagogue, temple, mosque, cathedral, chapel, tabernacle or similar place which is used primarily or exclusively for religious worship and related activities.

Clinic means a facility wherein professional services concerning personal health of humans are administered by medical doctors, chiropractors, osteopaths, optometrists, dentists or any other such profession which may lawfully be practiced in the state, provided that persons treated are not lodged therein overnight,

Coastal high hazard area, as defined in the Pinellas County Comprehensive Plan, means the area defined by the Sea, Lake and Overland Surges from Hurricanes (SLOSH) model to be inundated from a category one hurricane, as reflected in the most recent Regional Evacuation Study, Storm Tide Atlas.

Coastal storm area means the area delineated in Figure 2 of the Coastal Management Element, which encompasses all of the following: the Coastal High Hazard Area (CHHA) as defined in the Pinellas County Comprehensive Plan; all land connected to the mainland of Pinellas County by bridges or causeways; those isolated areas that are defined by the SLOSH model to be inundated by a category 2 hurricane or above and that are surrounded by the CHHA or by the CHHA and a body of water; and all land located within the velocity zone, as designated by the Federal Emergency Management Agency (FEMA). If 20 percent or more of a parcel of land is located within the coastal storm area, then the entire parcel shall be considered within the coastal storm area. However, if either a parcel of land or a group of parcels that are part of a master development plan is equal to or greater than five acres and less than 50 percent of the parcel or group of

parcels is within the coastal storm area, the property owner may elect to provide a survey of the parcel or parcels to determine the exact location of the coastal storm area.

Conditional use means a use which is permitted in a zoning district only after it is authorized by the board of county commissioners after a public hearing. Conditional uses may be essentially desirable, necessary or convenient to the community, its citizenry or to substantial segments thereof, but which by their nature or in their operation have potentially adverse or objectionable features which are occasionally attributable to such use. Such use shall be consistent with the county's comprehensive plan adopted pursuant to state law, and may be permitted with special conditions to ensure the proper protection of surrounding properties from adverse impact as set forth in article II, division 8 of this chapter.

Congregate care facility means a residential facility which may be comprised of individual dwelling units with or without kitchen facilities and designed to be occupied by 21 or more residents along with resident supervisors. These facilities may offer central dining, personal and therapeutic care, and other facilities necessary to meet the special living needs of the residents. These include adult congregate living facilities and similar retirement or life care facilities. These facilities where required shall be licensed by the appropriate state licensing entity or be operated pursuant to state law as a continuing care facility and shall not be located within 1,000 feet of any other such facility or any group living home (see section 138-1283).

Coop the covered house, structure or room that is required in order to provide chickens with shelter from the weather and with a roosting area protected from predators.

Day care center means and includes any day nursery, nursery school, kindergarten, or other facility, as defined by state law, as amended, which with or without compensation cares for five or more children 17 years of age or under, not related to the operator by blood, marriage or adoption, away from the child's own home. Such facilities shall be licensed and operated in strict accord with the provision of the above referenced laws of the state. This term includes adult day care as defined by state law but does not include a family day care center as defined by state law.

Density means a ratio of dwelling units per acre of land. No portion of a dedicated public right-of-way may be calculated for density purposes.

Deterioration means as defined in Chapter 22, Buildings and Building Regulations, of the Pinellas County Code, Article V, Division 1, section 22-156.

Dwelling, multiple-family means two or more dwelling units contained in one structure on a single lot or parcel and attached by common vertical walls.

Dwelling, single-family attached means a dwelling unit on a single lot or parcel attached to one or more one-family dwellings by a common vertical wall.

Dwelling, single-family detached means a dwelling unit in a single structure not attached to any other dwelling by any means and designed for or occupied exclusively by one family.

Dwelling, single-family zero lot line means a dwelling unit, on a lot, with a side setback reduced to zero.

Dwelling unit means a building or portion thereof designed as a unit for one family occupancy, not including hotels, motels, or mobile homes. This term shall include residential design manufactured homes as defined in this chapter. A dwelling unit shall have only one kitchen facility (sink, cooking unit, and refrigerator). Provisions for wetbars or food and drink preparation facilities for recreational purposes within or accessory to

a dwelling shall not be considered a kitchen facility.

Erosion means the process by which land surface is worn away by the action of wind, water, and gravity.

Excavation means removal of 1,000 cubic yards or more of earth material for purposes other than that incidental to and on the site of construction authorized by site plan approval. This shall include land balancing other than that incidental to and on the site of construction authorized by site plan approval (see subsection 138-240(19)). (For excavation less than 1,000 cubic yards, see section 138-1341.)

FAA means the Federal Aviation Administration.

Family means one or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage, or adoption, no family shall contain more than six members, except as otherwise provided in this chapter.

FCC means the Federal Communications Commission.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be preserved in existing layout and topography in order to discharge the base flood without cumulatively increasing the water surface elevation more than one-tenth of a foot.

Floor area ratio (FAR) means a ratio of square footage of gross floor area to square footage of land area.

Group living home:

(1)

Group living home, category I. A residential facility designed to be occupied by no more than ten individuals along with a maximum of two full-time supervisors or houseparents. Group homes with six or fewer residents are not included in this definition. These facilities shall provide a physical appearance and a style of life which makes them compatible with other dwellings existing in the neighborhood. Included are foster care facilities, congregate living facilities, displaced youth and adult shelters, care of the developmentally disabled (as defined by state and federal law), and similar family group living facilities. Such facilities, when required, shall be licensed by the appropriate state licensing entity and shall not be located within 1,000 feet of any group living home or congregate care facility (see section 138-1283).

(2)

Group living home, category II. A residential facility designed to be occupied by no more than 14 individuals along with a maximum of two full-time supervisors or houseparents. Group homes with six or fewer residents are not included in this definition. These facilities shall provide a physical appearance and a style of life which makes them compatible with other dwellings existing in the neighborhood Included are foster care facilities, congregate living facilities, displaced youth and adult shelters, care of the developmentally disabled (as defined by state and federal law), and similar family group living facilities. Such facilities, when required, shall be licensed by the appropriate state licensing entity and shall not be located within 1,000 feet of any group living home or congregate care facility (see section 138-1283).

(3)

Group living home, category III. Similar to category I and II group living home but may be occupied by no

more than 20 individuals along with a maximum of two resident supervisors or houseparents. Additionally, these facilities may offer a higher level of personal and therapeutic care and may include mental health care, spouse abuse care, offender halfway houses, and similar care facilities. These shall, when required, be licensed by the appropriate state licensing entity and shall not be located within 1,000 feet of any group living home or congregate care facility (see section 138-1283).

Heavy equipment means any farm tractors, machinery or implements, or heavy equipment, including earthmovers, backhoes, draglines, bulldozers, trenchers, rollers, scrapers, semitractors and trailers and similar equipment. This does not include small gardening or landscape maintenance equipment.

Home occupation means an accessory use in a residential area consisting of an occupation or activity performed entirely within a dwelling or authorized accessory structure. The home occupation is to be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the residential character thereof. Such use shall be in strict compliance with section 138-1335.

Home satellite dish means a device used to receive satellite broadcast signals, usually parabolic, dish-shaped antenna, one meter or less in diameter.

Hospital means an establishment primarily engaged in providing diagnostic services, extensive medical treatment including surgical services, and other services, as well as continuous nursing services. The establishment has an organized medical staff on duty 24 hours a day, inpatient beds and equipment and facilities to provide complete health care; may also provide complete health care emergency room care and include less intensive medical uses such as convalescent and ambulatory care facilities.

Hotel means a structure containing sleeping accommodations in which transient guests are lodged for short stays consistent with F.S. § 509.013(4)(a). These shall not be used for permanent housing and shall be licensed as hotels by the state department of business regulation or its successor agency.

Household pets means and includes animals which are normally considered as household pets and which can be maintained and cared for within the living space of a residence. Such animals may include but are not limited to dogs, cats, small rodents, small reptiles, fish, small birds, such as parrots and parakeets, and other similar animals.

Junkyard means a parcel of land upon which the principal or accessory use is the accumulation of used, discarded, or worn out materials or manufactured products which may or may not be reusable or saleable. This shall not include recycling operations for metal, paper, or similar materials when located entirely within an enclosed building.

Kennel means an establishment where domestic animals are bred, boarded, sold or treated for profit or public service.

Landfill means an addition of 1,000 cubic yards or more of earth, topsoil, sand, gravel, or rock to any lot or parcel other than that incidental to and on the site of construction authorized by site plan approval (see subsection 138-240(1.8)). (For landfills less than 1,000 cubic yards, see section 138-1341.) This shall include land balancing other than that incidental to and on the site of construction authorized by site plan approval. This shall not include any solid waste landfills.

Livestock means and includes those animals which are normally considered as farm animals, such as cattle, goats, sheep, horses, ponies, mules, pigs, chickens, ducks, geese, other similar farm animals, and wild animals licensed pursuant to state law. This definition is not intended to include household pets, or wild

animals living within their native habitat.

Loading space means a space which provides for the loading or unloading of delivery vehicles.

Lot means an area of land designated on a recorded plat as an individual tract.

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

Lot width means the width of the lot at the minimum front building setback line. For a lot fronting on a cul-de-sac, lot width may be measured at the midpoint of depth at the side lot lines.

Mini-storage means any building designed, arranged and used exclusively for leasing storage space for household goods, business or personal property. Lessees shall not engage in any commercial activities and shall use the premises for storage only.

Mobile home means a structure, transportable in one or more sections, which structure is eight feet or more in width and over 35 feet in length, and which structure is built on an integral chassis and designed to be used as a dwelling when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. This term shall include manufactured housing as defined by state law.

Mobile home park means a lot or parcel of land which contains mobile home sites and accessory open areas, recreation, or community facilities for the residents.

Mobile home site means a space or plot of ground within a mobile home park designated for the accommodation of not more than one mobile home.

Mobile home subdivision means a platted residential subdivision in which the dwelling units consist of mobile homes and accessory residential structures.

Motel means a structure containing sleeping accommodations in which transient guests are lodged for short stays consistent with F.S. § 509.013(4)(a). These shall not be used for permanent housing and shall be licensed as motels by the state department of business regulation or its successor agency.

MS4 or municipal separate storm sewer system means a large, medium, or small MS4 as defined in chapter 62-624, F.A.C.

NOI or notice of intent means authorization to discharge stormwater associated with industrial activity to surface waters under a NPDES permit. All discharges must be entirely composed of stormwater.

Nonconforming use, structure, lot or parcel means a use, structure, lot or parcel, or combination thereof, that was lawfully established according to the rules and regulations in force at the time of its establishment, but would be prohibited, restricted or further regulated under the terms of the current land development code.

Non-vertical water supply infrastructure/structures means any below ground structures such as wells, pipes, pumps, etc. (and their supporting above-ground minor appurtenances and structures), that facilitate the provision of high quality potable water or reduce potable water demand. Reservoirs are not included in this definition.

NOT or notice of termination means elimination of the stormwater discharges associated with construction activities authorized by the NOI.

NPDES or National Pollutant Discharge Elimination System means the permitting process by which technology based and water quality based controls are implemented.

Nursing home means a home for the aged or infirm in which three or more persons not of the immediate family are received, reside, or are provided with food and shelter or care, but not including hospitals, clinics, or similar establishments devoted primarily to the diagnosis and treatment of the sick or injured and licensed as such by the state.

Off-shore tour vessel means any type of watercraft which has a Coast Guard rated capacity of 125 or more persons and which regularly engages in tours of two hours or longer.

Office service/office support use is an occupation or service attending primarily to one's personal care or apparel; examples of which include hair and beauty care, clothing repair or alteration, dry cleaning/laundry (collection and distribution only), and like personal service uses; and office equipment or supplies, and like office support uses. Any assembly, sale or merchandise, or conveyance of a product in support of a personal service or office support use shall be clearly accessory, incidentally, and secondary to such use.

Open space means the land and/or water areas between and around structures, including required recreation areas, stormwater detention areas, or preservation areas. This shall not include parking areas.

Parcel means any individual tract of land under unified ownership.

Parcel depth means the distance measured in the mean direction of the side lines of the parcel from the midpoint of the front parcel line to the midpoint of the opposite main rear line of the parcel.

Parcel width means the width of the parcel at the minimum front building setback line. For a parcel fronting on a cul-de-sac, parcel width may be measured at the midpoint of depth between the side lot lines.

Personal/business service use means an occupation or service requiring the utilization of a manual, mechanical, or specialized skill which involves neither the on-premises use of heavy machinery or equipment nor primarily the sale of merchandise or conveyance of a product. Any production, processing, or assembly shall clearly be secondary and incidental to the primary use characteristics.

Principal use means the most dominant use, building, or structure located on a lot or parcel.

Property line means a line which separates a lot or parcel from an adjoining lot or parcel or right-of-way.

Repeat violation shall mean a violation of a provision of a code or ordinance by a person who has been previously found, through a code enforcement special magistrate or any other quasi-judicial or judicial process, to have violated, or who has admitted violating, the same provision within five years prior to the violation, notwithstanding that the violations may occur at different locations. For the purposes of this definition, a plea of "No Contest" or "Nolo Contendre" shall be deemed an admission of a violation.

Residential design manufactured homes (RDMH) are manufactured homes as defined by state law which meet residential design standards contained in this chapter (see section 138-1343).

Right-of-way means the area of a highway, road, street or way reserved for public use, whether established by prescription, dedication, gift, purchase, eminent domain or any other legal means. Alleys are specifically excluded from this definition.

Satellite dish antenna means a device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based stations. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations, TVROs (television-reception-only), and satellite microwave antennas.

Setback means the horizontal distance between a structure and another structure, a property line, a right-of-way line, a body of water or other specific point as designated in this chapter (see section 138-1281).

Shopping center means a single unit or integrated group of commercial establishments which are planned, developed, and managed as a unit which is used primarily for the sale of goods and services. This does not include outparcels which meet site area and other requirements of this chapter.

Sign means any combination of structure and message in the form of an outdoor sign, display, device, figure, drawing, painting, message, placard, poster, billboard, advertising structure, advertisement, logo, symbol, or other form, whether placed individually or on a V-type, back-to-back, side-to-side, or used to advertise or inform, any part of the advertising message or informative contents of which is visible at any place. The term does not include an official traffic control sign, official marker or other official combination of structure and message caused to be erected or approved by the board of county commissioners, its designee, or other official public agency (see section 138-1334).

Solid waste:

(1)

Class III sanitary landfill means the addition or deposit of trash, refuse, yard trash, or construction and demolition debris materials upon or within any lot or parcel. Such materials shall be limited to: yard trash, rubbish, and other vegetative material resulting from landscaping, maintenance or land clearing operations, including tree and shrub trimmings, grass clippings, palm fronds, tree limbs and stumps; construction and demolition debris including steel, concrete, glass, brick, asphalt, roofing material or lumber which are not water soluble and result from a construction or demolition project; and other trash and refuse including paper, cardboard, cloth, glass, white goods, street sweepings, vehicle tires, metals, mineral matter, and other similar materials not usual to housekeeping or to the operations of stores or offices.

(2)

Class I sanitary landfill means the addition or deposit of any putrescible matter or any solid waste not included within the materials permitted in a class III sanitary landfill, including garbage and other discharged solid or semisolid materials resulting from domestic, commercial, industrial, agricultural and governmental operations, but excluding solids or dissolved material in domestic sewage effluent or other significant pollutants in water resources, upon or within any lot or parcel. Garbage materials include kitchen and table food waste and animal or vegetative waste attendant with or resulting from the storage, preparation, cooking or handling of food.

(3)

Recycling means any process by which solid waste, or materials which would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

(4)

Solid waste means garbage, refuse, yard trash, construction and demolition debris, white goods, special waste, ashes, sludge or other discarded material, including solid, liquid, semisolid, or contained gaseous materials resulting from domestic, industrial, commercial, mining, agricultural or governmental operations.

(5)

Solid waste disposal facility means any solid waste management facility which is the final resting place for solid waste, including landfills and incineration facilities that produce ash from the process of incinerating municipal solid waste.

(6)

Solid waste management means the process by which solid waste is collected, transported, stored, separated, processed or disposed of in any other way, according to an orderly, purposeful, and planned program.

(7)

Solid waste management facility or facility means any volume reduction plant, transfer station or other facility, the purpose of which is the resource recovery or disposal, recycling, processing or storage of solid waste. Such term does not include facilities which use or ship recovered materials unless such facilities are generating solid waste as part of the recovery process. For the purpose of this chapter, this term does not include any type of solid waste disposal facility. (Such uses are authorized through chapter 106, article III.)

(8)

Transfer station means a site, the primary purpose of which is to store or hold solid waste for transport to a processing or disposal facility.

(9)

Volume reduction plant means a pulverizer, grinder, compactor, shredding and baling plant, composting plant, or other plant which accepts and processes solid waste for recycling or disposal.

Special exception means a use that would not be appropriate generally or without restriction throughout the particular zoning district or classification but which, if controlled as to number, area, location or relation to the neighborhood, would not adversely affect public health, safety, comfort, good order, appearance, convenience, or the general welfare (see article II, division 7 of this chapter).

Stormwater means the flow of water which results from, and which occurs immediately following, a rainfall event.

Stormwater pollution prevention plan (SWPPP) means a plan that is designed to reduce pollution at the construction site. The six phases of the plan are:

(1)

Site evaluation and design development.

(2)

Assessment.

(3)

Control selection and plan design.

(4)

Certification and notification.

(5)

Construction/implementation.

(6)

Final stabilization/termination.

Structural alteration means any extension, reduction, enlargement or rebuilding of the structural components of a building or structure. This shall not include any routine plumbing, electrical or mechanical repairs.

Structure means anything constructed, installed or portable, the use of which requires a location on a parcel of land. Such term includes a movable structure, while it is located on land, which can be used for housing, business, commercial, agricultural, or office purposes, either temporarily or permanently, including all caging designed to contain livestock. This definition shall include all decks which exceed one foot in height. Fences a maximum of six feet high, sidewalks, patio slabs, driveways, containers (tanks) covered by other codes, and utility poles are not considered structures except for permit requirements.

Substantial deviation means any change to an accepted overall development plan which creates a reasonable likelihood of adverse impact to any developed portion of the project or adjacent properties (see subsection 138-645(e)(2)).

Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures and the like.

Travel park means a lot or parcel of land upon which spaces are occupied or intended for occupancy by recreational vehicles designed for travel, recreation, and vacation uses.

User means any independent entity which is marketing a service to retail customers in the county. For the purposes of determining the number of users co-locating, no two users shall have any common ownership ties.

Variance means a modification of some particular requirement of this chapter which may be granted by the board of adjustment in order to alleviate some unique and unnecessary hardship which may result from a literal enforcement of the provisions of this chapter with respect to the parcel involved.

Vehicle, recreational means and includes the following types of vehicles (each of the following shall have a body width not to exceed 102 inches and a body length not to exceed 40 feet when stored on residential parcels as an accessory use):

(1)

Travel trailer means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreation, and vacation uses.

(2)

Pickup coach means a structure designed to be mounted on a truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreation, and vacation uses.

(3)

Motor home means a portable, temporary dwelling to be used for travel, recreation, and vacation uses, constructed as an integral part of a self-propelled vehicle.

(4)

Camping trailer means a collapsible temporary dwelling structure mounted on wheels, and designed for travel, recreation, and vacation uses.

(5)

Auto camper means a lightweight, collapsible unit that fits on top of an automobile and/or into the trunk with the cover removed, and designed for travel, recreation, and vacation uses.

Vehicle site means a space or plot of ground within a travel park of a drive-through or back-in classification which is designated for the accommodation of not more than one recreational vehicle and its towing vehicle, if any.

Verified nonconforming use or structure means a use or structure that has been confirmed as nonconforming according to the procedure for the review and determination of applications for nonconforming uses of land and structures established by Board of County Commissioners Resolution No. 90-439.

Vertical water supply infrastructure/structures means any building, facility, fixture, machinery, reservoir or appurtenant structure used or useful to the provision of high quality potable water or to reduce potable water demand, including the development, supply, storage, distribution, treatment, conservation, acquisition or transfer of water to meet the needs of Pinellas County customers.

Wellfield means an area of land that is developed or could be developed with one or more wells for obtaining water.

Zoning commission means the board of county commissioners and may be referred to as "the board".

Zoning district means an area of the unincorporated part of the county designated by a single zone classification with uniform use regulations.

(c)

All other words, terms and phrases not defined in this section shall be defined according to their commonly accepted meanings.

(Ord. No. 90-1, § 1(104.1—104.3), 1-30-90; Ord. No. 91-54, §§ 1, 2, 10-29-91; Ord. No. 93-88, § 1, 10-19-93; Ord. No. 94-36, § 1, 4-19-94; Ord. No. 95-28, § 1, 4-18-95; Ord. No. 96-41, § 1, 4-30-96; Ord. No.

97-57, §§ 1, 2, 7-28-97; Ord. No. 98-6, §§ 1, 2, 1-6-98; Ord. No. 98-97, § 3, 11-17-98; Ord. No. 99-66, § 5, 7-20-99; Ord. No. 00-67, § 1, 8-29-00; Ord. No. 03-24, § 10, 4-15-03; Ord. No. 04-29, § 1, 4-13-04; Ord. No. 05-10, § 1, 2-22-05; Ord. No. 08-47, § 1, 8-26-08; Ord. No. 08-69, § II, 10-21-08; Ord. No. 09-18, § 1, 3-17-09; Ord. No. 09-65, § 1, 12-15-09; Ord. No. 11-19, § 1, 6-14-11; Ord. No. 11-56, § 1, 12-20-11; Ord. No. 12-32, § 2, 7-24-12; Ord. No. 15-32, § 2, 8-18-15)

Sec. 138-2. - Interpretation.

In interpreting and applying the provisions of this chapter, such provisions shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare of the community. It is not intended by this chapter to abrogate or annul any lawful easements, covenants, or other agreements between parties; provided, however, that where this chapter imposes a greater restriction than imposed or required by other ordinances, resolutions, rules, regulations, or by lawful easements, covenants or agreements, the provisions of this chapter shall control.

(Ord. No. 90-1, § 1(103.7), 1-30-90)

Sec. 138-3. - Conflicting provisions.

Where the provisions of this chapter impose a higher standard than set forth in any other ordinance of the county, then the standard as set forth in this chapter shall prevail; but if the provisions of this chapter impose a lesser standard than any other ordinance of the county, then the higher standard contained in any such ordinance or law shall prevail.

(Ord. No. 90-1, § 1(105.4), 1-30-90)

Sec. 138-4. - Interpretation of other laws, ordinances, codes or regulations.

Where other lawful codes, ordinances, regulations or statutory provisions are referenced within this chapter, such references shall include lawful revisions or amendments thereto which may occur from time to time.

(Ord. No. 90-1, § 1(105.5), 1-30-90)

Sec. 138-5. - Severability.

It is declared to be the intent of the board of county commissioners that, if any article, division, section, subsection, sentence, clause, phrase, or provision of this chapter is held invalid or unconstitutional, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this chapter.

(Ord. No. 90-1, § 1(105.1), 1-30-90)

Sec. 138-6. - Original preparation; major revision and readoption.

(a)

The county zoning regulations were originally prepared and adopted by the board of county commissioners on December 5, 1955.

(b)

The county zoning regulations were revised, consolidated, and readopted by the board of county commissioners on February 5, 1963, and on January 30, 1990, revised, consolidated, and readopted as the comprehensive zoning ordinance of the county.

(Ord. No. 90-1, § 1(101.1), (101.2), 1-30-90)

Sec. 138-7. - Effective date.

This chapter shall become effective upon acknowledgement from the secretary of state that the ordinance from which this chapter is derived has been duly filed or on March 1, 1990, whichever is later.

(Ord. No. 90-1, § 1(105.2), 1-30-90)

Sec. 138-8. - Ratification of previous actions.

All actions taken by the board of county commissioners pursuant to previously enacted rules and regulations are hereby confirmed and ratified.

(Ord. No. 90-1, § 1(105.3), 1-30-90)

Sec. 138-9. - Compliance with district regulations.

Except as otherwise provided in this chapter:

(1)

Use. No structure shall be erected and no existing structure shall be moved, altered, added to or enlarged; nor shall any land, structure or premises be used for any purpose or in any manner without the necessary zoning clearance. Such clearance may be issued only if the proposed use is permitted under this chapter in the district in which such land, structure or premises is or are located.

(2)

Height. No structure shall be erected, nor shall any existing structure be moved, reconditioned or structurally altered so as to exceed in height the limit established in this chapter, or amendments thereto, for the district in which such structure is located.

(3)

Percentage of lot occupancy. No structure shall be erected, nor shall any existing structure be moved, altered, enlarged, or rebuilt, nor shall any open space surrounding any structure be encroached upon or reduced in any manner, except in conformity with the building site requirements and the area, parking space and setback regulations established by this chapter, or amendments thereto, for the district in which such structure is located.

(4)

Density of population. No structure or premises shall be erected, occupied or used so as to provide a greater density of population than is allowed under the terms of this chapter for the district in which such structure or premises are located.

(5)

Open space use limitation. No setback area or other open space provided about any structure for the purpose of complying with the requirements of this chapter, or amendments thereto, shall be considered as providing a setback or open space for any other structure, except that area required between structures.

(Ord. No. 90-1, § 1(103.1)—(103.5), 1-30-90)

Secs. 138-10—138-50. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

DIVISION 1. - GENERALLY

Sec. 138-51. - Administrative authority.

The county administrator or his authorized designee shall interpret, administer, and enforce the provisions of this chapter.

(Ord. No. 90-1, § 1(601.1), 1-30-90)

Sec. 138-52. - Employees assisting county administrator.

There shall be employed by the county such employees as the board of county commissioners may authorize and determine for the purpose of assisting the county administrator in the performance of his duties under this chapter.

(Ord. No. 90-1, § 1(601.2), 1-30-90)

Sec. 138-53. - Duties of county administrator.

In administering, interpreting, and enforcing this chapter, the county administrator or his designee shall issue all permits, as required under this chapter, and collect all fees as required, and transmit all fees collected to the clerk of the circuit court of the county for disposition as required by law. The county administrator shall also perform such other duties that are normal to the operation of the zoning division, including the supervision of any employees hired under section 138-52.

(Ord. No. 90-1, § 1(601.3), 1-30-90)

Sec. 138-54. - Report of violations; enforcement procedure.

Any person may report a violation of this chapter to the zoning division of the planning department or to the department of environmental management.

(1)

Inspectors for the department of environmental management, its successor department, or other designees of the county administrator shall have the authority to investigate alleged violations of this chapter.

(2)

Investigations may be based upon statements of complainants or upon inspections performed by county departmental personnel.

(3)

In conducting investigations of alleged violations of this chapter, departmental inspectors shall have the authority, where otherwise lawful, to inspect property, obtain the signed statements of prospective witnesses, photograph violations, and do such other gathering of evidence as is necessary for the complete investigation of an alleged zoning violation.

(4)

Where violations of this chapter are found to exist during the course of any construction or other activity requiring a permit, a stop work order may be issued by the county building department or any department referenced in this section and work shall thereafter cease until the violation is corrected.

(5)

Where it is determined that a violation of this chapter exists, the environmental management department, or its successor departments, shall attempt to contact the violator and direct compliance with the zoning ordinance. With or without such notice, the environmental management department, or its successor departments, may refer the matter to the county or state attorney for proper legal action.

(6)

Responsible parties: The owner(s) of property subject to this zoning ordinance shall be responsible for compliance with this chapter with respect to their property. Enforcement action taken by the county or state may be brought against the owner(s) and/or persons or entities in control of the property, including a contractor working on the property.

(7)

Any person or entity that violates any provision of this chapter shall be deemed guilty of an infraction of a county ordinance and, upon conviction thereof, shall be punished by a fine not to exceed $500.00. Each day a violation continues to exist constitutes a separate offense. Nothing contained in this section hall prohibit the county or state from bringing an appropriate civil action to ensure compliance with the zoning ordinance or from utilizing the procedures found in article VIII of chapter 2 of the Pinellas County Code.

(8)

Where this chapter provides for permitted uses or activities, a violation of the particular section which provides for the permitted use or activity shall occur if dissimilar uses or activities are existing on the subject property. Failure to obtain a permit, site plan or clearance from the county, as required in this chapter, shall be considered a violation of the particular provision requiring the permit, site plan or clearance.

(Ord. No. 90-1, § 1(601.4), 1-30-90; Ord. No. 06-07, § 3, 1-24-06; Ord. No. 07-05, § 2, 1-9-07; Ord. No. 09-8, § 2, 2-17-09)

State Law reference— Penalties for ordinance violations, F.S. § 125.69.

Sec. 138-55. - Minor variances.

(a)

Subject to the criteria in section 138-113 of this chapter, the county administrator may grant minor variances to the following provisions of this chapter:

(1)

Setback requirements may be varied up to ten percent or two feet, whichever is less. Additional variance may be granted when required in order to preserve environmental areas or trees.

(2)

Parking requirements may be varied up to ten percent.

(b)

These requests must be submitted in writing and must include a drawn to scale site plan along with a detailed explanation and justification for the variance.

(Ord. No. 95-28, § 25, 4-18-95)

Sec. 138-56. - Variances during rezoning and other land use actions reviewed by the board of county commissioners.

The board of county commissioners shall during rezoning or other land use reviews, have authority to grant variances to the provision of this chapter, subject to the criteria in section 138-113 and subject to proper notice and advertising requirements.

(Ord. No. 98-97, § 4, 11-17-98)

Secs. 138-57—138-75. - Reserved.

DIVISION 2. - RESERVED[2]

Footnotes:
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Editor's note—Ord. No. 09-8, §§ 3—12, adopted Feb. 17, 2009, deleted §§ 138-76—138-85, which pertained to procedures pertaining to change of zone boundaries and classifications. See §§ 134-333—134-343 for similar provisions. See the Code Comparative Table for full derivation.

Secs. 138-76—138-110. - Reserved.

DIVISION 3. - BOARD OF ADJUSTMENT[3]

Footnotes:
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Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 138-111. - Establishment; composition; terms; application fees.

(a)

Establishment. The board of adjustment (which for the purpose of this division may be referred to as "the board") is hereby established.

(b)

Composition; term; salary. The board of adjustment shall be composed of seven members, one each nominated by each member of the board of county commissioners and appointed by the board of county commissioners. The term of office shall be up to four years and shall run concurrently with the term of the nominating commissioner. Members of the board of adjustment shall be paid a salary as deemed appropriate by the board of county commissioners.

(c)

Alternates. The board of county commissioners may appoint two alternate members to the board of adjustment to serve during the absence of any regular member.

(d)

Fees. The board of county commissioners shall establish by resolution the appropriate schedule of fees for applications to the board of adjustment.

(Ord. No. 90-1, § 1(603.1), 1-30-90; Ord. No. 00-79, § 1, 10-10-00; Ord. No. 13-10, § 1, 4-9-13)

Sec. 138-112. - Powers.

(a)

Variances and special exceptions. The board of adjustment shall have the authority to grant variances and special exceptions as set forth in this division.

(b)

Adoption of procedural rules. The board of adjustment shall have the authority to adopt rules of procedure, including a procedure to modify or revoke a previously granted variance or special exception.

(c)

Other authority. The board of adjustment shall have authority to review and decide on such other matters as may be assigned by the board of county commissioners from time to time.

(Ord. No. 90-1, § 1(603.2), 1-30-90)

Sec. 138-113. - Criteria for granting of variance.

In order to authorize any variance to the terms of this chapter, the board of adjustment shall consider the following criteria:

(1)

Special conditions. That special conditions and circumstances exist which are peculiar to the land, structure,

or building involved, including the nature of and to what extent these special conditions and circumstances may exist as direct results from actions by the applicant.

(2)

No special privilege. That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other similar lands, buildings, or structures in the same zoning district.

(3)

Unnecessary hardship. That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter.

(4)

Minimum variance necessary. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

(5)

Purpose and intent compliance. That the grant of the variance will be in harmony with the general intent, purpose, and spirit of this code.

(6)

Detriment to public welfare. That such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

(7)

Increasing floor area, lot coverage restrictions. Any variance to the floor area or lot coverage restrictions of this chapter shall be limited to an increase of no more than ten percent of the applicable requirement. (Example: 0.20 floor area ratio may be varied to no more than 0.22.)

(8)

May not constitute amendment. The variance, if allowed, shall not constitute an amendment of this chapter, the comprehensive land use plan or the countywide comprehensive plan.

(9)

Consideration of rezoning. A rezoning or, where applicable, an amendment to another future land use map category has been considered and determined not to meet the objective of the variance and would not be appropriate.

(Ord. No. 90-1, § 1(603.3), 1-30-90; Ord. No. 92-8, 2-18-92; Ord. No. 92-66, § 1, 10-27-92; Ord. No. 97-57, § 3, 7-28-97)

Sec. 138-114. - Criteria for granting special exceptions.

In granting a special exception, the board of adjustment shall consider the requirements of division 7 of this article.

(Ord. No. 90-1, § 1(603.4), 1-30-90; Ord. No. 92-8, 2-18-92; Ord. No. 97-57, § 4, 7-28-97)

Sec. 138-115. - Conditions, prohibitions and limitations for variances and special exceptions.

(a)

Establishing conditions or safeguards. In granting any variance or special exception, the board of adjustment may prescribe appropriate conditions and safeguards to ensure proper compliance with the general spirit, purpose, and intent of this chapter. Noncompliance with such conditions and safeguards, when made a part of the terms under which the variance or special exception is granted, shall be deemed a violation of this subsection.

(b)

Prohibition. Under no circumstances shall the board of adjustment grant a variance or special exception to permit a use which is not permitted either generally or by special exception in the zoning district involved.

(c)

Reasonable time limits. The board of adjustment may prescribe a reasonable time limit within which the project for which the variance or special exception is granted shall be begun, completed or both.

(d)

Initiation of construction. A variance or special exception issued under the provisions of this chapter shall automatically expire within one year from the date of granting such variance or special exception by the board of adjustment, or if judicial proceedings to review the board's decision shall be instituted, from the date of entry of the final order in such proceedings, including all appeals if all applicable permits and clearances required by the county have not been obtained for such project. All permits, site plans, and other required approvals must be obtained; and the granting of any special exception or variance shall not be deemed as automatic approval for any such permit or site plan required.

(e)

Extensions. An extension of one year for a variance or special exception may be granted by the board of adjustment upon a showing of good cause, provided the request for extension is submitted in writing stating the reason for extension and is received 30 days prior to the expiration of the original time limitation which was established. The board may grant authority to the county administrator or his designee to grant such approvals.

(f)

Expiration. All variances or special exceptions granted by the board of adjustment shall be deemed to automatically expire in the event a structure or use of land which is the subject of the variance or special exception has been discontinued or removed for a period of 90 consecutive days. A statement of this provision shall be included in writing for all variances or special exceptions granted by the board of adjustment.

(Ord. No. 90-1, § 1(603.5), 1-30-90; Ord. No. 92-8, 2-18-92; Ord. No. 97-57, § 5, 7-28-97)

Sec. 138-116. - Filing of report by zoning division.

On all proceedings held before the board of adjustment, the zoning division shall review the application and file a report on each item. Reports of the zoning division shall be received by the board of adjustment prior to final action on any item before the board of adjustment, and shall be part of the record of the application.

(Ord. No. 90-1, § 1(603.6), 1-30-90)

Sec. 138-117. - Record of proceedings.

(a)

Records maintenance. All records of any proceeding before the board of adjustment shall be filed with the clerk of the circuit court, board of county commissioners' records division, to be held as a part of the public records of the county.

(b)

Official minutes. Minutes shall be kept in which applications, findings of fact, recommendations and all determinations or decisions of the board of adjustment shall be recorded.

(c)

Use of recording devices. Wherever possible, all proceedings before the board of adjustment shall be recorded by recording device.

(d)

Application files. Application files shall be held and maintained by the department of development review services, division of zoning, in accordance with state law.

(Ord. No. 90-1, § 1(603.7), 1-30-90; Ord. No. 98-8, § 2, 1-6-98)

Sec. 138-118. - Notice of public hearings.

All public hearings shall be conducted by the board of adjustment only after a public notice has been given pursuant to section 138-79.

(Ord. No. 90-1, § 1(603.8), 1-30-90)

Sec. 138-119. - Applicant's failure to appear.

An applicant's failure to appear or to be represented at scheduled hearings of the board of adjustment may be sufficient cause to deny the request for variance or special exception on the strength of lack of evidence.

(Ord. No. 90-1, § 1(603.9), 1-30-90)

Sec. 138-120. - Review of board's decisions.

A party seeking judicial review of a decision of the board of adjustment shall have 30 days from the date of

the public hearing which resulted in the approval or denial by the board of adjustment to bring the appropriate legal action. The 30-day time period will commence when the decision was finalized at the public hearing, not when the decision was reduced to writing.

(Ord. No. 90-1, § 1(603.10), 1-30-90)

Sec. 138-121. - Reapplications.

No new application for an identical variance or special exception on the same parcel shall be accepted for consideration within a period of six months following a decision of denial by the board of adjustment (unless denied without prejudice).

(Ord. No. 90-1, § 1(603.11), 1-30-90)

Sec. 138-122. - Modification or revocation of a previously granted variance or special exception.

(a)

The board of adjustment shall have the authority to modify or revoke a previously granted variance or special exception. All applicants shall be so notified in the decision provided. Such modification or revocation may occur when the board finds that the use of the variance or special exception:

(1)

Is or has become detrimental to the general health, safety or welfare;

(2)

Does not meet the letter or the intent of the original standards required for such approval; or

(3)

Does not meet the letter or the intent of the special standards or conditions attached by the board in its approval of the application.

(b)

The procedure to modify or revoke a previously granted request by the board of adjustment shall be as follows:

(1)

Upon information provided to the board of adjustment by staff, the applicant, citizens, code enforcement personnel, law enforcement personnel and/or other individuals, the board shall make a finding at public hearing, with or without prior notification to the applicant, that probable cause exists for the modification or revocation of such previously granted request.

(2)

Upon finding of probable cause, the board of adjustment shall direct staff to advertise a public hearing in accordance with section 138-79.

(3)

The applicant and the representative listed on the original application (or if different and the information can be obtained by reasonable investigation by staff, the representative who actually represented the applicant at the original hearing) shall be notified by certified mail at least 15 days before the public hearing that the board of adjustment will consider modification or revocation of the previously approved request. The notice to the applicant and his representative shall include a brief statement of the basis upon which probable cause was found by the board for this action. The staff is directed to diligently make an effort to provide this same notice to others such as lessees, equitable owners, etc., who may have an interest in the subject property or the outcome of the proceedings. The lack of notice to such other interested parties shall not prevent the board from proceeding with the public hearing to modify or revoke the previously approved request.

(4)

The public hearing shall be held on the published date and the procedure at the public hearing will be pursuant to the rules of procedure established by the board of adjustment, as amended from time to time. At the conclusion of the public hearing as originally scheduled or as continued from a prior public hearing for further review, the board shall make known its findings and decisions. Any continuance, if stated at the advertised public hearing or any properly continued hearing, shall not require additional notice to the applicant or the public.

(5)

The applicant shall be provided a letter summarizing the board's decision as soon as is practicable following the conclusion of the hearing.

(c)

For the purpose of this section, the applicant is the person or entity listed on the previous application as the applicant and the person or entity listed by the county property appraiser as the then current owner of the subject property.

(Ord. No. 90-1, § 1(603.12), 1-30-90; Ord. No. 93-13, 2-16-93)

Secs. 138-123—138-150. - Reserved.

DIVISION 4. - ZONING CLEARANCES AND CLEARANCES FOR PERMITS

Sec. 138-151. - Zoning clearance required.

Prior to the use of any land or structure or the expansion of any use of land or structure and prior to the issuance of a building permit, a zoning clearance must be obtained. For the purpose of this chapter, a zoning clearance is defined as a lawful written certification granted to an applicant indicating the zoning district classification, property legal description, authorized use, required setbacks, street frontage, site area requirements, height and other such similar requirements of this division as they would apply to the application for such clearance. A zoning clearance shall be dated and signed by an authorized employee of the zoning division. The issuance of a zoning clearance does not exempt an applicant from complying with all laws properly affecting the use or development of land. This clearance is required regardless of any other provision of this division. Failure to obtain such clearance shall be deemed a violation of this chapter.

(Ord. No. 90-1, § 1(604.1), 1-30-90; Ord. No. 02-60, § 3, 7-23-02)

Sec. 138-152. - Issuance and conditions.

(a)

Zoning clearances shall be issued by the zoning division.

(b)

All requests for zoning clearance shall include:

(1)

A legal description of the property for which the request is made.

(2)

A current survey of the subject property prepared by a surveyor registered to practice in the state (this shall only be required for those clearances which will permit additional structures, fences or walls on-site).

(3)

A description of the work for which the clearance is requested.

(4)

A detailed plot plan, drawn to scale, showing all existing structures and uses, and all proposed structures and uses.

(5)

A drainage plan may be required (see section 138-1280). A stormwater pollution prevention plan and/or an erosion control plan, as appropriate, may also be required for new construction activities that will disturb existing soil conditions.

(Ord. No. 90-1, § 1(604.2), 1-30-90; Ord. No. 97-57, § 6, 7-28-97; Ord. No. 03-24, § 11, 4-15-03)

Secs. 138-153—138-175. - Reserved.

DIVISION 5. - SITE PLAN REQUIREMENTS AND REVIEW PROCEDURES

Sec. 138-176. - Uses requiring site plan review.

The following uses require site plan review:

(1)

All new construction except single-family dwellings, duplexes, or triplexes when constructed on an individual lot or parcel. This provision does not exempt these uses from complying with other codes, regulations and ordinances applicable to site plan review.

(2)

Additions to existing uses (other than those listed above) where new impervious land coverage will equal 25

percent or more of the remaining permeable area of the lot or parcel.

(3)

Additions to existing uses where new impervious land coverage will be less than 25 percent of the remaining permeable area of the lot or parcel need not comply with requirements of section 138-177 except when deemed appropriate and necessary by the county administrator or his authorized designee. However, applicants for such additions may be required to submit plans containing information required in section 138-178 to the zoning division for approval prior to receiving a zoning clearance for construction.

(4)

All subdivisions.

(5)

All construction that disturbs one acre or more of property or that is in close proximity to the county's MS4.

The following uses require site plan review:

(1)

All new construction except single-family dwellings, duplexes, or triplexes when constructed on an individual lot or parcel. This provision does not exempt these uses from complying with other codes, regulations and ordinances applicable to site plan review.

(2)

Additions to existing uses (other than those listed above) where new impervious land coverage will equal 25 percent or more of the remaining permeable area of the lot or parcel.

(3)

Additions to existing uses where new impervious land coverage will be less than 25 percent of the remaining permeable area of the lot or parcel need not comply with requirements of section 138-177 except when deemed appropriate and necessary by the county administrator or his authorized designee. However, applicants for such additions may be required to submit plans containing information required in section 138-178 to the zoning division for approval prior to receiving a zoning clearance for construction.

(4)

All subdivisions.

(5)

All construction that disturbs one acre or more of property or that is in close proximity to the county's MS4.

(Ord. No. 90-1, § 1(605.1), 1-30-90; Ord. No. 03-24, § 12, 4-15-03)

Sec. 138-177. - Site plan approval procedures.

(a)

Preliminary site plan review. A preliminary site plan review shall be the first step in obtaining site plan approval unless an applicant opts to submit a direct final site plan. An applicant may request to submit directly to a final site plan. Such requests shall be made in writing to building and development review services and shall include all items as required in section 138-178. Such plans shall be reviewed in accordance with this subsection (18 copies of such plan shall be required); except that where such plans meet all county requirements for site plan approval, such approval pursuant to subsection (b) of this section may be granted when the initial review is complete. It is strongly suggested that all applicants for direct final site plan review meet with each site plan review department to determine specific requirements prior to submittal of a direct final site plan. Meetings between the project engineer and any department which does not approve the plan shall be required prior to submittal of a revised plan.

(1)

Persons wishing preliminary site plan review shall submit copies of the preliminary site [plan], as outlined in section 138-178, to building and development review services for review. The number of copies needed for review shall be determined by the county administrator or his designee.

(2)

Building and development review services shall distribute copies of the preliminary plan to the planning department, the St. Petersburg-Clearwater International Airport (when required), public works, and engineering department, health department (when required), water department, environmental management department, the sewer department, the county fire administrator, solid waste management department, county property appraiser, and Heritage Park for review and comment, with all comments being returned to building and development review services. Where the submitted preliminary site plan proposes residential development five acres or more in size, such plan shall be forwarded to the county school board for informational purposes. Site plans shall also be provided to the electric utility company providing electric service for planning and coordination purposes. Comments returned shall pertain to the agency's area of specific authority and shall contain specific requirements upon which approval of the site plan shall be based. These may include but are not limited to requirements of the county's adopted comprehensive plan; this chapter; chapter 134, article VI; chapter 154; chapter 158; chapter 166; and chapter 170, article III; and other similar laws, ordinances, codes or regulations properly affecting the use or development of land. These may also include any policy, manual, directive, or standard for good site design adopted through resolution or ordinance of the board of county commissioners. The solid waste management department shall review and provide requirements for site plans in accordance with F.S. § 125.01(1)(k)2. Following receipt of the comments from the various departments, building and development review services shall prepare a project review to be submitted to the owner or representative of the project or may prepare a project review to be submitted to the county administrator for approval.

(3)

Any preliminary or direct final site plan may be reviewed by and at the request of the board of county commissioners. When deemed necessary for the protection of the health, safety, or welfare of the public, the board may attach reasonable safeguards and requirements upon which the site plan approval becomes conditional.

(b)

Final site plan review.

(1)

Persons wishing final site plan review shall submit copies of the final site plan, as outlined in subsection 138-178(b), to building and development review services for review. The number of copies needed for review shall be determined by the county administrator or his designee.

(2)

Building and development review services shall distribute copies of the final site plan to the planning department, the St. Petersburg-Clearwater International Airport (when required), public works and engineering department, health department, water department, environmental management department, sewer department, the county fire administrator, and Heritage Park for comment and coordination, with all comments being returned to building and development review services. A copy of the plan shall also be provided to the servicing electric company and the county school board pursuant to subsection (a) of this section.

(3)

Following receipt of the comments from the various departments, building and development review services shall prepare a project review to be submitted to the county administrator for approval or denial.

(4)

Any person who has received a denial on the final site plan may request a direct appeal of such denial to the board of county commissioners by submitting a request for an appeal in writing to the county administrator, and stating the reasons justifying the appeal.

(5)

Unless approved by appeal, all final site plans shall be approved by the county administrator.

(c)

Site plans for affordable housing developments (AHD's). It is the intent of the board of county commissioners that these plans shall be given priority in the review system and, where possible, be reviewed by staff within two weeks of submittal by the applicant. To that end the county administrator is directed to provide an expeditious review of these plans and where possible provide the applicant with a completed site plan review within two weeks of submittal.

(Ord. No. 90-1, § 1(605.2), 1-30-90; Ord. No. 90-55, § 1, 7-24-90; Ord. No. 95-28, § 26, 4-18-95; Ord. No. 99-66, §§ 1, 2, 7-20-99; Ord. No. 09-8, § 13, 2-17-09)

Sec. 138-178. - Site plan requirements.

(a)

Preliminary site plan. The applicant shall submit copies of the preliminary site plan, containing all data and information required as follows, to the county department of building and development review services:

(1)

Project identification.

a.

Title of project or development.

b.

Name, address and telephone number of engineer, architect, surveyor, developer and owner.

c.

North point, scale, date, and legal description (must include section, township, and range) of proposed site.

d.

Location sketch map.

(2)

Existing conditions.

a.

Boundaries of the property involved, all existing easements, existing buildings, section lines, property lines, existing street paving and existing and/or proposed rights-of-way (as required by the county subdivision regulations), topography, existing surface water areas, existing water mains, sanitary and storm sewers, overhead and underground power lines and/or power substations, culverts and other underground structures in and adjacent to the property. The ownership of lands abutting and within 150 feet of subdivisions shall be shown on subdivision plans.

b.

A one-inch equals 200 feet aerial photograph of sufficient quality to delineate existing vegetation, and a tree survey as defined in chapter 166, article II.

c.

Historic and archaeologically significant features shall be shown on site plans. These features will be defined in an ordinance to be adopted pursuant to the county comprehensive plan and upon adoption of such ordinance these features shall be shown on all site plans.

(3)

Proposed development plans.

a.

Location and dimensions of proposed uses, setbacks, structure heights, streets, parking and loading areas, signs, docks, surface water areas, retention/detention areas and outlet locations, fire hydrants, all utilities, including overhead and underground electric lines, water and sewer, sanitary and storm sewers, culverts, water mains, and other underground structures and adequate easements for such.

b.

Size of proposed lots or parcels.

(4)

Tabulation of proposed development plan.

a.

Tabulations of total number of gross acres or square footage in the site and the acreages and square footages and percentages thereof proposed to be devoted to the uses, including: dwellings by type, commercial, industrial or other nonresidential uses, streets, parking and loading areas, recreation areas, retention areas, permeable open space areas and open and enclosed storage areas.

b.

Tabulations of total number of dwelling units by dwelling type, including the number of units within hotel and motel structures, within the project.

c.

Proposed development schedule and phasing.

d.

Square footage of floor area by type of structure.

e.

The number of employees anticipated to work in all nonresidential buildings.

(5)

On-site waste disposal systems. For projects which utilize on-site waste disposal systems, the site plan shall show the location and design of the proposed system.

(6)

Stormwater runoff. For all development requiring site plan approval, shallow wells and retention ponds shall be included for irrigation purposes and to reduce stormwater runoff. These shall be required pursuant to section 166-1 and chapter 166, article II, and shall be reviewed and approved of by the county departments of engineering and environmental management prior to site plan approval. Where possible, stormwater runoff should not exceed the runoff from the site in an undeveloped state.

(b)

Final site plan. The applicant shall submit copies of the final site plan, containing all data and information required as follows, to the county department of building and development review services:

(1)

All data and information required on the preliminary site plan as set out in subsection (a) of this section.

(2)

A statement from the servicing utility companies which supply water, sewer, and electric service indicating that utility service is available for the proposed development. If water or sewer service is not available, the county health department must approve potable well water and/or septic tank design, where applicable, before site plan approval can be recommended. However, in no case shall building and development review services allow septic tank use on sites less than two acres in size.

(3)

Location, dimensions and character of construction of proposed streets, driveways, curbcuts, entrances, exits, parking and loading areas, including the number of off-street parking and loading spaces, outdoor lighting systems, if any, storm drainage and sanitary facilities, walls and fences, including sight distance certification as detailed in section 138-1336.

(4)

Location and dimensions of proposed lots, setback lines and easements, proposed reservations for parks, open space and recreational areas.

(5)

Detailed construction plans showing proposed location and size of proposed sanitary sewers, water mains, all overhead and underground power lines and/or substations, culverts, drainage structures and other underground structures in and adjacent to the project and adequate easements for such. A stormwater pollution prevention plan and/or an erosion control plan, as appropriate, is required for new construction activities that will disturb existing soil conditions.

(6)

A tree survey, as defined in chapter 166, article II, for all areas of the project to be altered from the predevelopment condition.

(7)

All information and exhibits required in the preliminary site plan staff reports as well as any information or conditions which may have been required if the preliminary site plan was reviewed by the board of county commissioners.

(8)

A NOI issued by the FDEP for activities regulated under the NPDES program.

(Ord. No. 90-1, § 1(605.3), 1-30-90; Ord. No. 91-54, § 7, 10-29-91; Ord. No. 99-66, §§ 3, 4, 7-20-99; Ord. No. 00-67, § 17, 8-29-00; Ord. No. 03-24, § 13, 4-15-03; Ord. No. 09-8, § 14, 2-17-09)

Sec. 138-179. - Adherence to approved site plans.

All development shall be constructed in strict compliance with the approved final site plan. Any additional

site alteration shall require further site plan review. All land or water areas required to remain in a natural condition shall not be altered in any way from such natural condition, except by further site plan review and approval.

(Ord. No. 90-1, § 1(605.4), 1-30-90)

Sec. 138-180. - Time limits on site plans.

(a)

It is the intent of this division that a site plan approval shall only remain valid for a period of six months unless construction of the project commences within six months of such approval and continues in good faith. Therefore, the following shall apply:

(1)

Single-phase projects. The site plan approval for a single-phase project shall only remain valid for a period of six months unless a building permit or construction plan approval for subdivisions for the project is obtained within six months from the date of site plan approval, and construction of the project continues in good faith thereafter, in accordance with the approved site plan and permits.

(2)

Multiphase or multibuilding projects. The site plan for a multiphase or multibuilding project shall only remain valid for a period of six months unless a building permit or construction plan approval for subdivisions is obtained for the first phase or building within six months from the date of the site plan approval and construction continues in good faith thereafter in accordance with the approved site plan and permit. Each subsequent phase or building to be constructed must receive a building permit within one year of the site plan anniversary date of the preceding phase or building (for which a permit was obtained and for which construction has continued in good faith) and construction continues in good faith thereafter in accordance with the approved site plan and permit. Permits for all subsequent phases or buildings issued pursuant to this division shall be issued in accordance with the original site plan. Any site plan for which construction has not commenced pursuant to this division shall become void and a new site plan meeting all current standards required for site plan approval must be submitted and approved prior to further development being authorized.

(b)

It is further intended that a preliminary site plan review shall only remain valid for a period of 180 days. If no revised preliminary or final site plan is submitted within 180 days of the date of the preliminary site plan review, the preliminary site plan shall be void.

(c)

It is also intended that when site plan comments or reports (other than preliminary site plan review) are provided to a site plan applicant, the applicant shall have 90 days in which to revise and submit a site plan, in compliance with such reports or review, to the county for further review. Site plans not revised and received within such 90-day period shall be reviewed for compliance with county requirements in effect on the date of resubmittal. When received within such 90 days, the plan shall be reviewed under requirements provided to the applicant in the county's previous review or report.

(d)

Any site plan not approved within one year from the date of initial submittal shall be reviewed for compliance with all site plan requirements in effect on the date of approval of such plan.

(e)

The county administrator shall be authorized to extend any site plan approval for additional six-month periods provided development regulations have not changed so as to impose new or additional requirements on the site plan. In the case where such new or additional regulatory requirements exist, a new site plan meeting all current regulations shall be submitted for review prior to site plan approval. All such requests must be received in the zoning office prior to expiration of the site plan.

(Ord. No. 90-1, § 1(605.5), 1-30-90; Ord. No. 90-55, § 1, 7-24-90; Ord. No. 93-88, § 1, 10-19-93)

Sec. 138-181. - Plan review fees.

Fees for site plan review shall be as established by the board of county commissioners. A schedule of fees is available in the office of the building and development review services department.

(Ord. No. 90-1, § 1(605.6), 1-30-90; Ord. No. 09-8, § 15, 2-17-09)

Secs. 138-182—138-200. - Reserved.

DIVISION 6. - NONCONFORMING USES OF LAND AND STRUCTURES[4]

Footnotes:

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Editor's note—Ord. No. 12-32, § 3, adopted July 24, 2012, amended Division 6 in its entirety to read as herein set out. Former Division 6, §§ 138-201—138-211, pertained to similar subject matter. See the Code Comparative Table for full derivation.

Sec. 138-201. - Purpose and intent of division.

This division will provide for the regulation and restriction of uses, structures, lots and parcels, or combinations thereof, which were lawfully established prior to the zoning regulations adopted September 3, 1963, or those uses which were in compliance with the applicable zoning regulations subsequent to the above date and prior to January 30, 1990 (or lawfully established prior to the act which created the nonconformity) and continued thereafter, but which would be prohibited, restricted, or regulated under the terms of this chapter or future amendments thereto. It is the intent of this chapter to permit the continuance of such nonconformities, consistent with the parameters of this chapter; however this shall not be used as grounds for adding other prohibited uses or structures on the site or in the area, nor enlarging them by means of extension or expansion, except as specifically provided by this chapter. All the rights and obligations associated with a nonconforming status run with the land and are not affected by a change in ownership or tenancy, unless the nonconformity is abandoned or deteriorated in excess of 50 percent of its market value. This division shall also address nonconformities caused by the adoption and amendment of the Pinellas County Comprehensive Plan.

(Ord. No. 12-32, § 3, 7-24-12)

Sec. 138-202. - Unsafe structures.

Any nonconforming structure or portion thereof declared to be unsafe by the Pinellas County Building and Development Review Services Department be restored to a safe condition except when deteriorated in excess of 50 percent of its market value.

(Ord. No. 12-32, § 3, 7-24-12)

Sec. 138-203. - Alterations.

A nonconforming structure may be maintained and repairs may be made thereon, except that in a structure which is nonconforming as to use regulations, no structural alterations shall be made except those required by law or specifically provided for in this chapter. Such repairs as plumbing installation or the changing of partitions or other interior alterations are permitted.

(Ord. No. 12-32, § 3, 7-24-12)

Sec. 138-204. - Extension.

Structures or uses of land which are nonconforming shall not be increased in floor area, extended or enlarged, so as to occupy additional land area on the same or any other lot or parcel, except as specifically provided for in this chapter.

(Ord. No. 12-32, § 3, 7-24-12)

Sec. 138-205. - Abandonment.

When a nonconforming use of land or structure has been abandoned, as defined in section 138-1, its future use shall conform to the uses permitted in the district in which such land is located. Such lands shall not thereafter be occupied by any nonconforming use.

(Ord. No. 12-32, § 3, 7-24-12)

Sec. 138-206. - Modification.

(a)

A verified nonconforming use or structure shall not be modified, enlarged, extended, or intensified unless approved by the board of county commissioners, or its designee, as a special approval. Prior to granting such a special approval, the board of county commissioners, or its designee, shall ensure that:

(1)

No nonconforming project, phase, use or structure is expanded beyond the boundaries of the parcel of land it occupied when it became nonconforming.

(2)

The modification, enlargement, extension, or intensification of the nonconformity will not materially change the character or quality of the neighborhood in which it is located, be inconsistent with the land use and zoning designations of the surrounding properties, conflict with applicable land development regulations, or

cause a violation of level of service standards as set forth in the Pinellas County Comprehensive Plan.

(3)

Any extent to which the project plan or plat use or structure is nonconforming is materially reduced or decreased, if not eliminated.

(b)

The foregoing provisions of this section shall apply to all verified nonconforming uses and structures. The provisions shall not apply, however, to any use established or structures erected or expanded in violation of law, regardless of the time of establishment or erection.

(Ord. No. 12-32, § 3, 7-24-12)

Sec. 138-207. - Deterioration.

A nonconforming structure which is hereafter damaged or destroyed in excess of 50 percent or more of its market value by deterioration may not be reconstructed or restored for use except in compliance with the requirements of this chapter.

(Ord. No. 12-32, § 3, 7-24-12)

Sec. 138-208. - Re-establishment and reconstruction.

(a)

A verified residential nonconforming use or structure that is destroyed or damaged in excess of 50 percent of its market value by an act of nature or accident may be re-established or reconstructed up to its previously existing lawfully established density, subject to the following:

(1)

The re-established use or reconstructed structure must be located within a future land use map category and zoning district that permit residential uses.

(2)

The re-established use or reconstructed structure must conform to the regulations of the applicable zoning district and other relevant county codes. Any requests for variances shall be considered by the board of adjustment.

(b)

A verified nonresidential nonconforming use or structure that is destroyed or damaged in excess of 50 percent of its market value by an act of nature or accident, or a verified residential nonconforming use or structure that does not meet the criteria of section 138.208(a)(1), may be re-established or reconstructed in full or in part upon approval by the board of county commissioners at a public hearing, subject to conditions that may be imposed by the board, based on the degree to which the application is:

(1)

Consistent with the comprehensive plan;

(2)

Compatible with the density, lot sizes and building types within the surrounding area;

(3)

Compliant with the land development regulations of the applicable zoning district and other relevant county codes at the time of application;

(4)

Mitigating any adverse impacts on the surrounding area as a result of the use, number of residential units, or building floor area ratio on the site in excess of that allowed under the current zoning district, substandard maintenance, or other similar factors related to the application.

An application to re-establish or reconstruct verified nonconforming uses or structures that fit the criteria of this subsection must include the submittal of a preliminary site plan pursuant to the requirements of section 138-178(a). The preliminary site plan must also identify any requested variances from code requirements for the re-establishment or reconstruction.

(Ord. No. 12-32, § 3, 7-24-12)

Sec. 138-209. - Structural conversions.

Sections 138-203, 138-204, 138-207, and 138-208 shall not apply to any construction, structural alteration, extension, addition or repair where such construction, etc., as proposed, would convert a nonconforming use into a use which conforms with all the pertinent requirements of this chapter.

(Ord. No. 12-32, § 3, 7-24-12)

Sec. 138-210. - Nonconforming setbacks.

Where a structure is nonconforming in setbacks only, due to the provisions of the present zoning ordinance or the acquisition of a public right-of-way, additions may be made to the structure provided the addition meets the setback requirements of the present ordinance. Utility sheds that are nonconforming as to setbacks only shall be governed as set forth in section 138-1281.

(Ord. No. 12-32, § 3, 7-24-12)

Sec. 138-211. - Lots or parcels of substandard dimensions.

(a)

When an individual lot or parcel has building site area requirements smaller than the requirements of the district in which it is located, but was a lot or parcel of record on January 30, 1990, the permitted uses of the zoning district will be allowed, provided all requirements, other than building site area, are met. This subsection shall not apply where two or more lots or parcels under single ownership adjoin as described in subsection (b) of this section.

(b)

If two or more lots, or combinations of lots, or portions of lots, with continuous frontage and single ownership were of record on January 30, 1990, and if all or part of the lots do not meet the building site area requirements, the lands involved shall be combined as an undivided parcel to meet the requirements of this chapter. No portion of such parcel shall be used or developed in a manner which diminishes the degree of compliance with the building site area requirements established by this chapter, nor shall any division of any parcel be allowed which creates a lot with building site area requirements less than stated in this chapter.

(c)

Additions may be made to a legally constructed structure that exists on a lot or parcel of substandard dimensions, provided all requirements, except building site area, are met.

(Ord. No. 12-32, § 3, 7-24-12)

Sec. 138-212. - Nonconforming or substandard lots created by eminent domain proceedings.

Any lot or parcel which shall be made nonconforming or substandard after the effective date of this section as a result of eminent domain proceedings instituted by the county or other condemning authority, or through a voluntary conveyance by such lot or parcel owner in lieu of formal eminent domain proceedings, which lot or parcel, except for such eminent domain or voluntary conveyance would be an otherwise conforming lot or parcel, shall be deemed to be a conforming lot or parcel for all purposes under this section, without the necessity for a variance from any land development ordinance. However, where sufficient land is available so that deficiencies can be corrected with no resulting damage to the remainder, the corrective action shall be performed. This section shall not apply to any lot or parcel which is reduced in size by more than 25 percent by such action.

(Ord. No. 12-32, § 3, 7-24-12)

Sec. 138-213. - Performance standards.

Nothing in this division exempts nonconforming uses from compliance with the performance standards required by this chapter or other valid codes, ordinances or regulations.

(Ord. No. 12-32, § 3, 7-24-12)

Secs. 138-214—138-235. - Reserved.

DIVISION 7. - SPECIAL EXCEPTIONS

Sec. 138-236. - When permitted.

A special exception, as defined in section 138-1, may be permitted in any specified zoning district when authorized by the board of adjustment only after a complete showing of compliance with the standards specified both in this division and in division 3 of this article. The burden shall be upon the applicant to show such compliance.

(Ord. No. 90-1, § 1(503.1), 1-30-90)

Sec. 138-237. - Application requirements.

The following are the application requirements for special exceptions:

(1)

An application form completed by the applicant along with all required supporting documents, as listed on the application form.

(2)

A fee as established by the board of county commissioners.

(3)

A detailed plot plan, drawn to scale, no larger than 11 inches by 17 inches, showing location and dimensions of all existing and proposed structures and other improvements and setbacks of same, signs, provisions for off-street parking, and a detailed statement of use.

(Ord. No. 90-1, § 1(503.2), 1-30-90)

Sec. 138-238. - General standards.

Since the size and nature of the uses identified as special exceptions may vary widely, a detailed plot plan and detailed statement of all uses proposed shall be submitted with each request for a special exception approval. The plan, once approved, shall become a condition upon which the use and structures shown thereon are permitted; and any change or addition shall constitute a violation of the special exception approval unless such change is submitted to and approved by the board of adjustment. Prior to granting special exception approval, the board of adjustment shall ensure that:

(1)

All structures shall be adequately separated from adjacent and nearby uses by screening devices and/or open area.

(2)

Excessive vehicular traffic is not generated on residential streets.

(3)

A vehicular parking or traffic problem is not created.

(4)

Appropriate drives, walks, and buffers are installed.

(5)

The proposed use will be in keeping with the purpose and intent of this Code and not adversely affect properties in the vicinity of the excepted use.

(6)

The setback requirements of the district in which the use is to be located shall be complied with, unless varied by the board of adjustment at the hearing.

(7)

The parcel shall contain an area so as to provide sufficient off-street parking.

(Ord. No. 90-1, § 1(503.3), 1-30-90; Ord. No. 97-57, §§ 9, 10, 7-28-97)

Sec. 138-239. - Additional safeguards; variances.

In approving a special exception, the board of adjustment may also establish and require additional safeguards to ensure proper operation of the use and provide protection to the surrounding area. Such safeguards may include, but are not limited to: a time limit for acquiring development authorization and/or development completion; hours of operation; entry and exit points to and from the site; fencing and screening; additional setbacks; and capacity of the use. The board shall have authority to grant variances at the hearing.

(Ord. No. 90-1, § 1(503.4), 1-30-90)

Sec. 138-240. - Uses which may be authorized.

Unless otherwise permitted by this chapter, the following uses may be allowed as special exceptions in any zoning district unless prohibited by the zoning district or as otherwise indicated within this section:

(1)

Those uses listed in the specific zoning district as special exceptions. These uses may be authorized only within the district where specified.

(2)

Public or private parks, playgrounds, clubhouses for fraternal organizations, and recreation areas. If the site exceeds or is equal to three acres in size, these uses shall be designated as appropriate on the future land use map. See table 33, future land use element of the comprehensive land use plan, Ordinance No. 89-32, as amended.

(3)

Golf courses and accessory structures.

(4)

Cemeteries, which may include ancillary and accessory uses and structures. Graves and/or burial crypts shall not be within 50 feet of an adjacent parcel. Any accessory crematory shall not be located within 200 feet of an abutting parcel and shall be buffered from view from adjacent residential lands by fencing or landscaping as deemed appropriate by the board of adjustment. If the site exceeds or is equal to three acres in size, the uses shall be designated as institutional on the future land use map.

(5)

Remote radio and television transmitting stations, not including broadcast studios or office. These uses shall be prohibited in the R-1, R-2, R-3 and R-4 districts.

(6)

Navigation safety devices and structures.

(7)

Parking, where a boundary line of a professional, commercial or industrial zoned district abuts a residential district, within the residential district within 150 feet of such common boundary, subject to the following:

a.

Parking shall be for standard passenger vehicles only.

b.

Parking so provided shall not count towards parking requirements on adjacent professional, commercial or industrial property.

c.

Parking shall be designed so as to provide a transition between the professional, commercial, or industrial zoned properties and the residential areas by providing appropriate screening and buffering and shall not be used for any business purposes other than parking.

d.

These areas shall be smaller than three acres.

(8)

Commercial uses of land which involve the maintaining of animals in a manner other than that allowed as a permitted use may be approved in the C-3, M-1, or M-2 districts, provided the standards and other provisions of this section are met.

(9)

Outdoor gun clubs or firing ranges shall be permitted only in A-E, M-1 and M-2 zoning districts pursuant to the conditions established and defined below. No outdoor gun club or firing range will be permitted:

a.

Where the predicted or actual noise level resulting from such a use exceeds the maximum permitted noise level allowed in the receiving zone as defined in chapter 58, article XII of the Pinellas County Code, and in no event shall the predicted or actual noise level at the closest property line of the receiving zone exceed 55 decibels.

b.

In any instance or case where the property line in the direction of fire is less than one-half mile from the

firing stations, unless a setback of 600 feet from the firing stations and from the side limits of the field of fire shall be required.

c.

Unless all property required for setback and distance requirements is under common ownership or lease.

(10)

Indoor gun clubs or shooting ranges may be allowed in any nonresidential zone provided that any such uses shall comply with all appropriate local, state, and federal regulations or laws.

(11)

Concrete mixing facilities, where authorized as a special exception in the specific zoning district, shall comply with the following standards:

a.

Shall be accessory to the primary business (i.e., building supplies, equipment rental, or other similar business) located on the site.

b.

Only one concrete mixer with a total capacity of one cubic yard shall be located on the lot or parcel.

c.

Shall not be located within 25 feet of any property line or within 50 feet of any residential district.

(12)

Restaurants where authorized as a special exception in the specific zoning district shall comply with the following standards:

a.

Seventy-five seats or less seating capacity.

b.

Be so located as to primarily serve the immediately surrounding industrially zoned area.

(13)

Group living homes and/or congregate care facilities, when authorized in the specific zoning district, shall comply with the following standards:

a.

Shall not be located within 1,000 feet of another such facility (see section 138-1283).

b.

The capacity of a congregate care facility shall be limited to a maximum of three beds per each unit of permitted density, by the applicable future land use map classification. For the purpose of this section, a bed shall mean the same as a resident or occupant.

c.

These homes shall be designed, maintained, and operated so as to be compatible with the neighborhood and should provide a style of life which is substantially similar to that of natural families living in the neighborhood. The board of adjustment shall closely scrutinize all structures and additions to or enclosures of all structures to ensure such compatibility.

d.

These facilities, when required, shall be licensed by the appropriate state licensing entity. The granting of a special exception shall not be deemed effective until such license has been issued.

e.

New or expanded group living homes and/or congregate care facilities are prohibited within the coastal storm area, the area inundated by a category 2 hurricane or a floodway as defined by this chapter. This restriction does not preclude substantial improvements as defined in section 170-101 or the replacement of an existing facility as long as its use as a group living home and/or congregate care facility has not been abandoned, and the improvements or replacement do not result in additional beds.

(14)

Day care centers in residential districts, subject to the following:

a.

Provide a gross land area of 500 square feet per child (does not apply to adult day care).

b.

Orient all children's play areas and provide buffering and separation, as deemed appropriate by the board of adjustment, so as to prevent adverse impact to adjacent properties (does not apply to adult day care).

c.

Facilities to be licensed as required by appropriate governmental agencies.

d.

Parking required at one space per employee plus one space per each ten students or clients.

e.

If the site is equal to or exceeds five acres in size, the property must be designated as required by the future land use map of the comprehensive plan.

(15)

Churches and places of worship in residential districts, subject to the following:

a.

Facilities to provide traditional church and worship functions along with incidental ancillary uses only. Such facilities may include but are not limited to sanctuary, temple or similar place of worship, accessory uses for church classrooms, meeting rooms or similar assembly rooms, parsonage and other similar functions which are incidental and ancillary to the use of the site as a church or place of worship.

b.

All other proposed uses not considered as incidental and ancillary to the church may not be permitted in the special exception.

c.

If the site is equal to or exceeds five acres in size the property must be designated as required by the future land use map of the comprehensive plan.

(16)

Private schools of general or special education in residential districts: Specific standards and conditions to be determined during review in accordance with section 138-238. If the site is equal to or exceeds five acres, the property must be designated as required by the future land use map of the comprehensive plan.

(17)

Medical clinics in multiple-family zoning districts, subject to the following:

a.

Maximum size of 2,500 square feet of floor space (the board of adjustment may not vary this requirement).

b.

Use limited to emergency service, "free clinics," public health service agency, or similar medical facilities to provide health care service convenient to neighborhoods.

(18)

Filling of land in excess of 1,000 cubic yards. (For fills of less than 1,000 cubic yards, see section 138-1341.) Landfills, excluding class III sanitary landfills and solid waste landfills, may be permitted as a special exception in any location in the unincorporated area of the county, provided such location and landfill shall have been specifically approved by the board of adjustment. Prior to the approval of any landfill, the county site plan review agencies as required shall examine a preliminary site plan (plan shall show existing and proposed grades) for such landfill. Such analysis shall determine whether the proposed finished grade will be compatible with the surrounding area and ultimate county drainage plan or existing patterns. The plan, once approved, shall become a condition upon which the excavation is permitted, and any change or addition shall constitute a violation of the zoning ordinance unless such change or addition is examined by the same county

site plan review agencies, according to the same criteria required for original issue, and approved by the board of adjustment. On fill areas where seawalls or bulkheads are required, no permits for construction shall be issued until the seawall or bulkhead has been completed, unless otherwise authorized by the board of county commissioners. All plans for proposed landfills shall be required to bear the seal and signature of an engineer registered and licensed by the state and shall show a positive outfall of overflow into the county drainage system. Landfills shall not be permitted within any well-field zone of protection as established by the county's well-field protection program.

(19)

Excavation, pits and quarries in excess of 1,000 cubic yards. (For excavations less than 1,000 cubic yards, see section 138-1341.) Excavations may be permitted as a special exception in any location in the unincorporated area of the county, provided such location and excavation shall have been specifically approved by the board of adjustment. Prior to the approval of any excavation, the county site plan review agencies, as required, shall examine a. preliminary site plan (a cross-section of the excavation is required) to determine whether the proposed excavation will be detrimental to or interfere with the health, safety or general welfare. The plan, once approved, shall become a condition upon which the excavation is permitted, and any change or addition shall constitute a violation of the zoning ordinance unless such change or addition is examined by the county site plan review agencies according to the same criteria required for original issuance, and approved by the board of adjustment.

a.

No excavations of earth shall be within 150 feet of any road right-of-way line.

b.

Unfenced excavations of earth shall be no closer than 50 feet to an adjoining lot or parcel. Fenced excavations shall be no closer than 25 feet to an adjoining lot or parcel.

c.

Depth and slope shall be determined by the county engineering department and/or the county water system according to demands for safety from pollution of the underground watercourses to be determined according to the nature of the particular substrata soil structure.

d.

No excavation shall detract from or interfere with the county's ultimate drainage plans or existing patterns. No excavation may be approved which would pollute the underground watercourse.

e.

All plans for proposed excavation shall be required to bear the seal and signature of an engineer registered and licensed by the state and shall show a positive outfall of overflow into the county drainage system.

(20)

Repealed.

(21)

Extensions of temporary use permits, as provided in section 138-1338, the applicant shall demonstrate that he is actively conducting the development and marketing of the subject property and that the extension of a permit for such use will not have an adverse impact on neighboring properties.

(22)

Specially designed residential developments in the RPD district.

(23)

Affordable housing developments, that are not being requested in conjunction with an application for a change in land use and/or zoning, or a conditional use, where a density bonus, reduction of required parking, reduction of setback requirements, or zero lot line configurations along the perimeter of the development in single-family districts are requested,

a.

A residential density bonus may be granted up to 50 percent of the existing allowable density as an incentive to provide increased opportunity for affordable housing. Any such bonus shall only be granted in a manner which does not negatively impact the surrounding neighborhood or the natural environment. To achieve this incentive in single-family districts the board is authorized to permit a reduction in the required lot size by up to 30 percent. However, lot sizes should be controlled on periphery lots adjacent to single-family districts to maintain neighborhood compatibility. Periphery lots may be reduced in size no more than ten percent of the existing required lot size. No density bonus shall be granted when such development does not comply with the county's concurrency management ordinance.

b.

Setback reductions may be granted when the applicant can demonstrate such reductions would provide cost savings (i.e. reduced front setbacks thereby reducing paving, concrete and walkways, and the length of water and sewer connections.) Setback reductions should not be considered on the periphery of the development except in such a manner that provides compatibility with neighboring properties.

c.

Parking requirements may be reduced when it can be shown that such reductions will not adversely impact the neighborhood and that the type of development does not need the number of parking spaces normally required by this chapter.

d.

Zero lot line configurations may be approved in all single-family districts. No zero lot line setback may be approved when it abuts adjacent property which is not a part of the AHD. Zero lot line configurations shall provide no setback on one side of the lot and double the side yard setback requirement of the district on the other unless reduced in accordance with provision subsection (b) above. Lot size requirements of this chapter may be reduced up to 30 percent of the minimum size required for the district in which located.

(24)

Bed and breakfast facility in residential districts, subject to the following:

a.

Maximum of five guest rooms.

b.

Facility shall be designed and operated so as to maintain the residential character of the neighborhood. These facilities are intended to provide short term lodging and meals for transient guests who are visiting the area. It is specifically not intended for these to be rental apartments, boardinghouses or other mid-to long-term rental units. The board of adjustment shall have wide latitude to attach conditions to insure this provision is met.

c.

The proposed location should generally not be located on a minor residential street unless the area has some unique features such as access to tourist attractions or location in an historic area where such facilities may be desirable. It may also be appropriate to consider the facilities in buildings where a valid public purpose would be served in maintaining, preserving and reconditioning older structures and neighborhood character.

d.

Parking shall be required at the rate of one space for each guest room plus two spaces. Parking shall be provided in a manner which is compatible with the surrounding area.

e.

A maximum six-square-foot sign may be provided to identify the facility's location.

(25)

Communication towers may be erected above the height limitations established in this chapter under the following conditions:

a.

The applicant must demonstrate a need for the tower's location and increased height.

b.

The applicant must demonstrate that the tower cannot be located and constructed pursuant to section 138-1347 of this chapter.

c.

The applicant must demonstrate that attempts have been made to locate the proposed communication equipment on another existing tower.

d.

The applicant must demonstrate all special exception provisions required by section 138-238 of this chapter have been met.

e.

The applicant must agree where practical to provide space for additional future users in order to reduce the proliferation of tall tower structures.

f.

Towers shall be set back from residential property lines a distance equal to the height of the tower.

g.

Towers shall be a neutral, nonglare color or finish so as to reduce visual obtrusiveness (except as may otherwise be required by this Federal Aviation Authority).

h.

Towers shall be enclosed by security fencing not less than six feet tall.

i.

Towers shall not be used for advertising or signs other than warning signs.

j.

Construction of towers pursuant to section 138-1347 of this chapter shall be the preferred method in the county in order to reduce the proliferation of such structures on the landscape. Therefore, the burden is on the applicant to provide substantial and competent evidence to the board to demonstrate compliance with the above provisions prior to any approval being granted.

(26)

Mini storage in the C-1 district, subject to the following:

a.

To be used for dead storage of household goods and items only.

b.

No business to be conducted from storage units.

c.

No outdoor storage.

d.

Maximum height to be 12 feet.

e.

Maximum floor area ratio to be .5.

f.

Site to be buffered from any adjacent residential property by a minimum of six feet opaque fence. Additional buffering may be required by the board to insure compatibility with the surrounding area.

(Ord. No. 90-1, § 1(503.5), 1-30-90; Ord. No. 90-55, § 1, 7-24-90; Ord. No. 92-66, § 1, 10-27-92; Ord. No. 95-28, § 18, 4-18-95; Ord. No. 97-57, §§ 11—14, 7-28-97; Ord. No. 98-97, § 5, 11-17-98; Ord. No. 99-66, §§ 16—18, 7-20-99; Ord. No. 04-29, § 2, 4-13-04; Ord. No. 09-8, § 16, 2-17-09; Ord. No. 11-19, § 2, 6-14-11; Ord. No. 15-32, § 3, 8-18-15)

Secs. 138-241—138-265. - Reserved.

DIVISION 8. - CONDITIONAL USES

Sec. 138-266. - Purpose and intent.

A conditional use as defined in section 138-1 may be permitted in any specified zoning district when authorized by the board of county commissioners. It shall be the responsibility of the applicant to show compliance with the standards and requirements of this division, as well as with specific conditions which may be required by the board of county commissioners.

(Ord. No. 90-1, § 1(504.1), 1-30-90)

Sec. 138-267. - Application requirements.

The following are the application requirements for conditional uses:

(1)

A completed application form along with all required supporting documents.

(2)

A fee as established by the board of county commissioners.

(3)

A detailed plot plan drawn to scale showing location and dimensions of all existing and proposed structures and other improvements and setbacks of same, signs, provisions for off-street parking, and a detailed statement of use. Ten copies shall be required if the plan is larger than 11 inches by 17 inches.

(Ord. No. 90-1, § 1(504.2), 1-30-90)

Sec. 138-268. - Hearing procedures.

All requests for conditional use shall be heard pursuant to the public hearing requirements outlined in section 138-79.

(Ord. No. 90-1, § 1(504.3), 1-30-90)

Sec. 138-269. - General standards.

Since the size and nature of the uses identified as conditional uses may vary widely, a detailed plot plan and detailed statement of all uses proposed shall be submitted with each request for a conditional use approval.

The plan, once approved, shall become a condition upon which the use and structures shown thereon are permitted and any change or addition shall constitute a violation of the conditional use approval, unless such change is submitted to and approved by the board of county commissioners. Prior to granting conditional use approval, the board of county commissioners shall ensure that:

(1)

All structures and uses shall be separated from adjacent and nearby uses by appropriate screening devices or landscaped open area.

(2)

Excessive vehicular traffic is not generated on residential streets and no vehicular parking or other traffic problem is created.

(3)

Appropriate drives, walks and parking areas are proposed so that no vehicular traffic or parking problems are created.

(4)

Drainage problems will not be created on the subject property or adjacent properties.

(5)

All provisions and requirements of the zoning district in which the project is located will be met.

(6)

The conditional use shall be consistent with the county comprehensive plan adopted pursuant to state law and shall be in keeping with the purpose and intent of this chapter.

(7)

In approving a conditional use, the board of county commissioners may establish and require additional safeguards to ensure proper operation of the use and provide protection to the surrounding area. Such safeguards may include but are not limited to: a time limit for acquiring development authorization; hours of operation; entry and exit points to and from the site; additional setbacks; fencing and screening; and capacity of the use. The board shall have the authority to grant variances at the hearing.

(Ord. No. 90-1, § 1(504.4), 1-30-90; Ord. No. 93-88, § 1, 10-19-93)

Sec. 138-270. - Uses which may be authorized.

Where authorized as a conditional use in the specified zoning district, the uses listed in this section may be permitted. In addition to consideration of the general standards listed in section 138-269, specific standards applicable to the specific uses listed in this section shall also be considered in approving the specific use requested.

(1)

Nursing homes:

a.

Number of beds may not exceed three times the allowed density of the zoning district in which the parcel is located (unless otherwise specified).

b.

Maximum height: Two stories or 25 feet.

c.

Access to nursing homes shall be from a collector or arterial roadway as shown on the most recently adopted comprehensive road plan.

d.

New or expanded nursing homes are prohibited within the coastal storm area, the area inundated by a category 2 hurricane or a floodway as defined by this chapter. This restriction does not preclude substantial improvements as defined in section 170-101 or the replacement of an existing facility as long as its use as a nursing home has not been abandoned, and the improvements or replacement do not result in additional beds.

(2)

Airports and airstrips:

a.

The minimum building site areas for each primary use and its customary accessory use shall be a minimum of five acres of land with a minimum width of 200 feet and a minimum depth of 200 feet.

b.

No structure within this area shall exceed 45 feet in height.

c.

The maximum area of a lot or parcel to be covered by structures shall be ten percent of the area of the lot or parcel.

d.

The following front, side and rear yards shall be required:

1.

Front yard shall be a minimum of 50 feet in depth measured from a right-of-way line to the front of the structure, taxi area, or parking area.

2.

Side and rear yards shall be a minimum of 25 feet to any structure, taxi area, or parking area.

e.

A showing of compliance with section 138-1331 of this chapter and chapter 14-60, airport licensing and zoning, rules of state department of transportation.

f.

If the site area is equal to or exceeds three acres, the future land use plan designation shall be transportation utility.

(3)

Heliports and helistops:

a.

The minimum touchdown area shall be 100 feet in length and width.

b.

The minimum primary surface area shall be 300 feet in length and width.

c.

A showing of compliance with section 14-60, airport licensing and zoning, rules of the state department of transportation.

d.

If the site area is equal to or exceeds three acres, the future land use plan designation shall be transportation utility.

(4)

Drive-in movie theaters: Standards to be set during review.

(5)

General agricultural activities: Due to the widely varied nature of these uses and based on the specific areas where permitted, specific conditions in addition to those general conditions in section 138-269 will be imposed in approving the specific use requested.

(6)

Government buildings, utility substations or public uses:

a.

Due to the variety of uses and associated impacts, specific standards shall be determined during review.

b.

In residential districts, such uses shall be limited to low intensity facilities or office uses such as city hall, courthouse, police station, post office, library, government office, electric transforming substation, communication substation, water or sewer pump station, and similar uses. No exterior storage of machinery or equipment shall be permitted when located in a residential district.

c.

Any public facility approved by the board of county commissioners through the county's capital improvement program shall be considered to meet the requirements of this division and shall be permitted in any zoning district.

d.

If such facility involves three or more acres, the proposed development shall be designated as institutional, transportation/utility or other appropriate land use designation as required on the future land use map in addition to any conditions imposed by the board of county commissioners.

(7)

Junkyards and vehicle salvage: Must provide solid screening or walls at least eight feet high to ensure screening and buffering of stored materials. Such screening or wall shall be as deemed appropriate by the board of county commissioners.

(8)

Hazardous waste storage and transfer facilities: Specific standards to provide public safety will be determined during review.

(9)

Repealed.

(10)

Outdoor solid waste management facilities: In addition to the general standards (see section 138-269), the board shall require:

a.

Compliance with all local, state, and federal laws, regulations, orders, consent orders, decrees, permit conditions or judgments; and

b.

Annual reporting to the county, in a form acceptable to the county, of the tonnage and types of materials received, and the tonnage and types of materials transferred or recycled, if determined to be applicable by Pinellas County Utilities Solid Waste Operations Department.

(11)

Off-shore tour vessels: Off-shore tour vessels may be approved as a conditional use at any location where marinas are specifically permitted. In addition to the general standards contained in section 138-269, the board shall consider each of the following criteria in determining whether an application should be approved:

a.

Possible detrimental effects on surrounding properties including lights, noise, odor, or other nuisance effects.

b.

Effects on the navigability of the waterway and the impact on vessels currently using the waterway.

c.

Impact on traffic circulation.

d.

Ability to provide parking at a rate of one space per three rated passenger plus one for each employee.

e.

Within the Anclote River such vessels shall not be moored within 1500 feet of another such vessel (said distance to be measured from the center of the submerged mooring area of the vessels).

(12)

Light manufacturing and assembly (Class A): In addition to the general standards (section 138-269), the board should consider each of the following criteria in determining whether an application for this conditional use should be approved:

a.

Light manufacturing and assembly for purpose of this section shall mean a use engaged in the manufacture, predominately from previously prepared materials, of finished products or parts including processing, fabrication, assembly, treatment, packaging, storage, sales and distribution of such products.

b.

There shall be no exterior storage or processing of equipment or materials of any kind.

c.

The use shall be operated in manner so as not to create adverse impacts in terms of noise, solid waste, traffic generation and air quality emissions. Such impacts shall be no more intense that those which could be reasonably attributed to uses permitted by right in the same zoning district.

d.

Hours of operation may be limited to those which are similar to other business which are located in the general vicinity in the same zoning district.

e.

Parking, loading and service to the use shall be operated in a manner so as not to adversely affect neighboring properties.

(13)

Commercial marinas: Commercial marinas may be approved within the C-2, commercial general retail commercial and limited services district, CR, commercial recreation, or CP, commercial parkway zoning districts. For purpose of this section a "commercial marina" is defined as a facility, adjacent to and utilizing a body of water which may provide only the following: boat storage and launching, docking, minor repair and maintenance of water craft such as washing, polishing, engine tune up, oil change, lubrication, minor outfitting, retail sale of gas, oil, bait, tackle and marine supplies or such other customary use commonly found at a retail marina.

a.

Prior to approval of such the board shall be assured that:

1.

The use meets all zoning standards.

2.

The use will comply with applicable noise standards of the county code.

3.

The use shall not general excessive vehicular traffic in the neighborhood.

4.

The use shall be compatible with the surrounding area and shall be utilized for recreational and pleasure craft and/or fishing vessels only with no boat building, major repair operations or shipping port activities included.

5.

The use shall be adequately buffered from adjacent properties.

6.

Water ways will be protected from material adverse impacts on navigation, transportation, recreation and other public purposes.

7.

Water flows and tidal currents in the surrounding waters will be protected from material adverse impacts.

8.

Material adverse impacts on erosion control, storm drainage, shoaling of channels and water quality shall not

occur.

9.

Recreational advantages and natural beauty shall be protected.

10.

Material adverse impacts on wildlife, marine life and natural resources including beaches and shores shall not occur.

11.

Health, safety and welfare of the general public is considered.

12.

The use will be consistent with adopted state plans (i.e. manatee protection, swim plans) county and county's comprehensive plan and other adopted resource management plans or other county ordinances and regulations.

13.

A hurricane plan is filed and that such plan is acceptable to the county emergency management department.

b.

The burden shall be on the applicant to demonstrate compliance with these standards.

c.

Where docks, seawalls, launching ramps, etc. are proposed and would require permits from the county water and navigation control authority, the conditional use request and the water and navigation application shall be reviewed simultaneously. The county administrator shall cause all public hearings required for each, if required, to be scheduled at the same time to permit the county commission to review the overall proposed development.

d.

Minor modifications to an existing marina, resulting in no more than a ten percent increase in the number of boat storage spaces on the upland area of the site or a ten percent increase in the size of the building footprint and/or parking area, may be reviewed and approved by the county administrator through the site plan review process, provided all other permitting criteria and conditions are addressed.

(Ord. No. 90-1, § 1(504.5), 1-30-90; Ord. No. 92-66, § 1, 10-27-92; Ord. No. 93-13, 2-16-93; Ord. No. 93-88, § 1, 10-19-93; Ord. No. 98-6, § 3, 1-6-98; Ord. No. 01-58, § 3, 8-7-01; Ord. No. 06-53, § 9, 6-20-06; Ord. No. 11-19, § 3, 6-14-11)

Sec. 138-271. - Final site plan required.

Prior to the issuance of a zoning clearance for a conditional use, a final site plan as specified in article II,

division 5 of this chapter shall be completed and approved when required. All site plan requirements, including any specific condition of the conditional use, shall be adhered to; and the approval of any conditional use shall not be deemed an automatic approval of the site plan.

(Ord. No. 90-1, § 1(504.6), 1-30-90)

Sec. 138-272. - Initiation of construction.

A conditional use issued under the provisions of this division shall automatically expire within one year from the date of granting such conditional use by the board of county commissioners, or if judicial proceedings to review the board's decision shall be instituted, from the date of entry of the final order in such proceedings, including all appeals if all applicable permits and clearances required by the county have not been obtained for such project. All conditional uses approved prior to the effective date of this division shall automatically expire within one year from such effective date if all applicable permits and clearances required by the county have not been obtained for such project.

(Ord. No. 90-1, § 1(504.7), 1-30-90)

Sec. 138-273. - Judicial review.

A party seeking judicial review of a conditional use decision shall have 30 days from the date of the public hearing which resulted in the decision to bring the appropriate legal action. The 30-day time period will commence when the conditional use is finalized at the public hearing, not when the decision is reduced to writing.

(Ord. No. 90-1, § 1(504.8), 1-30-90)

Secs. 138-274—138-310. - Reserved.

ARTICLE III. - ZONING DISTRICTS CREATED; ZONING MAP

Sec. 138-311. - Establishment of districts.

In order to classify, regulate and restrict the uses of land, water and structures, in accordance with the provisions of this chapter in the unincorporated areas of the county, such territory is hereby divided into zoning districts which are set out as follows:

Zoning Districts

A-E	Agricultural estate residential district (two acre minimum)
E-1	Estate residential district (¾ acre minimum)
R-R	Rural residential district (16,000 sq. ft. minimum)
R-1	Single-family residential district (9,500 sq. ft. minimum)
R-2	Single-family residential district (7,500 sq. ft. minimum)
R-3	Single-family residential district (6,000 sq. ft. minimum)
R-4	One-, two-, or three-family residential district
R-5	Urban residential district
R-6	Residential mobile home parks and subdivisions district

RM	Residential, multiple-family district
RPD	Residential planned development district
PRR	Planned residential resort district
P-1	General professional office district
P-1A	Limited office district
C-1	Neighborhood commercial district
C-2	General retail commercial and limited services district
C-3	Commercial, wholesale, warehousing, and industrial support district
CR	Commercial recreation district
CP	Commercial parkway district
IPD	Industrial planned development district
M-1	Light manufacturing and industry district
M-2	Heavy manufacturing and industry district
AL	Aquatic lands district
PC	Preservation/conservation district
PSP	Public/semipublic district
WPD	Wellhead protection overlay district
—	Historic preservation overlay district
IL	Institutional limited district
—	Archaeological preservation overlay district
OPH-D	Old Palm Harbor-downtown district
P-RM	Preservation-resource management district
C-T	Transient accommodation overlay district
RBR	Resource-based recreation district
FBR	Facility-based recreation district

(Ord. No. 90-1, § 1(103.6), 1-30-90; Ord. No. 02-42, § 2, 5-21-02; Ord. No. 02-60, § 4, 7-23-02; Ord. No. 11-19, § 4, 6-14-11; Ord. No. 15-32, § 4, 8-18-1)

Sec. 138-312. - Zoning atlas.

The designations, locations, and boundaries of the various zoning districts, which are described in section 138-311, are shown on the official zoning atlas of the county. This atlas consists of four volumes of maps each of which depicts a half section (half square mile) of land or water area and which together comprise a map of the territory of the unincorporated area of the county. Such atlas and all notations, references, data, and other information shown thereon shall, by reference, be adopted and made a part of this chapter.

(Ord. No. 90-1, § 1(102.1), 1-30-90)

Sec. 138-313. - Custody of atlas.

The county administrator or his designee is hereby given custody of the county zoning atlas containing the current maps identified in section 138-312 or those which may be added or substituted as provided in this chapter, which maps he shall hereby keep, care for and maintain in his or his designee's office.

(Ord. No. 90-1, § 1(102.2), 1-30-90)

Sec. 138-314. - Map changes.

Upon adoption of this chapter and immediately after any change of a geographic feature, including but not limited to a zoning change, an annexation, the filing of a subdivision plat, or any other feature which is customarily reflected on these maps, a new map shall be prepared reflecting such change. This new map shall be authenticated by the current date and signature of the county administrator or his designee and shall become an official map to be placed in the zoning atlas in place of the current map. The map replaced shall then be retired and filed with the clerk of the board of county commissioners.

(Ord. No. 90-1, § 1(102.3), 1-30-90)

Sec. 138-315. - Interpretation of district boundaries.

The zone classification of the property shown on zoning maps as determined by the legend appearing in the margin of the maps on which such property appears and the boundaries of the several zones as shown on such maps shall be determined by use of the scale shown thereon. Where uncertainty may exist as to the exact location of any zone boundary, the following rules shall apply:

(1)

Where boundaries are indicated as approximately following street and alley lines, military district lines or lot or parcel lines, such lines shall be construed to be such boundaries. In the instance where such street or alleyway lines are used to designate boundaries, then boundaries shall be considered to be the centerline of such street or alleyway.

(2)

Where a zone boundary line divides a lot or parcel into separate zones, each portion of such lot or parcel shall be limited to the uses prescribed to their particular zoning classification.

(3)

In unsubdivided property, where a district boundary divides a parcel, the location of such boundaries, unless such boundaries are indicated by dimensions, shall be determined by use of the scale appearing on such maps.

(4)

Where a public road, street or alley is officially vacated or abandoned, the regulations applicable to the property to which it is reverted shall apply to such vacated or abandoned road, street or alley.

(5)

In cases of uncertainty, the county administrator, or his designee, shall interpret the zoning map to fix the exact location of boundaries. Any such decision may be appealed to the board of county commissioners.

(6)

In cases where a parcel of unzoned submerged land is to be filled, an application for the zoning of such land shall be filed with the planning department within 30 days after granting of the dredge and fill permit. The clerk of the water and navigation control authority shall notify the planning department when each such dredge and fill application is granted.

(Ord. No. 90-1, § 1(102.4), 1-30-90)

Secs. 138-316—138-350. - Reserved.

ARTICLE IV. - RESIDENTIAL AND AGRICULTURAL DISTRICTS

DIVISION 1. - GENERALLY

Sec. 138-351. - Residential infill development.

This section may be applied to all residential districts as a goal to create compatible and harmonious infill development and redevelopment in established residential neighborhoods. The setback and height requirements of residential districts may be administratively adjusted to allow development and redevelopment to occur in concert with abutting properties. In cases where properties exist in established residential neighborhoods, development of said properties may occur to be compatible with abutting lots in terms of setbacks and height adjustments.

(1)

The proposed infill development may conform to any standards required by valid recorded plats, deed restriction or approved valid site plans, to the extent provided by law; or

(2)

Where such documentation is not available, the setbacks of the proposed infill units shall be based upon the average setbacks of abutting units. [Example: if a proposed infill lot abuts two single-family homes with front setbacks of ten feet and 20 feet, the proposed unit may be constructed with a minimum 15 feet front setback.] This standard shall be applied to the primary structure; accessory structures may not be used in determining the average setback.

(3)

When a primary structure is constructed using a reduced setback afforded by this section, the structural height shall be limited by the average stories/levels of the primary structures on the abutting properties, rounded to the highest story/level. In this case, a structure that utilizes the reduced setback shall be limited to such average stories/levels and may not necessarily be permitted the full building height of the district. In no case shall building height exceed the maximum for the district. This standard is intended to achieve compatible infill development.

(4)

The property owner may pursue the development flexibility afforded in this section by providing proper

documentation to the applicable county reviewing department. Proper documentation may include official surveys, development plans, blueprints or other documentation as may be approved by the county administrator or designee.

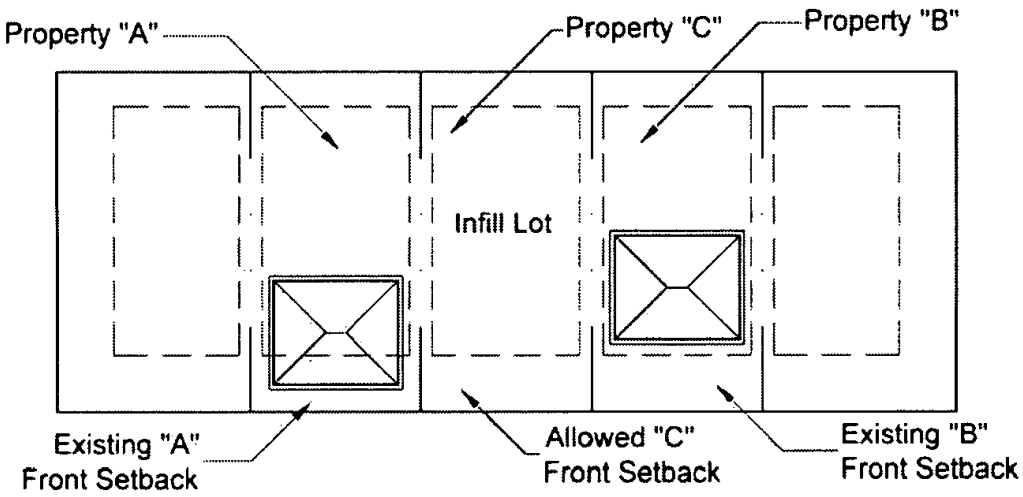

Figure 138-351(d)1—Residential Infill Standards:

Property "C" (infill lot) may be permitted a reduced front structural setback based on the average existing front setbacks of adjacent properties "A" and "B". The average setback of the adjacent properties shall be calculated as follows:

(Existing Front Setback "A" + Existing Front Setback "B") / 2 = Allowed Front Setback "C"

(Ord. No. 15-32, § 5, 8-18-15)

Secs. 138-352—138-375. - Reserved.

DIVISION 2. - A-E, AGRICULTURAL ESTATE RESIDENTIAL DISTRICT (TWO ACRE MINIMUM)[5]

Footnotes:
--- (**5**) ---

Editor's note—Ord. No. 02-60, § 1, adopted July 23, 2002, changed the title of div. 2 from "A-E, Agriculture Estate Residential District" to "A-E, Agriculture Estate Residential District (Two Acre Minimum)".

Sec. 138-376. - Definition, purpose and intent of district.

The A-E, agricultural estate residential district is comprised of large lot, rural/agricultural type of development. Urbanization of these areas is intended to be very limited with primary uses to consist of single-family dwellings in a rural environment, including limited farming activity. General agriculture may also be permitted within this district; however, due to the extensively urbanized character of the county, general agriculture may not be appropriate within a given area of this district and therefore requests for such uses may only be authorized by the board of county commissioners on a case-by-case basis. This district shall include those areas indicated on the zoning atlas maps as AG-5, A-E and A-1.

(Ord. No. 90-1, § 1(201.1), 1-30-90)

Sec. 138-377. - Permitted uses.

Within an A-E, agricultural estate residential zone only single-family dwellings, along with their customary accessory uses may be permitted. Accessory uses may include but shall not be limited to the following:

(1)

General agricultural activities, including the maintaining of livestock with no more than three ungulate animals per acre, but only to the extent as to supply the occupant's personal needs, with the exception that maintaining livestock may include boarding of horses provided the three animals per acre limit is not exceeded.

(2)

Home occupations (see section 138-1335).

(3)

Accessory dwelling unit.

(Ord. No. 90-1, § 1(201.2), 1-30-90; Ord. No. 99-66, § 6, 7-20-99)

Sec. 138-378. - Special exceptions.

Upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter, the following uses may be permitted in the A-E district:

(1)

Day care center.

(2)

Group homes, categories I, II and III.

(3)

See section 138-240 for other special exceptions which may be permitted in this district.

All uses considered as nonresidential approved under this provision shall not exceed a floor area ratio of .30 nor an impervious surface ratio of .60.

(Ord. No. 90-1, § 1(201.3), 1-30-90; Ord. No. 95-28, § 2, 4-18-95)

Sec. 138-379. - Conditional uses.

Upon application to and favorable action by the board of county commissioners, pursuant to article II, division 8 of this chapter, the following conditional uses may be permitted in the A-E district:

(1)

Heliports and helistops.

(2)

Airports or airstrips.

(3)

General agricultural activities other than those permitted in section 138-377. Such activities shall include but are not limited to the following:

a.

Livestock raising.

b.

Dairy farming.

c.

Poultry and egg production.

d.

Apiculture.

e.

Aviaries.

f.

Kennel facilities.

g.

Farm equipment and supplies, sales and service.

h.

Veterinary clinics.

i.

Plant nurseries.

j.

Any general farming activity including sale of products raised or produced on the premises.

k.

Other similar agricultural pursuits.

(4)

Utility substation.

(5)

Government buildings and public uses.

All uses considered as nonresidential approved under this provision shall not exceed a floor ratio of .30 nor an impervious surface ratio of .60.

(Ord. No. 90-1, § 1(201.4), 1-30-90; Ord. No. 95-28, § 2, 4-18-95)

Sec. 138-380. - Property development regulations.

(a)

Maximum height. No structure in the A-E district shall exceed 45 feet except as further provided in this chapter (see section 138-1277).

(b)

Minimum building site area requirements. The minimum building site area requirements in the A-E district are as follows:

(1)

Area: Two acres.

(2)

Width: Ninety feet (see section 138-209).

(3)

Depth: One hundred feet.

See section 138-209 for lots or parcels of substandard dimensions.

(c)

Maximum building area. The maximum area of the lot or parcel in an A-E district which may be covered by structures shall not exceed 25 percent. A minimum of 40 percent of the parcel must remain in open permeable open space.

(d)

Setback requirements (see also section 138-1336). The following minimum setbacks shall be required in the A-E district:

(1)

Front: Fifty feet, measured from any right-of-way line to the structure.

(2)

Side and rear: Twenty-five feet.

(e)

Special requirements. The density of the A-E district shall not exceed one-half unit per acre, or the density permitted by the comprehensive land use plan, whichever is less.

(Ord. No. 90-1, § 1(201.5), 1-30-90; Ord. No. 92-66, § 1, 10-27-92; Ord. No. 00-67, § 2, 8-29-00)

Secs. 138-381—138-400. - Reserved.

DIVISION 3. - E-1, ESTATE RESIDENTIAL DISTRICT (¾ ACRE MINIMUM)[6]

Footnotes:
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Editor's note—Ord. No. 02-60, § 1, adopted July 23, 2002, changed the title of div. 3 from "E-1, Estate Residential District" to "E-1, Estate Residential District (¾ Acre Minimum)".

Sec. 138-401. - Definition, purpose and intent of district.

The E-1, estate residential district is comprised of rural estate residential type of development. Complete urbanization of these areas is not intended as the development of them is primarily of the "home-garden" residential type and a rural atmosphere is maintained. This district shall include those areas indicated on the zoning atlas maps as E-1. Adoption of this chapter will not change this classification designation, but will make this division applicable to it.

(Ord. No. 90-1, § 1(202.1), 1-30-90)

Sec. 138-402. - Permitted uses.

Within any E-1 district, only single-family residences, along with their customary accessory uses shall be permitted. Accessory uses may include but are not limited to the following:

(1)

General agricultural activities, including the maintaining of livestock with no more than three ungulate animals per acre, but only to the extent as to supply the occupant's personal needs, with the exception that maintaining livestock may include boarding of horses provided the three animals per acre limit is not exceeded.

(2)

Home occupations (see section 138-1335).

(3)

Accessory dwelling unit.

(Ord. No. 90-1, § 1(202.2), 1-30-90; Ord. No. 99-66, § 7, 7-20-99)

Sec. 138-403. - Special exceptions.

Upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter, the following uses may be permitted in the E-1 district:

(1)

Day care center.

(2)

Group homes, category I, II or III.

(3)

See section 138-240 for other special exceptions which may be permitted in this district.

All uses considered nonresidential approved under this provision shall not exceed floor area ratio of .30 nor an impervious surface ratio of .60.

(Ord. No. 90-1, § 1(202.3), 1-30-90; Ord. No. 95-28, § 3, 4-18-95)

Sec. 138-404. - Conditional uses.

Upon due application to and favorable action by the board of county commissioners, pursuant to article II, division 8 of this chapter, the following conditional uses may be permitted in the E-1 district:

(1)

Heliports and helistops.

(2)

Utility substations.

(3)

Government buildings and public uses.

All uses considered as nonresidential approved under this provision shall not exceed a floor area ratio of .30 nor an impervious surface ratio of .60.

(Ord. No. 90-1, § 1(202.4), 1-30-90; Ord. No. 95-28, § 3, 4-18-95)

Sec. 138-405. - Property development regulations.

(a)

Maximum height. No structure in the E-1 district shall exceed 45 feet except as further provided in this chapter (see section 138-1277).

(b)

Minimum building site area requirements. The minimum building site area requirements in the E-1 district are as follows:

(1)

Area: Three-fourths acre (32,670 square feet).

(2)

Width and depth: One hundred twenty-five feet (see section 138-1279).

See section 138-209 for lots or parcels of substandard dimensions.

(c)

Maximum building area. In the E-1 district, the maximum area of a lot or parcel to be covered by structures shall be 50 percent. A minimum of 40 percent of the lot or parcel must remain in permeable open space.

(d)

Setback requirements (see also section 138-1281). The following minimum setbacks shall be required in the E-1 district:

(1)

Front: Twenty-five feet measured from any right-of-way line to a structure.

(2)

Side: Fifteen feet.

(3)

Rear: Twenty feet.

(e)

Special requirements. The density of the E-1 district shall not exceed one dwelling unit on each 32,670 square feet of land area or the density permitted by the comprehensive land use plan, whichever is less.

(Ord. No. 90-1, § 1(202.5), 1-30-90; Ord. No. 92-66, § 1, 10-27-92; Ord. No. 00-67, § 3, 8-29-00)

Secs. 138-406—138-430. - Reserved.

DIVISION 4. - R-R, RURAL RESIDENTIAL DISTRICT (16,000 SQUARE FOOT MINIMUM)[7]

Footnotes:
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Editor's note—Ord. No. 02-60, § 1, adopted July 23, 2002, changed the title of div. 4 from "R-R, Rural Residential District" to "R-R, Rural Residential District (16,000 Square Foot Minimum)".

Sec. 138-431. - Definition, purpose and intent of district.

The R-R, rural residential district is comprised of small farms and rural residential type of development. Complete urbanization of these areas is not intended, as the development of them is primarily of the "home-garden" residential type and a rural atmosphere is maintained. This district differs from the next lower residential district (E-1) in that it permits a less restrictive intensity of use. This district shall include all those areas indicated on the zoning atlas maps as E-2, RE, R-R, and RR. Adoption of this chapter will not change these classifications' designations, but will make this division applicable to them.

(Ord. No. 90-1, § 1(203.1), 1-30-90)

Sec. 138-432. - Permitted uses.

Within any R-R, rural residential district, only single-family residences and their customary uses, including but not limited to the following, shall be permitted:

(1)

General agricultural activities, including the maintaining of livestock with no more than three ungulate animals per acre, but only to the extent as to supply the occupant's needs, with the exception that maintaining livestock may include boarding of horses provided the three animals per acre limit is not exceeded. A minimum of one-half acre is required to maintain ungulate animals and horses.

(2)

Accessory dwelling unit.

(3)

Home occupations (see section 138-1335).

(Ord. No. 90-1, § 1(203.2), 1-30-90; Ord. No. 99-66, § 8, 7-20-99)

Sec. 138-433. - Special exceptions.

Upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter, the following uses may be permitted in the R-R, rural residential district:

(1)

Day care center.

(2)

Group homes, category I or II.

(3)

See section 138-240 for other special exceptions which may be permitted in this district.

All uses considered nonresidential approved under this provision shall not exceed a floor area ratio of .30 nor an impervious surface ratio of .60.

(Ord. No. 90-1, § 1(203.3), 1-30-90; Ord. No. 95-28, § 4, 4-18-95)

Sec. 138-434. - Conditional uses.

Upon due application to and favorable action by the board of county commissioners pursuant to article II, division 8 of this chapter, the following conditional uses may be permitted in the R-R district:

(1)

Utility substations.

(2)

Government buildings and public uses.

All uses considered nonresidential approved under this provision shall not exceed a floor area ratio of .30 nor an impervious surface ratio of .60.

(Ord. No. 90-1, § 1(203.4), 1-30-90; Ord. No. 95-28, § 4, 4-18-95)

Sec. 138-435. - Property development regulations.

(a)

Maximum height. No structure in the R-R district shall exceed 45 feet except as further provided in this chapter (see section 138-1277).

(b)

Minimum building site area requirements. The minimum building site area requirements in the R-R district are as follows:

(1)

Area: Sixteen thousand square feet.

(2)

Width: Ninety feet (see section 138-1279).

(3)

Depth: One hundred feet.

See section 138-209 for lots or parcels of substandard dimensions.

(c)

Maximum building area. In the R-R district, the maximum area of the lot or parcel to be covered by structures shall be 50 percent. A minimum of 40 percent of the lot or parcel must remain in permeable open space.

(d)

Setback requirements (see also section 138-1281). The following minimum setbacks shall be required in the R-R district:

(1)

Front: Twenty-five feet, measured from any right-of-way line to a structure.

(2)

Side: Ten feet.

(3)

Rear: Fifteen feet.

(e)

Special requirements. The density of the R-R district shall not exceed one dwelling on each 16,000 square feet of land area or the density permitted by the comprehensive land use plan, whichever is less.

(Ord. No. 90-1, § 1(203.5), 1-30-90; Ord. No. 92-66, § 1, 10-27-92; Ord. No. 00-67, § 4, 8-29-00)

Secs. 138-436—138-460. - Reserved.

DIVISION 5. - R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT (9,500 SQUARE FOOT MINIMUM)[8]

Footnotes:
--- (**8**) ---

Editor's note—Ord. No. 02-60, § 1, adopted July 23, 2002, changed the title of div. 5 from "R-1, Single-Family Residential District" to "R-1, Single-Family Residential District (9,500 Square Foot Minimum)".

Sec. 138-461. - Definition, purpose and intent of district.

The R-1, single-family residential district provides areas of single-family residential development located where lower density single-family uses are desirable. Lots and dwellings are larger sized to provide for the desired density of use. This district shall include all those areas indicated on the zoning atlas maps as R-1. Adoption of this chapter will not change these classification designations, but will make this division applicable to them.

(Ord. No. 90-1, § 1(204.1), 1-30-90)

Sec. 138-462. - Permitted uses.

Within any R-1, single-family residential district, only one-family residences and their customary accessory uses, including but not limited to the following, shall be permitted:

(1)

Accessory dwelling unit.

(2)

Home occupations (see section 138-1335).

(Ord. No. 90-1, § 1(204.2), 1-30-90; Ord. No. 99-66, § 9, 7-20-99)

Sec. 138-463. - Special exceptions.

(a)

Upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter, the following uses may be permitted in the R-1, single-family residential district:

(1)

Day care center.

(2)

Group home, category I.

(3)

See section 138-240 for other special exceptions which may be permitted in this district.

(b)

Nonresidential uses approved by special exception or conditional use shall not exceed a floor area ratio (FAR) of 0.40, nor an impervious surface ratio (SR) of 0.60.

(Ord. No. 90-1, § 1(204.3), 1-30-90; Ord. No. 92-66, § 1, 10-27-92)

Sec. 138-464. - Conditional uses.

Upon application to and favorable action by the board of county commissioners, pursuant to article II, division 8 of this chapter, the following conditional uses may be permitted in the R-1 district:

(1)

Utility substations.

(2)

Government buildings and public uses.

(3)

Nonresidential uses approved by special exception or conditional use shall not exceed a floor area ratio (FAR) of 0.40, nor an impervious surface ratio (SR) of 0.60.

(Ord. No. 90-1, § 1(204.4), 1-30-90; Ord. No. 92-66, § 1, 10-27-92)

Sec. 138-465. - Property development regulations.

(a)

Maximum height. No structure in the R-1 district shall exceed 45 feet in height unless otherwise provided in this chapter (see section 138-1277).

(b)

Minimum building site area requirements. The minimum building site area requirements in the R-1 district are as follows:

(1)

Area: Ninety-five hundred square feet.

(2)

Width: Eighty feet (see section 138-1279).

(3)

Depth: Ninety feet.

See section 138-209 for lots or parcels of substandard dimensions.

(c)

Maximum building area. In the R-1 district, a minimum of 25 percent of the lot or parcel must remain permeable open space.

(d)

Setback requirements (see also section 138-1281). In the R-1 district, the following minimum setbacks shall be required:

(1)

Front: Twenty-five feet, measured from any right-of-way line to a structure.

(2)

Side: Eight feet.

(3)

Rear: Ten feet.

(e)

Special requirements. The density of the R-1 district shall not exceed one dwelling unit on 9,500 square feet of land area or the density permitted by the comprehensive land use plan, whichever is less.

(Ord. No. 90-1, § 1(204.5), 1-30-90; Ord. No. 00-67, § 5, 8-29-00)

Secs. 138-466—138-485. - Reserved.

DIVISION 6. - R-2, SINGLE-FAMILY RESIDENTIAL DISTRICT (7,500 SQUARE FOOT MINIMUM)[9]

Footnotes:
--- (**9**) ---

Editor's note—Ord. No. 02-60, § 1, adopted July 23, 2002, changed the title of div. 6 from "R-2, Single-Family Residential District" to "R-2, Single-Family Residential District (7,500 Square Foot Minimum)".

Sec. 138-486. - Definition, purpose and intent of district.

The R-2, single-family residential district provides areas of single-family residential development located where moderate density single-family uses are desirable. Lots and dwellings are medium size to provide for the desired density of use. This district shall include all those areas indicated on the zoning atlas maps as R1, R2 and R-2. Adoption of this chapter will not change these classification designations, but will make this division applicable to them.

(Ord. No. 90-1, § 1(205.1), 1-30-90)

Sec. 138-487. - Permitted uses.

Within any R-2, single-family residential district, only single-family residences and their customary accessory uses, including but not limited to the following, shall be permitted:

(1)

Accessory dwelling unit.

(2)

Home occupations (see section 138-1335).

(Ord. No. 90-1, § 1(205.2), 1-30-90; Ord. No. 99-66, § 10, 7-20-99)

Sec. 138-488. - Special exceptions.

(a)

Upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of

this chapter, the following uses may be permitted in the R-2 district:

(1)

Day care center.

(2)

Group homes, category I.

(3)

See section 138-240 for other special exceptions which may be permitted in this district.

(b)

Nonresidential uses approved by special exception or conditional use shall not exceed a floor area ratio (FAR) of 0.40, nor an impervious surface ratio (SR) of 0.60.

(Ord. No. 90-1, § 1(205.3), 1-30-90; Ord. No. 92-66, § 1, 10-27-92)

Sec. 138-489. - Conditional uses.

(a)

Upon application to and favorable action by the board of county commissioners, pursuant to article II, division 8 of this chapter, the following conditional uses may be permitted in the R-2 district:

(1)

Utility substations.

(2)

Government buildings and public uses.

(b)

Nonresidential uses approved by special exception or conditional use shall not exceed a floor area ratio (FAR) of 0.40, nor an impervious surface ratio (SR) of 0.60.

(Ord. No. 90-1, § 1(205.4), 1-30-90; Ord. No. 92-66, § 1, 10-27-92)

Sec. 138-490. - Property development regulations.

(a)

Maximum building height. No structure in the R-2 district shall exceed 45 feet in height unless otherwise provided in this chapter (see section 138-1277).

(b)

Minimum building site area requirements. The minimum building site area requirements in the R-2 district are as follows:

(1)

Area: Seven thousand five hundred square feet.

(2)

Width: Seventy feet (see section 138-1279).

(3)

Depth: Eighty feet.

See section 138-209 for lots or parcels of substandard dimensions.

(c)

Maximum building area. In the R-2 district, a minimum of 25 percent of the lot or parcel must remain in permeable open space.

(d)

Setback requirements (see also section 138-1281). The following minimum setbacks shall be required:

(1)

Front: Twenty feet, measured from any right-of-way line to a structure.

(2)

Side: Seven feet.

(3)

Rear: Ten feet.

(e)

Special requirements. The density of the R-2 district shall not exceed one dwelling on each 7,500 square feet of land area or the density permitted by the comprehensive land use plan, whichever is less.

(Ord. No. 90-1, § 1(205.5), 1-30-90; Ord. No. 94-36, § 1, 4-19-94; Ord. No. 00-67, § 6, 8-29-00)

Secs. 138-491—138-520. - Reserved.

DIVISION 7. - R-3, SINGLE-FAMILY RESIDENTIAL DISTRICT (6,000 SQUARE FOOT MINIMUM)[10]

Footnotes:
--- (**10**) ---

Editor's note—Ord. No. 02-60, § 1, adopted July 23, 2002, changed the title of div. 7 from "R-3, Single-

Family Residential District" to "R-3, Single-Family Residential District (6,000 Square Foot Minimum)".

Sec. 138-521. - Definition, purpose and intent of district.

The R-3, single-family residential district is comprised of single-family dwellings with maximum density of land use by single-family residences. This district will provide smaller lots and dwellings for those areas in the county where this type of development is practical. This district shall include those areas indicated on the zoning atlas maps as R-3. Adoption of this chapter will not change this classification designation, but will make this division applicable to them.

(Ord. No. 90-1, § 1(206.1), 1-30-90)

Sec. 138-522. - Permitted uses.

Within any R-3, single-family residential district, only single-family residences and their customary accessory uses, including but not limited to the following, shall be permitted:

(1)

Accessory dwelling unit.

(2)

Home occupations (see section 138-1335).

(Ord. No. 90-1, § 1(206.2), 1-30-90; Ord. No. 99-66, § 11, 7-20-99)

Sec. 138-523. - Special exceptions.

(a)

Upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter, the following uses may be permitted in the R-3 district:

(1)

Day care center.

(2)

Group homes, category I.

(3)

See section 138-240 for other special exceptions which may be permitted in this district.

(b)

Nonresidential uses approved by special exception or conditional use shall not exceed a floor area ratio of 0.40, or an impervious surface ratio of 0.60.

(Ord. No. 90-1, § 1(206.3), 1-30-90; Ord. No. 92-66, § 1, 10-27-92)

Sec. 138-524. - Conditional uses.

(a)

Upon application to and favorable action by the board of county commissioners, pursuant to article II, division 8 of this chapter, the following conditional uses may be permitted in the R-3 district:

(1)

Utility substations.

(2)

Government buildings and public uses.

(b)

Nonresidential uses approved by special exception or conditional use shall not exceed a floor area ratio of 0.40, or an impervious surface ratio of 0.60.

(Ord. No. 90-1, § 1(206.4), 1-30-90; Ord. No. 92-66, § 1, 10-27-92)

Sec. 138-525. - Property development regulations.

(a)

Maximum height. No structures in the R-3 district shall exceed 45 feet in height unless otherwise provided in this chapter (see section 138-1277).

(b)

Minimum building site area requirements. The minimum building site area requirements in the R-3 district are as follows:

(1)

Area: Six thousand square feet.

(2)

Width: Sixty feet (see section 138-1279).

(3)

Depth: Eighty feet.

See section 138-209 for lots or parcels of substandard dimensions.

(c)

Maximum building area. In the R-3 district, a minimum of 25 percent of the lot or parcel must remain in open permeable space.

(d)

Setback requirements (see also section 138-1281). In the R-3 district, the following minimum setbacks shall be required:

(1)

Front: Twenty feet, measured from any right-of-way line to a structure.

(2)

Side: Six feet.

(3)

Rear: Ten feet.

(e)

Special requirements. The density of the R-3 district shall not exceed one dwelling unit on each 6,000 square feet of land area or the density permitted by the comprehensive land use plan, whichever is less.

(Ord. No. 90-1, § 1(206.5), 1-30-90; Ord. No. 94-36, § 1, 4-19-94; Ord. No. 00-67, § 7, 8-29-00)

Secs. 138-526—138-550. - Reserved.

DIVISION 8. - R-4, ONE-, TWO- AND THREE-FAMILY RESIDENTIAL DISTRICT

Sec. 138-551. - Definition, purpose and intent of district.

The R-4, one-, two- and three-family residential district is comprised of areas where the development of single-family dwellings, duplexes, or triplexes is appropriate. It is intended that such areas be located in or near urbanized areas where good transportation facilities and urban services are readily available. This district shall include all areas indicated on the zoning atlas maps as R-4.

(Ord. No. 90-1, § 1(207.1), 1-30-90)

Sec. 138-552. - Permitted uses.

Within any R-4, one-, two- and three-family residential district, only the following uses shall be permitted:

(1)

Single-family dwellings.

(2)

Duplex dwellings.

(3)

Triplex dwellings.

(4)

Customary accessory uses when accessory to permitted uses, including but not limited to:

a.

Home occupations (see section 138-1335).

b.

Accessory dwelling unit (only on lots where one single-family residence is located).

(Ord. No. 90-1, § 1(207.2), 1-30-90; Ord. No. 99-66, § 12, 7-20-99)

Sec. 138-553. - Special exceptions.

(a)

Upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter, the following uses may be permitted in the R-4 district:

(1)

Day care center.

(2)

Group homes, category I.

(3)

See section 138-240 for other special exceptions which may be permitted in this district.

(b)

Nonresidential uses approved by special exception or conditional use shall not exceed a floor area ratio of 0.50, nor an impervious surface ratio of 0.75.

(Ord. No. 90-1, § 1(207.3), 1-30-90; Ord. No. 92-66, § 1, 10-27-92)

Sec. 138-554. - Conditional uses.

(a)

Upon application to and favorable action by the board of county commissioners, pursuant to article II, division 8 of this chapter, the following conditional uses may be permitted in the R-4 district:

(1)

Utility substations.

(2)

Government buildings and public uses.

(b)

Nonresidential uses approved by special exception or conditional use shall not exceed a floor area ratio of 0.50 nor an impervious surface ratio of 0.75.

(Ord. No. 90-1, § 1(207.4), 1-30-90; Ord. No. 92-66, § 1, 10-27-92)

Sec. 138-555. - Property development regulations.

(a)

Maximum building height. No structure shall exceed 45 feet in height unless otherwise provided in this chapter (see section 138-1277).

(b)

Building site area requirements. The minimum building site area requirements in the R-4 district are as follows:

(1)

Area: Seven thousand five hundred square feet, minimum.

(2)

Width: Seventy-five feet (see section 138-1279).

(3)

Depth: Eighty feet.

(4)

Platting of single-family attached dwellings to allow individual unit ownership is permitted provided the duplexes or triplexes subject to platting were initially approved subject to the provisions of R-4 zoning. No such platting shall be approved by the zoning division until such time as a final site plan for the project has been reviewed and approved by the zoning division for construction purposes. Provisions for parking and easements for access to units and parking areas are required and are to be recorded as part of the plat, and must be shown on the submitted site plan. Easements for maintenance shall be required where necessary. The unit access easements are to be a minimum of four feet in width. It is the intent of this section to allow individual dwelling unit fee simple ownership without creating a nonconforming building area requirement.

Lots of record which were platted on or before February 5, 1963, shall permit one dwelling unit for each full 2,500 square feet of lot area subject to density restrictions as contained in subsection (e) of this section, (section 138-209 shall not apply to this subsection). No structure may contain more than three dwelling units.

(c)

Maximum building area. In the R-4 district, a minimum of 25 percent of the site must remain in open permeable area.

(d)

Setback requirements (see also section 138-1281). In the R-4 district, the following minimum setbacks shall be required:

(1)

Front: Twenty-five feet, measured from any right-of-way line to a structure. Corner lots of record as of February 5, 1963, which are less than 75 feet in width may provide a 15-foot setback along the area considered the side street, which for purpose of this chapter shall be the long side of the lot.

(2)

Side: Seven and one-half feet.

(3)

Rear: Ten feet.

(e)

Special requirements. The maximum density of the R-4 district shall be one unit for each full 2,500 square feet of lot area (no structure may contain more than three dwelling units) or the density permitted by the comprehensive land use plan, whichever is less.

(Ord. No. 90-1, § 1(207.5), 1-30-90; Ord. No. 00-67, § 8, 8-29-00)

Secs. 138-556—138-580. - Reserved.

DIVISION 9. - R-6, RESIDENTIAL, MOBILE HOME PARKS AND SUBDIVISIONS DISTRICT

Sec. 138-581. - Definition, purpose and intent of district.

The R-6, residential, mobile home parks and subdivisions district is composed of single-family residential areas comprised of mobile homes. Utilization of contemporary design practice is encouraged and developers shall avoid the monotony of obsolete rectilinear or herringbone patterns. This district shall include those areas indicated on the zoning atlas maps as R-6.

(Ord. No. 90-1, § 1(208.1), 1-30-90)

Sec. 138-582. - Permitted uses.

Within the R-6, residential, mobile home parks and subdivisions district, only the following uses shall be permitted:

(1)

Mobile homes and single-family dwellings in subdivisions.

(2)

Mobile homes in mobile home parks.

(3)

Customary accessory uses such as maintenance areas, laundry areas, recreational facilities, storage facilities for residents.

(Ord. No. 90-1, § 1(208.2), 1-30-90; Ord. No. 04-29, § 3, 4-13-04; Ord. No. 11-19, § 5, 6-14-11)

Sec. 138-583. - Special exceptions.

Section 138-240 contains special exceptions which may be permitted in the R-6 district, upon application to the board of adjustment and favorable action thereon pursuant to article II, division 7 of this chapter.

Any use considered nonresidential approved under this provision shall not exceed a floor area ratio of .40 nor an impervious surface ratio of .65.

(Ord. No. 90-1, § 1(208.3), 1-30-90; Ord. No. 95-28, § 5, 4-18-95)

Sec. 138-584. - Mobile home park development standards.

The following provisions apply to mobile home parks:

(1)

Maximum building height. Thirty-five feet (also see section 138-1277).

(2)

Minimum building site area requirements.

a.

Area: Fifteen acres.

b.

Width: One hundred fifty feet (see section 138-1279).

c.

Depth: Two hundred feet.

d.

Lot requirements: Each mobile home site or space shall be at least 3,500 square feet in area and be at least 20 feet wide where such lot abuts any public or private roadway or drive. Twenty-five percent of the spaces to be provided in a mobile home park may be a minimum of 3,000 square feet, provided that for each such space one space shall be provided with at least 4,000 square feet. Lot area shall be exclusive of street or drive. See section 138-209 for lots or parcels of substandard dimensions.

(3)

Minimum and maximum building areas. Total structural coverage shall not exceed 40 percent of the site area.

(4)

Setback requirements (see also section 138-1281). The following minimum setbacks shall be required:

a.

Outer perimeter of park:

1.

Front: Twenty-five feet, measured from any publicly dedicated right-of-way line to a structure.

2.

Side: Ten feet (when abutting perimeter).

3.

Rear: Ten feet (when abutting perimeter).

b.

Interior lots:

1.

No part of any structure, except the trailer hitch, shall be closer than ten feet from the edge of any interior roadway.

2.

Side and rear yards shall be five feet from lot lines.

(5)

Special requirements.

a.

Maximum density. Maximum density shall not exceed eight mobile home units per gross acre or the density permitted by the comprehensive land use plan, whichever is less.

b.

Street requirements. Roadways or streets within a mobile home park may be private, but the following requirements shall apply:

1.

Internal collector streets shall be 30 feet in width, with a minimum of 24 feet of paved surface.

2.

Internal minor streets shall be 25 feet in width, with a minimum of 20 feet of paved surface.

3.

A collector street shall be defined as a street designed to facilitate adequate traffic flow from two or more internal minor streets to dedicated rights-of-way. All streets which provide ingress and egress from dedicated public rights-of-way shall be deemed to be collector streets. All other streets within the park may be internal minor streets.

4.

Except as otherwise provided in this chapter, the design and construction of roads, streets, drives, utilities and drainage installations shall be in compliance with the minimum standards of the site development regulations and the county utilities system. The county administrator may require a state registered engineer to provide a statement of such compliance prior to the issuance of a certificate of occupancy.

c.

Recreation area requirements. Not less than ten percent of the gross site area shall be devoted to open space and recreation facilities, generally provided in a central location, or in larger sites, decentralized. Such areas include space for community buildings and community use facilities, such as recreation and play areas, swimming pools and open space.

(Ord. No. 90-1, § 1(208.5P), 1-30-90; Ord. No. 90-55, § 1, 7-24-90)

Sec. 138-585. - Mobile home subdivision development standards.

The following provisions apply to mobile home subdivisions:

(1)

Maximum building height. Thirty-five feet (also see section 138-1277).

(2)

Minimum building site area requirements.

a.

Area: Six thousand square feet.

b.

Width: Sixty feet (see section 138-1279).

c.

Depth: Eighty feet.

Areas for new mobile home subdivisions shall consist of a minimum of ten acres. See section 138-209 for lots or parcels of substandard dimensions.

(3)

Maximum area of land coverage. The maximum area of land coverage by structures shall be 40 percent of the entire area of the lot or parcel. A minimum of 25 percent of the lot or parcel must remain in open permeable space.

(4)

Setback requirements (also see section 138-1281). The following minimum setbacks shall be required:

a.

Front: Shall be a minimum of 25 feet in depth measured from a right-of-way line to the front of the structure; provided, however, that permitted structures on substandard lots in a mobile home subdivision of record prior to May 7, 1963, shall be set back a minimum of 15 feet in depth, measured from the right-of-way line to the front of the structure.

b.

Side: Six feet.

c.

Rear: Ten feet.

(5)

Special requirements.

a.

Maximum density. The maximum density of a mobile home subdivision shall be one mobile home on a 6,000-square- foot lot or the density permitted by the comprehensive land use plan, whichever is less.

b.

Subdivision standards. A mobile home subdivision shall be platted in accordance with the standards of this chapter and chapter 154 of this Code.

(Ord. No. 90-1, § 1(208.5S), 1-30-90; Ord. No. 90-55, § 1, 7-24-90)

Sec. 138-586. - Effective date.

(a)

Any real property zoned R-6 after January 30, 1990, shall comply with all of the provisions set forth in this division. Any legally established mobile home park in existence on or prior to January 30, 1990, may continue to operate in accordance with approved plans and in accordance with the regulations which were in effect at the time of the park's site plan approval. Legally established mobile home parks in existence prior to

February 5, 1963, may continue to operate in accordance with approved plans subject to compliance with the zoning regulations in effect on the date of such approval.

(b)

Any additions, expansions or substantial changes to existing mobile home parks or subdivisions shall comply with the provisions of the current requirements of this division.

(Ord. No. 90-1, § 1(208.6), 1-30-90)

Secs. 138-587—138-610. - Reserved.

DIVISION 10. - RM, RESIDENTIAL, MULTIPLE-FAMILY DISTRICT

Sec. 138-611. - Definition, purpose and intent of district.

The RM, residential, multiple-family district is intended to provide a broad range of residential development types and intensities. This district shall include those areas indicated on the zoning atlas maps as RM and R-5. Adoption of this chapter will not change these classification designations, but will make this division applicable to them.

(Ord. No. 90-1, § 1(209.1), 1-30-90)

Sec. 138-612. - Permitted uses.

Within any RM, residential, multiple-family district, only the following uses shall be permitted:

(1)

Single-family dwellings, attached or detached, and multifamily dwellings, and their customary accessory uses, including but not limited to:

a.

Home occupations (see section 138-1335).

b.

Accessory dwelling unit (accessory only to single-family dwellings).

(2)

Storage areas for use by residents only. Such areas shall be screened by opaque fencing or landscaping a minimum of six feet in height with such fencing to comply with all other applicable portions of this chapter.

(3)

Group homes, category II, only under the following conditions:

a.

The facility shall not be located within 1,200 feet of another group home or congregate care facility.

b.

The facility shall not be within 500 feet of the boundary of any property zoned for single-family homes or within any area utilized by single-family homes.

c.

The facility shall obtain a license, when required, from the appropriate state licensing entity prior to commencing operation.

d.

Refer to section 138-1282 for restrictions on the location or expansion of group home facilities.

(Ord. No. 90-1, § 1(209.2), 1-30-90; Ord. No. 90-55, § 1, 7-24-90; Ord. No. 99-66, § 13, 7-20-99; Ord. No. 11-19, § 6, 6-14-11)

Sec. 138-613. - Special exceptions.

Upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter, the following uses may be permitted in the RM district:

(1)

Day care center.

(2)

Group homes, category I (in single-family areas).

(3)

Group homes, category III (in multifamily areas only).

(4)

Congregate care facilities. Maximum number of beds shall be three times the permitted density.

(5)

See section 138-240 for other special exceptions which may be permitted in this district.

(Ord. No. 90-1, § 1(209.3), 1-30-90; Ord. No. 90-55, § 1, 7-24-90; Ord. No. 00-67, § 11, 8-29-00)

Sec. 138-614. - Conditional uses.

Upon application to and favorable action by the board of county commissioners, pursuant to article II, division 8 of this chapter, nursing homes may be permitted as a conditional use in the RM district. The maximum number of beds shall be 2.5 times the permitted density.

(Ord. No. 90-1, § 1(209.4), 1-30-90)

Sec. 138-615. - Property development regulations.

(a)

Maximum height. No structure in the RM district shall exceed 45 feet in height unless otherwise provided in this chapter (see section 138-1277).

(b)

Building site area requirements. The minimum building site area requirements in the RM district are as follows:

(1)

Area: Seven thousand five hundred square feet.

(2)

Width: Seventy-five feet (see section 138-1279).

(3)

Depth: Eighty feet.

See section 138-209 for lots or parcels of substandard dimensions.

(c)

Maximum area of land coverage. In the RM district, the maximum area of land coverage by structures shall not exceed 40 percent of the lot area; minimum common open space and recreation area shall be 20 percent. One-third of the open area shall be in one location on the site. Nonresidential uses approved by special exception or conditional use shall not exceed the floor area ratio nor the impervious surface ratio associated with the companion land use designation's limits established in table 33 of the future land use element of the comprehensive plan.

(d)

Setback requirements (see also section 138-1281). In the RM district, the following minimum setbacks shall be required:

(1)

For single-family dwelling structures and their customary accessory uses:

a.

Front: Twenty-five feet from any publicly dedicated right-of-way.

b.

Side: Seven and one-half feet.

c.

Rear: Ten feet.

(2)

For multifamily dwelling structures, their customary accessory uses, and all other structures:

a.

Front: Twenty-five feet from any publicly dedicated right-of-way.

b.

Side: Fifteen feet.

c.

Rear: Twenty feet.

(3)

All structures shall be a minimum of 35 feet from the pavement edge of any private street lying within the RM district. For the purpose of this section, a private street is considered to be a roadway not dedicated to the public providing general access and circulation of traffic through this district. Private streets do not include the drive-through areas of parking lots.

(4)

All principal structures shall be separated by not less than 15 feet.

(5)

Detached open carports which are supported by columns which have a maximum cross-sectional dimension of six inches or less may be permitted with no required front yard setback, provided no portion of the carport, including overhang, extends into the vehicular street or roadway. This portion of the regulation shall not be permitted in single-family areas, nor shall any carport be permitted within the right-of-way of any publicly dedicated street or roadway. No carport shall be permitted within 25 feet of the right-of-way of any street or roadway which is defined as a collector or arterial by the county traffic corridors plan as incorporated into the site development regulations.

(6)

No multifamily structure shall be located within 25 feet of any parcel zoned, utilized, or approved for single-family dwellings.

(e)

Special requirements.

(1)

Streets or roads, sidewalks, utilities, and drainage. Streets or roads, sidewalks, utilities, and drainage installations shall be in compliance with chapter 154, chapter 158, and chapter 170, article III of this Code and the standards of the county utilities system. The county administrator may require a state registered engineer to provide a statement of such compliance prior to the issuance of any certificates of occupancy.

(2)

Permitted density. The allowed density within an RM district shall not exceed the following:

RM-2.5, 2.5 units per acre.

RM-5.0, 5.0 units per acre.

RM-7.5, 7.5 units per acre.

RM-10.0, 10.0 units per acre.

RM-12.5, 12.5 units per acre.

In no case shall the density exceed that permitted by the comprehensive land use plan for the area in question.

(3)

Location and density criteria. The location and density of an RM zoning district shall be consistent with the adopted comprehensive plan and accepted planning and zoning criteria, including, but not limited to, compatibility of use with adjacent and nearby uses and/or zoning, compatibility of intensity of use, impact on the transportation system and other public facilities, and environmental considerations.

(4)

Calculation of site area. The gross area of a building site shall be calculated based on the site plan applicant's ownership of RM, residential multi-family zoned land area. No density credit will be given for any submerged areas (areas below mean high water). This provision shall not apply to developments approved prior to the adoption date (April 18, 1995) of this provision. Such developments may continue according to their approved site plan provided such plan approval has not expired.

(5)

Platting of multifamily or attached single-family dwelling areas. Areas which propose development and platting of multifamily or attached single-family dwellings shall be developed in accordance with section 138-645(e)(8).

(Ord. No. 90-1, § 1(209.5), 1-30-90; Ord. No. 90-55, § 1, 7-24-90; Ord. No. 92-66, § 1, 10-27-92; Ord. No. 95-28, § 6, 4-18-95; Ord. No. 00-67, § 9, 8-29-00)

Secs. 138-616—138-640. - Reserved.

DIVISION 11. - RPD, RESIDENTIAL PLANNED DEVELOPMENT DISTRICT

Sec. 138-641. - Definition, purpose and intent of district.

The RPD, residential planned development district allows variable density residential areas along with

supporting accessory uses. Within such districts both single-family and multiple-family dwellings may be permitted. Construction in this zone is not authorized, however, without prior approval of an overall development plan that satisfies the special requirements and standards established for this district to ensure adequate open space; appropriate densities; proper ingress and egress and circulation of traffic. The intent of this district is to encourage use of imaginative design, to avoid monotonous repetition of pattern, to provide adequate open space and to permit flexibility of site design. It is further the intent that adequate spatial and/or vegetative buffers be required between uses that are characteristically different by density or design. This district shall include those areas on the zoning atlas maps designated as RPD.

(Ord. No. 90-1, § 1(210.1), 1-30-90)

Sec. 138-642. - Permitted uses.

Within any RPD, residential planned development district, only the following uses shall be permitted:

(1)

Single-family dwelling, attached or detached, and the customary accessory uses, including accessory dwelling units.

(2)

Multiple-family dwellings and their customary accessory uses.

(3)

Group homes, category II, only under the following conditions:

a.

The facility shall not be located within 1,200 feet of another group home or congregate care facility.

b.

The facility shall not be located within 500 feet of the boundary of any property zoned for single-family homes or utilized under an RPD overall development plan as single-family.

c.

The facility shall obtain a license, when required, from the appropriate state licensing entity prior to commencing operation. Additionally, the facility may not be located within any area designated for use by single-family homes.

d.

Refer to section 138-1282 for restrictions on the location or expansion of group home facilities.

(4)

Accessory uses to primarily serve the residents of the district as follows:

a.

Public and semipublic parks, playgrounds, schools, churches, day care centers in multifamily areas, community buildings, recreation rooms, meeting facilities, and other community related facilities. Structures and playground areas, when used for these facilities, shall be located at least 50 feet from any adjacent parcels used for residential purposes.

b.

Marinas which provide launching, docking and storage of boats for use of the residents of the residential planned development (see section 138-1342).

c.

Golf courses. (These may be calculated as recreational space as is hereinafter required.) The clubhouse and associated structures shall be located at least 150 feet from any residential dwelling structure.

d.

Public or private utility substation, lift station and other accessory uses, provided there is no storage of trucks or materials on the site.

e.

Storage areas for personal use only by residents of the residential planned development. Such areas shall be screened by opaque fencing or landscape material a minimum of six feet in height with such fencing to comply with all other applicable portions of this chapter.

When located on a lot or parcel which is greater than three acres, the accessory uses outlined above shall be identified by the future land use map as institutional or such other category as is appropriate for the applicable use, as defined in table 33 of the future land use element of the comprehensive plan.

(Ord. No. 90-1, § 1(210.2), 1-30-90; Ord. No. 90-55, § 1, 7-24-90; Ord. No. 93-13, 2-16-93; Ord. No. 99-66, § 14, 7-20-99; Ord. No. 11-19, § 7, 6-14-11)

Sec. 138-643. - Special exceptions.

Upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter, the following uses may be permitted in the RPD district:

(1)

Group homes, category III, except in single-family areas.

(2)

Congregate care facilities. Maximum number of beds shall be three times the permitted density.

(3)

Specially designed residential developments. Since the intent of the RPD district is to encourage imaginative design, avoid monotonous repetition of pattern, provide adequate open space, and permit flexible site design, the board of adjustment may, upon proper finding, grant special exceptions for specially designed residential

developments which may not comply with all specific requirements of section 138-645. Such developments, however, shall comply with article II, division 7 of this chapter and section 138-645(a), (b), (c) and (e)(1) through (e)(6) and shall substantially be in accordance with the purpose and intent of this chapter. All setbacks as required from the perimeter of the district and from public rights-of-way shall be met.

(4)

See section 138-240 for other special exceptions which may be permitted in this district.

(Ord. No. 90-1, § 1(210.3), 1-30-90; Ord. No. 00-67, § 12, 8-29-00)

Sec. 138-644. - Conditional uses.

Upon due application to and favorable action by the board of county commissioners, pursuant to article II, division 8 of this chapter, the following conditional uses may be permitted in the RPD district:

(1)

Nursing homes. Maximum number of beds shall be 2.5 times the permitted density.

(2)

Heliports or helistops.

(3)

Utility substations.

(4)

Government buildings and public uses.

(Ord. No. 90-1, § 1(210.4), 1-30-90)

Sec. 138-645. - Property development regulations.

(a)

Maximum height. No structure in the RPD district shall exceed 70 feet in height; except single-family dwellings, which shall not exceed 45 feet in height (see section 138-1277).

(b)

Maximum density and area requirements. The minimum site area and maximum density requirements for the RPD district are as follows:

Zoning district	Minimum site area (acres)	Maximum density (units per acre)
RPD-0.5	2	0.5

RPD-1	2	1.0
RPD-2.5	2	2.5
RPD-5	2	5.0
RPD-7.5	2	7.5
RPD-10	2	10.0
RPD-12.5	2	12.5

(c)

Minimum and maximum building areas. The following area requirements shall apply in the RPD district:

(1)

Maximum area of land coverage by all structures shall not exceed 40 percent of the gross site area.

(2)

Calculation of site area. The gross area of a building site shall be calculated based on the site plan applicant's ownership of RPD, residential planned development zoned land area. No density credit will be given for any submerged areas (areas below mean high water). This provision shall not apply to developments approved prior to the adoption date (April 18, 1995) of this provision. Such developments may continue according to their approved site plan provided such plan approval has not expired.

(3)

Minimum common open space and recreation area required shall not be less than 20 percent of the total site area. Common open space and recreation area shall be defined as the total amount of area, including outdoor space, permanently set aside and designated on the site plan specifically for open space and recreational areas for the residential planned development. It is further required that a minimum of one-third of the space must be contained in one location.

(4)

Nonresidential uses (approved by special exception or conditional use) shall not exceed the floor area ratio (FAR) nor the impervious surface ratio (ISR) associated with the companion land use designation's limits established in Table 33 of the future land use element of the comprehensive plan.

(d)

Setbacks and distances between structures (see also subsections (e)(8), (e)(9), (e)(10) of this section and section 138-1281)). The following setbacks and distances shall apply in the RPD district, except as otherwise provided herein:

(1)

The minimum distance between principal structures shall be 15 feet from wall to wall, and a minimum

setback of 25 feet shall be required from any structure to the edge of any publicly dedicated right-of-way. A minimum of 35 feet from the edge of the pavement of any private street lying within the RPD district to any structure shall be required. For the purpose of this section, a private street shall be considered to be a roadway not dedicated to the public providing general access and circulation of traffic through this district, not including the drive-through areas of parking lots.

(2)

A minimum setback of 25 feet shall be maintained between all structures (except detached single-family dwellings and their accessory uses) and the perimeter of the RPD district.

(3)

A multiple-family dwelling shall not be located within 25 feet of any area designated on the site plan for the use of single-family dwellings.

(4)

For structures (not including detached single-family dwellings) over 35 feet in height, there shall be an additional one foot of setback at ground level for each additional two feet of height above the first 35 feet. This provision shall apply to all setbacks referenced within this subsection (d).

(5)

Detached open carports which are supported by columns which have a maximum cross-sectional dimension of six inches or less may be permitted with no required front yard setback from a private road, provided no portion of the carport including overhang extends into the vehicular street or roadway. This provision shall not be permitted in single-family areas, nor shall any carport be permitted within 25 feet of any publicly dedicated street or roadway.

(e)

Special requirements. The following special requirements apply in the RPD district.

(1)

Overall development plan required: An acceptable overall development plan as referenced in section 138-641 is required prior to the submittal of a site plan for any portion or phase of development of the project. An overall development plan shall include:

a.

Those items required in section 138-178(a)(1) and (a)(2), except that a tree survey is not required.

b.

Identification of the major street system throughout the project.

c.

All proposed use areas identified by type, acreage, number of dwelling units, height of buildings, and square

footage of floor area.

(2)

Deviation between site plan(s) and overall development plan: In the event a site plan is submitted pursuant to article II, division 5 of this chapter, which in the opinion of the county administrator or his designee constitutes a substantial deviation from the accepted overall development plan, an examiner's hearing, pursuant to sections 138-79, 138-80 and 138-81, shall be held to determine whether or not the proposed site plan creates a sufficient adverse impact to warrant its denial and concurrent revision to the accepted overall development plan. In the event the proposed site plan and corresponding revision to the accepted overall development plan is denied by the zoning examiner, the applicant shall have the right to appeal such denial to the board of county commissioners. In the event the board of county commissioners approves the proposed site plan and corresponding revised overall development plan, sufficient conditions may be required as are deemed necessary and reasonable by the board of county commissioners to minimize the impact of the project on adjacent properties or those already developed in the residential planned development to ensure compliance with the purpose and intent of this district and other applicable provisions of this chapter.

(3)

Transfers of development rights within the RPD: Building allocation, provision for open spaces and preservation areas may be permitted among and between the various residential planned development districts provided the districts are contiguous and are considered as a single master planned development under the unified control of an individual, partnership, corporation, or a grouping thereof. Requests for approval of such a development shall include competent evidence of unified control of the entire area within the proposed development and shall state agreement that:

a.

The development will be in accordance with an overall master development plan of the entire area under unified control.

b.

Development successors in title shall be bound by commitments made by the overall master development plan. Such commitments shall include but not be limited to maximum project density, overall requirements for open spaces and preservation areas, building coverage allocation, and allocation for incidental commercial uses.

c.

Revision to the overall master development plan is permitted in accordance with this section; however, all portions of the project shall be in strict accord with the provisions of the revised overall master development plan.

(4)

Lot area frontage: Every structure containing dwelling units shall have access to a public right-of-way directly or via a court, walkway or other area dedicated to public use or owned and maintained by a homeowner's association, but need not front on a right-of-way.

(5)

Development standards: Streets or roads, sidewalks, utilities and drainage installations shall be in compliance with chapter 154, chapter 158 and chapter 170, article III of this Code and the standards of the county utilities system. The county administrator may require a state registered engineer to provide a statement of such compliance prior to the issuance of a certificate of occupancy.

(6)

Sidewalks: Sidewalks shall be required on both sides of all streets and roads where such streets and roads are adjacent to residential uses or recreational uses, and shall be required at all other locations where pedestrian and vehicular traffic may conflict. When determined unnecessary or impractical to accomplish, these requirements may be waived by the county administrator. Request for such waivers shall be submitted in writing to the zoning division.

(7)

Single-family detached dwellings: All portions of planned developments which propose single-family detached dwellings shall be platted in accordance with chapter 154 with lots of 6,000 square feet minimum. Setback requirements shall be 25 feet front yard, 7.5 feet side yards and ten feet rear yard (see also section 138-1281). This provision shall permit single-family cluster development provided each lot has a minimum of ten feet of frontage on an easement dedicated on the plat to the homeowners for ingress and egress. Such easement shall not be greater in length than 200 feet measured from the point between the furthest lot to a publicly dedicated right-of-way.

(8)

Platting of multifamily dwellings or attached single-family dwellings:

a.

All portions of a planned development which propose platting of multifamily dwellings or attached single-family dwellings shall require all platted lots to contain a minimum of ten feet of frontage on a permanent easement for access which has been legally described and recorded as a part of the plat. Any such easement shall be of a minimum width of 24 feet. This provision for platting of attached dwelling units shall only be permitted in those areas where there is only one level of ownership. This provision shall not permit platting of multilevel condominium type ownerships. No such platting shall be approved by the zoning division until such time as a final site plan for that portion of the project in question has been reviewed and approved by the zoning division for construction purposes.

b.

Setbacks for these structures and their customary accessory uses shall be as follows. In addition to the requirements listed below, all structures must also conform to any additional requirements imposed by subsection (d) of this section or section 138-1281.

1.

Front: Twenty-five feet from publicly dedicated right-of-way or 35 feet from edge of pavement of private street (see subsection (d) of this section).

2.

Side: For the principal structure, the side yard shall be zero feet except that end units shall maintain setbacks of 15 feet from any other structure. Accessory structures shall maintain a 7.5-foot side yard setback.

3.

Rear yard: Principal structures shall maintain a ten-foot rear yard setback when abutting other attached single-family units or multifamily structures. Accessory structures shall maintain a rear yard of ten feet or as required by section 138-1281 when abutting other attached single-family units or multifamily structures.

Accessory structures (except in-ground pools and spas) may be located with no side or rear yard setbacks from the property line of the individual lot or parcel upon which the accessory structure is located provided a drainage plan for the overall subdivision is reviewed and approved by the engineering and environmental management departments as a part of site plan approval. In-ground pools and spas shall maintain a five-foot separation from the main structure and side lot lines or as determined acceptable by the building department. This provision shall not apply when the lot or parcel abuts a street or roadway, the perimeter of the district or an area developed with single-family homes. Where these circumstances exist, normal setbacks as required by subsection (d) of this section and section 138-1281 shall apply.

All structures must comply with all building and fire codes as determined by the building department.

(9)

Zero lot line: Zero lot line single-family detached dwellings may be permitted subject to the following conditions:

a.

All zero lot line single-family detached projects shall be platted in accordance with the site development regulations with lots a minimum of 4,500 square feet.

b.

All structures shall have a required front setback of 25 feet and a required rear setback of ten feet.

c.

Side setbacks shall be none on one side lot line and a minimum of 15 feet on the opposite side of the lot.

d.

The building envelope shall be shown on the final site plan and final plat with minimum setbacks shown.

e.

A maintenance easement of five feet shall be designated on all lots adjacent to the zero lot line boundary. Eaves and awnings shall not project into this easement more than 12 inches, except as may be required by building, fire or life safety codes.

f.

Windows and doors shall not be permitted in the side of the structure adjacent to the zero lot line, except as may be required by building, fire or life safety codes.

(10)

Additional provisions: All properties zoned PRD or RPC prior to January 30, 1990, shall be classified under this chapter according to the density indicated on the approved plans on file in the zoning division as of the date of adoption of this section. Areas designated for accessory commercial or office uses within an overall development plan of an existing residential planned development, approved by the county prior to the adoption of this section may be developed and used in accordance with the overall development plan in effect at the time of adoption of this section. Such commercial or office use shall be accessory and incidental to the residential planned development pursuant to section XXXIII, paragraph C.3.1., c., d. and h. of the zoning regulations in effect immediately prior to the adoption of this section and shall be limited to 25 square feet of commercial or office floor space for each dwelling unit proposed by the overall development plan then in effect. For the purpose of this subsection (e)(10), office uses shall be permitted within an area designated for commercial use. No other commercial or office uses shall be permitted within this district except as provided by this chapter.

(Ord. No. 90-1, § 1(210.5), 1-30-90; Ord. No. 90-55, § 1, 7-24-90; Ord. No. 92-66, § 1, 10-27-92; Ord. No. 93-88, § 1, 10-19-93; Ord. No. 94-36, § 1, 4-19-94; Ord. No. 95-28, § 7, 4-18-95; Ord. No. 00-67, § 10, 8-29-00)

Secs. 138-646—138-675. - Reserved.

DIVISION 12. - PRR, PLANNED RESIDENTIAL RESORT DISTRICT

Sec. 138-676. - Definition, purpose and intent of district.

The PRR, planned residential resort district allows large-scale resort residential facilities with variable densities. The purpose of the district is to provide destination type facilities to include residential accommodations along with accessory recreational and entertainment facilities, all of which are provided within a residential type setting and atmosphere. This district encourages large open spaces, imaginative design, and adequate spatial and/or vegetation buffers. This district shall include those areas on the zoning atlas maps designated as PRR.

(Ord. No. 90-1, § 1(211.1), 1-30-90)

Sec. 138-677. - Permitted uses.

Within any planned residential resort district, only the following uses may be permitted:

(1)

Single-family dwellings and the customary accessory uses.

(2)

Multiple-family dwellings and their customary accessory uses.

(3)

Transient guest accommodations (for the purpose of this section, the density of transient guest accommodations shall be the same as residential density).

(4)

Accessory uses to primarily serve the residents of the district as follows:

a.

Parks, playgrounds, and similar recreational uses. All structures, playgrounds, tennis courts or similarly intensive recreational uses shall be located at least 50 feet from any adjacent property used for residential purposes.

b.

Marinas which provide launching docks and storage of boats for use by residents of the district (see section 138-1342).

c.

Golf courses, the clubhouse and associated structures shall be located at least 150 feet from any residential dwelling structure.

d.

Recreation facilities (clubhouses, indoor racquetball courts, gyms, etc.), entertainment and convention facilities for use by residents and guests.

e.

Storage areas for personal use only by residents and guests of the planned residential resort. Such areas shall be screened by opaque fencing or landscape material a minimum of six feet in height with such fencing to comply with all other applicable portions of this chapter.

(Ord. No. 90-1, § 1(211.2), 1-30-90)

Sec. 138-678. - Special exceptions.

Section 138-238 contains special exceptions which may be permitted in the planned residential resort district, upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter.

(Ord. No. 90-1, § 1(211.3), 1-30-90)

Sec. 138-679. - Conditional uses.

Upon application to and favorable action by the board of county commissioners, pursuant to article II, division 8 of this chapter, the following conditional uses may be permitted in the PRR district:

(1)

Heliports or helistops.

(2)

Government buildings and public uses.

(3)

Utility substations.

(Ord. No. 90-1, § 1(211.4), 1-30-90)

Sec. 138-680. - Property development regulations.

(a)

Maximum height. No structure in the PRR district shall exceed 70 feet, except single-family dwellings, which shall not exceed 35 feet (see section 138-1277).

(b)

Maximum density and area requirements. The minimum building site area and the maximum density permitted in the PRR district are as follows:

Zoning district	Minimum site area (acres)	Maximum density (units per acre)
PRR-0.5	50	0.5
PRR-1	50	1.0
PRR-2.5	50	2.5
PRR-5	50	5.0
PRR-7.5	50	7.5
PRR-10	50	10.0
PRR-12.5	50	12.5

The density shall not exceed the maximum density permitted by the comprehensive land use plan for the area in question.

(c)

Minimum and maximum building areas. The following area requirements shall apply in the PRR district:

(1)

Maximum area of land coverages by all structures shall not exceed 40 percent of the gross site area.

(2)

Calculation of site area. The gross area of a building site shall be calculated based on the site plan applicant's ownership of PRR, planned residential resort district zoned land area. No density credit will be given for any submerged areas (areas below mean high water). This provision shall not apply to developments approved prior to the adoption date (April 18, 1995) of this provision. Such developments may continue according to their approved site plan provided such plan approval has not expired.

(3)

Minimum open space required shall not be less than 25 percent of the total site area.

(4)

Nonresidential uses (approved by special exception or conditional use) shall not exceed the floor area ratio (FAR) nor the impervious surface ratio (ISR) associated with the companion land use designation's limits established in table 33 of the future land use element of the comprehensive plan.

(d)

Setbacks and distances between structures (see also subsections (e)(8), (e)(9) and (e)(10) of this section and section 138-1281). In PRR, planned residential resort districts, except as otherwise provided in this division:

(1)

The minimum distance between principal structures shall be 15 feet from wall to wall, and a minimum 25-foot setback shall be required from any structure to the edge of any publicly dedicated right-of-way. A minimum of 35 feet from the edge of the pavement of any private street lying within the planned residential resort district to any structure shall be required. For the purpose of this section, a private street shall be considered to be a roadway not dedicated to the public providing general access and circulation of traffic through this district, not including the drive-through areas of parking lots.

(2)

A minimum 25-foot setback shall be maintained between all structures (except detached single-family dwellings and their accessory uses) and the perimeter of the PRR district.

(3)

A multifamily dwelling shall not be located within 25 feet of any area designated on the site plan for use of single-family dwellings. For purpose of setbacks, transient accommodations shall be considered as multifamily dwellings.

(4)

For structures over 35 feet in height, there shall be an additional one foot of setback at ground level for each additional two feet of height above the first 35 feet.

(5)

Detached open carports which are supported by columns which have a maximum cross-sectional dimension of six inches or less may be permitted with no required front yard setback, provided no portion of the carport, including overhang, extends into the vehicular street or roadway. This provision shall not be permitted in

single-family areas, nor shall any carport be permitted within 25 feet of any publicly dedicated street or roadway.

(e)

Special requirements. The following special requirements apply in the PRR, planned residential resort district.

(1)

Overall development plan required. An acceptable overall development plan is required prior to the submittal of a site plan for any portion or phase of development of the project. An overall development plan shall include:

a.

Those items required in subsections 138-178(a)(1) and (a)(2).

b.

Identification of the major street system throughout the project.

c.

All proposed use areas identified by type, acreage, number of dwelling units, height of buildings, and square footage of floor area.

(2)

Deviation between site plan and overall development plan. In the event a site plan is submitted pursuant to article II, division 5 of this chapter, which in the opinion of the county administrator or his designee constitutes a substantial deviation from the accepted overall development plan, an examiner's hearing, pursuant to sections 138-79, 138-80, and 138-81, shall be held to determine whether or not the proposed site plan creates a sufficient adverse impact to warrant its denial and concurrent revision to the accepted overall development plan. In the event the proposed site plan and corresponding revision to the accepted overall development plan is denied by the zoning examiner, the applicant shall have the right to appeal such denial to the board of county commissioners. In the event the board of county commissioners approves the proposed site plan and corresponding revised overall development plan, sufficient conditions may be required as are deemed necessary and reasonable by the board of county commissioners to minimize the impact of the project on adjacent properties or those already developed in the planned residential resort to ensure compliance with the purpose and intent of this district and other applicable provisions of this chapter.

(3)

Transfers of development rights within the planned residential resort districts. Building allocation, provision for open spaces and preservation areas may be permitted among and between the various planned residential resort districts provided the districts are contiguous and are considered as a single master planned development under the unified control of an individual, partnership, corporation, or a grouping thereof. Requests for approval of such a development shall include competent evidence of unified control of the entire area within the proposed development and shall state agreement that:

a.

The development will be in accordance with an overall master development plan of the entire area under unified control.

b.

Development successors in title shall be bound by commitments made by the overall master development plan. Such commitments shall include but not be limited to maximum project density, overall requirements for open spaces and preservation areas, building coverage allocation, and allocation for incidental commercial uses.

c.

Revision to the overall master development plan is permitted in accordance with this section; however, all portions of the project shall be in strict accord with the provisions of the revised overall master development plan.

(4)

Lot area frontage. Every structure containing dwelling units shall have access to a public right-of-way directly or via a court, walkway or other area dedicated to public use or owned and maintained by a homeowner's association, but need not front on a right-of-way.

(5)

Development standards. Streets or roads, sidewalks, utilities and drainage installations shall be in compliance with chapter 154 and the standards of the county utilities system. The county administrator may require a state registered engineer to provide a statement of such compliance prior to the issuance of a certificate of occupancy.

(6)

Sidewalks. Sidewalks shall be required on both sides of all streets and roads where such streets and roads are adjacent to residential uses or recreational uses, and shall be required at all other locations where pedestrian and vehicular traffic may conflict. When determined unnecessary or impractical to accomplish, these requirements may be waived by the county administrator. Requests for such waivers shall be submitted in writing to the zoning division.

(7)

Single-family detached dwellings. All portions of planned developments which propose single-family detached dwellings shall be platted in accordance with the site development regulations with lots of 6,000 square feet minimum. Setback requirements shall be 25 feet front yard, 7.5 feet side yards and ten feet rear yard (see also section 138-1281). This provision shall permit single-family cluster development provided each lot has a minimum of ten feet of frontage on an easement dedicated on the plat to the homeowners for ingress and egress. Such easement shall not be greater in length than 200 feet measured from the point between the furthest lot to a publicly dedicated right-of-way.

(8)

Platting of multifamily dwellings or attached single-family dwellings. All portions of a planned development which propose platting of multifamily dwellings or attached single-family dwellings shall require all platted lots to contain a minimum of ten feet of frontage on a permanent easement for access which has been legally described and recorded as a part of the plat. Any such easement shall be of a minimum width of 24 feet. This provision for platting of attached dwelling units shall only be permitted in those areas where there is only one level of ownership. This provision shall not permit platting of multilevel condominium type ownerships. No such platting shall be approved by the zoning division until such time as a final site plan for that portion of the project in question has been reviewed and approved by the zoning division for construction purposes.

(9)

Zero lot line developments. Zero lot line single-family detached dwellings may be permitted subject to the following conditions:

a.

All zero lot line single-family detached projects shall be platted in accordance with the site development regulations with lots a minimum of 4,500 square feet.

b.

All structures shall have a required front setback of 25 feet, and a required rear setback of ten feet.

c.

Side setbacks shall be none on one side lot line and a minimum of 15 feet on the opposite side of the lot.

d.

The building envelope shall be shown on the final site plan and final plat with minimum setbacks shown.

e.

A maintenance easement of five feet shall be designated on all lots adjacent to the zero lot line boundary. Eaves and awnings shall not project into this easement more than 12 inches, except as may be required by building, fire or life safety codes.

f.

Windows and doors shall not be permitted in the side of the structure adjacent to the zero lot line, except as may be required by building, fire or life safety codes.

(10)

Compatibility with the comprehensive land use plan. The PRR, planned residential resort district shall be compatible with any residential land use plan category with a resort facilities overlay district.

(Ord. No. 90-1, § 1(211.5), 1-30-90; Ord. No. 90-55, § 1, 7-24-90; Ord. No. 92-66, § 1, 10-27-92; Ord. No. 93-13, § 1, 2-16-93; Ord. No. 94-36, § 1, 4-19-94; Ord. No. 95-28, § 8, 4-18-95)

Secs. 138-681—138-710. - Reserved.

DIVISION 13. - R-5, URBAN RESIDENTIAL DISTRICT

Sec. 138-711. - Definition, purpose and intent of district.

The R-5, Urban Residential District provides for areas where the development of small-lot, detached single-family, two-family and three-family dwellings and townhouses are appropriate. The district is intended to allow compact, urban-style dwelling units typically comprised of smaller living spaces on smaller lots.

The R-5 district should be located in or near urbanized areas where sufficient transportation facilities and urban infrastructure are readily available. The district is also intended for properties in and around established urban residential neighborhoods that are planned to accommodate infill redevelopment. The district facilitates compact infill redevelopment by allowing housing types with small lots and minor structural setbacks. This district shall include all areas indicated on the zoning atlas maps as R-5.

R-5 residential neighborhoods should be developed around and incorporate common open space areas such as parks and courtyards.

(Ord. No. 15-32, § 6, 8-18-15)

Sec. 138-712. - Permitted uses.

Within any R-5 district, the following uses shall be permitted:

(1)

Single-family dwellings;

(2)

Duplex dwellings;

(3)

Triplex dwellings;

(4)

Townhouses; or

(5)

Similar-type dwelling units as listed above; and

(6)

Customary accessory uses when accessory to permitted uses, including but not limited to:

a.

Home occupations (see section 138-1335).

b.

Accessory dwelling unit (see definition in section 138.1 (b)).

(Ord. No. 15-32, § 6, 8-18-15)

Sec. 138-713. - Special exceptions.

(a)

Upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter, the following uses may be permitted in the R-5 district:

(1)

Day care center.

(2)

Group living home, category I.

(3)

See section 138-240 for other special exceptions which may be permitted in this district.

(b)

Nonresidential uses approved by special exception shall be subject to floor area ratio and impervious surface ratio requirements per section 138-715.

(Ord. No. 15-32, § 6, 8-18-15)

Sec. 138-714. - Conditional uses.

(a)

Upon application to and favorable action by the board of county commissioners, pursuant to article II, division 8 of this chapter, the following conditional uses may be permitted in the R-5 district:

(1)

Utility substations.

(2)

Government buildings and public uses.

(b)

Nonresidential uses approved by conditional use shall be subject to floor area ratio and impervious surface ratio requirements per section 138-715.

(Ord. No. 15-32, § 6, 8-18-15)

Sec. 138-715. - Property development regulations.

R-5—Property Development Regulations Table									
Max. Density[1]	Max. FAR[1,2]	Max. ISR	Max. Building Height (ft)	Min. Lot[3]			Min. Setbacks[4,5]		
				Area	Width (ft)	Depth (ft)	Front	Side	Rear
Future Land Use and Quality Communities Element, Comprehensive Plan	Future Land Use and Quality Communities Element, Comprehensive Plan	.85	45 (see also section 138-1277)	Single-Family Detached					
				3,000 sf	N/A	N/A	10-ft	0/5-ft	5-ft
				Single-Family Attached (two-family dwelling, three-family dwelling, townhouse)					
				N/A	N/A	N/A	8-ft	0/5-ft	5-ft
				All Other Uses and Building Types					
				N/A	N/A	N/A	15-ft	5-ft	10-ft
1. Density and intensity limitations are governed by the underlying Future Land Use Map (FLUM) category as part of the Pinellas County Comprehensive Plan.									
2. Floor area ratio (FAR) is applicable to nonresidential and mixed-use structures only.									
3. Lot standards are only applicable where units are built on individual lots.									
4. See also section 138-1281.									
5. Interior attached units 0-feet, attached end units 5-feet. For units not located in individual platted lots, buildings must provide a 10-foot separation from an adjacent structure. Zero lot line detached units shall provide a 0-foot setback on one side and a 10-foot side setback on the opposite side property line.									

(Ord. No. 15-32, § 6, 8-18-15)

Sec. 138-716. - Additional requirements and clarifications.

(a)

Each residential building may include up to six individual dwelling units.

(b)

Lots that abut an improved alley shall provide parking in the rear of the dwelling and/or within rear-loaded garages.

(c)

Entrances for residential units shall be oriented to an adjacent street, alley, open space area, or internal courtyard.

(d)

A garage vehicle door/opening located on a street-facing facade shall be limited to 55 percent of the facade width in which it is located. This standard shall not be applicable to garages served by alleys.

(e)

All street-facing garage vehicle doors/openings should be set back behind the primary home door and/or porch structure.

(Ord. No. 15-32, § 6, 8-18-15)

ARTICLE V. - COMMERCIAL AND INDUSTRIAL, MULTIUSE DISTRICTS
DIVISION 1. - GENERALLY

Secs. 138-717—138-740. - Reserved.
DIVISION 2. - P-1, GENERAL PROFESSIONAL OFFICE DISTRICT

Sec. 138-741. - Definition, purpose and intent of district.

The purpose of the P-1, general professional office district is to permit general professional office buildings of high character and attractive surroundings in areas where such uses are appropriate. It is intended that the P-1 district be located in areas where high intensity uses would not be appropriate, but where moderate intensity office buildings will not have an adverse impact on the adjoining neighborhood. This zone is not intended for use in areas which are predominantly single-family residential in character. This district shall include those areas indicated on the zoning atlas maps as SV and P-1. Adoption of this chapter will not change these classification designations, but will make this division applicable to them.

(Ord. No. 90-1, § 1(301.1), 1-30-90)

Sec. 138-742. - Permitted uses.

The following uses are permitted in the P-1 district:

(1)

Offices for professional services such as physicians, attorneys, accountants, engineers, architects, real estate, stockbrokers or other similar service or any other type of office where the service of the office does not involve the transfer of a commercial product at the office site. The incidental dispensing of medicines or medical supplies is permitted from a doctor's office or clinic.

(2)

Medical clinics provided they can be carried on in a manner compatible with the definition of this district.

(3)

Veterinarian's office which provides outpatient veterinary care with no boarding facilities except as may be required for treatment of sick or injured household pets and when entirely enclosed within a building.

(4)

Research centers and laboratory.

(5)

Studios for an artist, photographer, sculptor, musician or similar activities for the purpose of teaching or artistic instruction only.

(6)

Lunch stands or snack bars within and accessory to an office building to serve the building's users.

(7)

School, public or private.

(8)

Office service/office support use. Such use shall not exceed a maximum floor area of 5,000 square feet; and no combination of such uses in any single multi-tenant building or, in the alternative, in any group of buildings that are integral to and function as part of a unified project, shall exceed ten percent of the total floor area of said buildings.

(9)

Funeral homes.

(10)

Banking facilities.

(11)

Accessory dwellings (see section 138-1337).

(12)

Day care center.

(13)

Churches when on parcels of five acres or less.

(14)

Recreation facilities, within office parks of five acres or more, provided the park contains a minimum of 75,000 square feet of developed office space. Such facilities are intended to primarily serve the users of the office park and shall be internal to the site. Such uses shall be indoor facilities and may include but shall not be limited to racquetball or handball courts, spas, swimming pools and exercise rooms. Such structures shall be at least 50 feet from the adjacent residential property lines.

(15)

Such other uses that would be similar to those listed in this section and which would be consistent with the definition of this district.

(16)

Bed and breakfast facility with a maximum of ten guest rooms.

(Ord. No. 90-1, § 1(301.2), 1-30-90; Ord. No. 95-28, § 9, 4-18-95; Ord. No. 00-67, §§ 13, 14, 8-29-00)

Sec. 138-743. - Special exceptions.

Section 138-240 contains special exceptions which may be permitted in the P-1 district, upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter.

(Ord. No. 90-1, § 1(301.3), 1-30-90)

Sec. 138-744. - Conditional uses.

Upon application to and favorable action by the board of county commissioners, pursuant to article II, division 8 of this chapter, heliports or helistops use may be permitted as conditional uses.

(Ord. No. 90-1, § 1(301.4), 1-30-90)

Sec. 138-745. - Property development regulations.

(a)

Maximum height. No structure in the P-1 district shall exceed 75 feet in height (see also section 138-1277). When located within 50 feet of any residentially zoned property, no structure shall exceed 35 feet in height.

(b)

Minimum building site area requirements. The minimum building site area requirements in the P-1 district are as follows:

(1)

Area: Six thousand square feet.

(2)

Width: Sixty feet (see section 138-1279).

(3)

Depth: Eighty feet.

See section 138-209 for lots or parcels of substandard dimensions.

(c)

Maximum area of lot coverage. In the P-1 district, the maximum area of lot coverage allowed by all structures is expressed in terms of floor area ratio (FAR) and shall be .40 of the lot or parcel. To determine the maximum floor area of a structure, multiply the appropriate FAR by the gross lot area. FAR is exclusive of covered parking and open court spaces. The impervious surface ratio (ISR) shall not exceed .75.

(d)

Setback requirements (see also section 138-1281). In the P-1 district, the following minimum setbacks shall be required:

(1)

Front: Twenty-five feet measured from any right-of-way line to a structure.

(2)

Side: Fifteen feet.

(3)

Rear: Fifteen feet.

(e)

Special requirements and restrictions. The purpose of the P-1 district is stated in section 138-741; in keeping with this definition, the following restrictions shall apply:

(1)

No retail sales, display or storage of merchandise is permitted except when in conjunction with and completely incidental to a permitted use such as the dispensing of medicines, medical supplies, optical products, etc., from a doctor's office or clinic. Accessory lunch stands or snack bars may be permitted within office buildings to serve the users of the building.

(2)

No machinery or merchandise may be stored except the storage of equipment and products associated with research or laboratory facilities or that which is customarily incidental to a permitted use on site.

(3)

Performance standards: See article VII, division 4 of this chapter.

(4)

Compatibility with the comprehensive land use plan: The P-1 district may be utilized within areas classified by the comprehensive land use plan as follows:

a.

Residential/office general.

b.

Residential/office/retail.

c.

Commercial neighborhood.

d.

Commercial general.

(Ord. No. 90-1, § 1(301.5), 1-30-90; Ord. No. 92-66, § 1, 10-27-92; Ord. No. 95-28, § 10, 4-18-95)

Secs. 138-746—138-775. - Reserved.

DIVISION 3. - P-1A, LIMITED OFFICE DISTRICT

Sec. 138-776. - Definition, purpose and intent of district.

The purpose of the P-1A, limited office district is to permit areas for the development of very low intensity office uses which may be compatible with neighboring land uses. This district may serve as a step-down in transition between a high intensity activity area (such as a major traffic corridor) and a low density neighborhood in areas where more intense uses may not be appropriate. This district shall include those areas indicated on the zoning atlas as P-1A.

(Ord. No. 90-1, § 1(301A.1), 1-30-90)

Sec. 138-777. - Permitted uses.

The following uses are permitted in the P-1A district:

(1)

Offices for professional services such as physicians, attorneys, accountants, engineers, architects, real estate, stockbrokers or other similar service or any other type of office where the service of the office does not involve the transfer of a commercial product at the office site. The incidental dispensing of medicines or medical supplies is permitted from a doctor's office or clinic.

(2)

Medical clinics provided they can be carried on in a manner compatible with the definition of this district. This shall include a veterinarian's office which provides outpatient veterinary care with no boarding facilities except as may be required for treatment of sick or injured household pets and when entirely enclosed within a building.

(3)

Studio for an artist, photographer, sculptor, musician or similar activities for the purpose of teaching or artistic instruction only.

(4)

Lunch stands or snack bars within and accessory to an office building to serve the building's users.

(5)

Funeral homes.

(6)

Banking facilities (no drive-in facilities).

(7)

Accessory dwellings (see section 138-1337).

(8)

Such other uses that would be similar to those listed in this section and which would be consistent with the definition of this district.

(9)

Bed and breakfast facility with a maximum of ten guest rooms.

(10)

Office service/office support use. Such use shall not exceed a maximum floor area of 3,600 square feet; and no combination of such uses in any single multi-tenant building or, in the alternative, in any group of buildings that are integral to and function as part of a unified project, shall exceed ten percent of the total floor area of said buildings

(Ord. No. 90-1, § 1(301A.2), 1-30-90; Ord. No. 95-28, § 11, 4-18-95; Ord. No. 00-67, § 15, 8-29-00)

Sec. 138-778. - Special exceptions.

Upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter, the following uses may be permitted in the P-1A district:

(1)

Day care center.

(2)

Church.

(3)

See section 138-240 for other special exceptions which may be permitted in this district.

(Ord. No. 90-1, § 1(301A.3), 1-30-90)

Sec. 138-779. - Property development regulations.

(a)

Maximum height. No structure in the P-1A district shall exceed 35 feet in height; except that, when abutting any single-family residential area, no structure may exceed one story (20 feet) in height.

(b)

Minimum building site area requirements. The minimum building site area requirements in the P-1A district are as follows:

(1)

Area: Six thousand square feet.

(2)

Width: Sixty feet (see section 138-1279).

(3)

Depth: Eighty feet.

See section 138-209 for lots or parcels of substandard dimensions.

(c)

Maximum area of land coverage. In the P-1A district, the maximum area of lot or parcel coverage (exclusive of covered parking) shall be a floor area ratio of 0.20. The inclusion of covered parking shall not cause total lot coverage by structures to exceed 50 percent. All uses within this district shall maintain a minimum of 25 percent of the total area of the lot or parcel in permeable open space.

(d)

Setback requirements (see also section 138-1281). In the P-1A district, the following minimum setbacks shall be required:

(1)

Front: Twenty-five feet, measured from any right-of-way line to the structure.

(2)

Side and rear: Twenty feet.

(e)

Special requirements. The purpose of the P-1A district is stated in section 138-776; in keeping with this definition, the following restrictions shall apply:

(1)

No retail sales, display or storage of merchandise is permitted except when in conjunction with and completely incidental to a permitted use such as the dispensing of medicines, medical supplies, optical products, etc., from a doctor's office or clinic. Accessory lunch stands or snack bars may be permitted within office buildings to serve the users of the building.

(2)

No machinery or merchandise may be stored except that which is customarily incidental to a permitted use on the site.

(3)

Performance standards: See article VII, division 4 of this chapter.

(4)

Compatibility with the comprehensive land use plan: The P-1A district may be utilized within areas classified by the comprehensive land use plan as follows:

a.

Residential/office limited.

b.

Residential/office general.

c.

Residential/office/retail.

d.

Commercial neighborhood.

e.

Commercial general.

(Ord. No. 90-1, § 1(301A.5), 1-30-90; Ord. No. 92-66, § 1, 10-27-92)

Secs. 138-780—138-800. - Reserved.

DIVISION 4. - C-1, NEIGHBORHOOD COMMERCIAL DISTRICT

Sec. 138-801. - Definition, purpose and intent of district.

The C-1, neighborhood commercial district provides areas for commercial development such as compact shopping areas located in the neighborhood which they serve. The location of such areas is intended to conveniently supply the immediate needs of the neighborhood where the types of services rendered and the commodities sold are those which are needed daily and purchased at frequent intervals. This district shall include those areas indicated on the zoning atlas maps as C-1, NB and LB. Adoption of this chapter will not change these classification designations, but will make this division applicable to them.

(Ord. No. 90-1, § 1(302.1), 1-30-90)

Sec. 138-802. - Permitted uses.

Within any C-1, neighborhood commercial district, only the following uses shall be permitted:

(1)

Any retail business or commercial use which does not involve the manufacture or processing of products, provided the use serves the immediate needs of the neighborhood, such as grocery, convenience shopping, including sale of gasoline from pumps (see section 138-1333), drug, sundry, hardware or similar type business; but this section shall not permit the retail sale or display of vehicles, boats, mobile homes, model houses, or other outdoor sales use.

(2)

Personal service establishments, including but not limited to barbershops, beauty parlors, medical and dental clinics, small restaurants (50 seats or less, and with no drive-in or drive-through facilities), professional and other offices, laundry pickup stations, laundry and cleaning stores, shoe repair, tailoring, watch and clock repair and locksmith shops.

(3)

Any use described as a permitted use in a P-1 zoning district.

(4)

Such other uses that would be similar to those listed in this section and which would be consistent with the definition of this district.

(5)

Bed and breakfast facility with a maximum of ten guest rooms.

(Ord. No. 90-1, § 1(302.2), 1-30-90; Ord. No. 95-28, § 12, 4-18-95)

Sec. 138-803. - Special exceptions.

Section 138-240 contains special exceptions which may be permitted in the C-1 district, upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter.

(Ord. No. 90-1, § 1(302.3), 1-30-90)

Sec. 138-804. - Conditional uses.

Upon application to and favorable action by the board of county commissioners, pursuant to article II, division 8 of this chapter, heliports or helistops may be permitted as conditional uses in the C-1 district.

(Ord. No. 90-1, § 1(302.4), 1-30-90)

Sec. 138-805. - Property development regulations.

(a)

Maximum height (see also section 138-1277). No structure in the C-1 district shall exceed 35 feet in height.

(b)

Minimum building site area requirements. The minimum building site area requirements in the C-1 district are as follows:

(1)

Area: Six thousand square feet.

(2)

Width: Sixty feet (see section 138-1279).

(3)

Depth: Eighty feet.

See section 138-209 for lots or parcels of substandard dimensions.

(c)

Maximum area of land coverage. In the C-1 district, the maximum area of allowable coverage of a lot or parcel by structures, expressed in terms of floor area ratio, shall be 30 percent of the area of the lot or parcel. The impervious surface ratio shall not exceed 0.80.

(d)

Setback requirements (see also section 138-1281). In the C-1 district, the following minimum setbacks shall be provided:

(1)

Front: Twenty-five feet, measured from any right-of-way line to the structure.

(2)

Side or rear (interior lot or parcel): None required for commercial uses or structures; except that, when the side or rear of a lot abuts a residential district, there shall be a side or rear yard provided of a minimum of 20 percent of the lot width or depth, respectively, but this section shall not require more than 20 feet.

(e)

Special requirements. The following special requirements apply in the C-1 district:

(1)

Performance standards: See article VII, division 4 of this chapter.

(2)

This district does not permit the storage of commercial vehicles as defined by section 122-37 of the Pinellas County Code.

(3)

Compatibility with the comprehensive land use plan: The C-1 district may be utilized in areas classified by the comprehensive land use plan as follows:

a.

Commercial neighborhood.

b.

Commercial general.

(Ord. No. 90-1, § 1(302.5), 1-30-90; Ord. No. 92-66, § 1, 10-27-92)

Secs. 138-806—138-830. - Reserved.

DIVISION 5. - C-2, GENERAL RETAIL COMMERCIAL AND LIMITED SERVICES DISTRICT

Sec. 138-831. - Definition, purpose and intent of district.

The C-2, general retail commercial and limited services district provides an area for the retailing of certain commodities, the furnishing of several limited services and certain selected trade shops, with related commercial activities conveniently located in a community of several neighborhoods. It is intended that this district shall serve a considerably greater population than the C-1 district and offer certain specialized services in addition to all other retail sales outlets for consumer products. This district shall include those areas indicated on the zoning atlas maps as C-2, SC and B. Adoption of this chapter will not change these classification designations, but will make this division applicable to them.

(Ord. No. 90-1, § 1(303.1), 1-30-90)

Sec. 138-832. - Permitted uses.

Within any C-2, general retail commercial and limited services district, only the following uses shall be permitted:

(1)

Any use permitted in the P-1 or C-1 district.

(2)

Any other retail sales outlet for products (except heavy equipment) sold directly to the consumer. This may include outlets for home improvement products which may include but are not limited to lumber, hardware, paint, electrical, and plumbing supplies, provided that all sales and storage areas for these types of products are screened from view by a fence or wall a minimum of six feet in height. All sales areas except as noted in this subsection shall be indoor locations.

(3)

Outdoor displays of products sold at retail which by their nature or size dictates that the operation be outdoors. Such uses may include but not be limited to the following: Retail sales, display and rental of vehicles, boats and mobile homes (no heavy equipment), plant nurseries and sale of landscape materials, swimming pools and spas and similar uses. Such uses, when abutting residential districts, shall be screened

from view from the residential district with an opaque six-foot high fence or wall in compliance with subsection 138-1377(b). These uses shall also be in strict accord with the provisions of article VII, division 4. It is not the intent of this subsection to permit unrestricted outdoor sales, and the provisions of this subsection shall apply only to those types of uses listed herein. The sale, storage, or display of all products not normally found or used outdoors shall be conducted from indoor locations only.

(4)

Hotels and motels with a maximum density of 40 units per acre when located in the commercial general land use designation; or 30 units per acre when located in residential/office/retail land use designation; these shall be licensed as such by the state (see definitions, section 138-1).

(5)

Veterinary hospitals and kennels when entirely confined within a building.

(6)

Bowling alleys, skating rinks, indoor theaters or other similar indoor amusement and recreational facilities.

(7)

Automobile repairs when conducted within a completely enclosed building, provided such uses conform to all applicable codes, ordinances and regulations of the county.

(8)

Repair and sales of household appliances.

(9)

Service stations (see section 138-1333).

(10)

Detached accessory storage buildings, provided the building does not exceed 50 percent of the area of the primary building.

(11)

Wholesale/distribution facilities when located in completely enclosed buildings. All truck loading and receiving shall be oriented away from adjacent residential areas.

(12)

Display model houses, provided they are removed or converted to nonresidential use when the retail sales effort is terminated.

(13)

Ratio and television transmitting stations (see section 138-1277 for height restrictions).

(14)

Hospitals and clinics. Refer to section 138-1282 for restrictions on the location or expansion of hospitals.

(15)

Radio and telephone transmitting stations.

(16)

Government buildings and public uses consistent with the definition of this district.

(17)

Nursing homes. Maximum density shall be 50 beds per acre, except that, when located in areas designated as residential/office/retail by the comprehensive land use plan, density shall be 25 beds per acre. Refer to section 138-1282 for restrictions on the location or expansion of nursing homes.

(18)

Mini-storage warehousing when in accordance with the following:

a.

Maximum lot or parcel coverage by structures shall be a floor area ratio of 0.50. When located in areas designated as residential/office/retail by the comprehensive plan, a floor area ratio of 0.20 shall apply.

b.

Maximum building height for all storage units shall be 12 feet.

c.

Exterior storage is not permitted.

d.

Facilities shall be used for dead storage only and shall not be used for assembly, processing, fabrication, repair, business or sales, practice rooms, meeting rooms, or living units. The storage of explosives or highly flammable material is prohibited. Garage sales and/or flea market activities are also expressly prohibited.

(19)

Reserved.

(20)

Personal/business services uses.

(21)

Congregate care facilities with a maximum of 50 beds per gross acre. When located in areas designated by

the comprehensive plan as residential/office/retail, the maximum density shall be 30 beds per gross acre. Refer to section 138-1282 for restrictions on the location or expansion of congregate care facilities.

(22)

Such other uses that would be similar to those listed in this section and which would be consistent with the definition of this district.

(Ord. No. 90-1, § 1(303.2), 1-30-90; Ord. No. 92-66, § 1, 10-27-92; Ord. No. 97-57, § 17, 7-28-97; Ord. No. 01-58, § 1, 8-7-01; Ord. No. 11-19, § 8, 6-14-11)

Sec. 138-833. - Special exceptions.

Upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter, the following uses may be permitted in the C-2 district:

(1)

Concrete mixing and dispensing facilities (see section 138-240(11)).

(2)

See section 138-240 for other special exceptions which may be permitted in this district.

(Ord. No. 90-1, § 1(303.3), 1-30-90; Ord. No. 97-57, § 18, 7-28-97)

Sec. 138-834. - Conditional uses.

Upon application to and upon favorable action by the board of county commissioners, pursuant to article II, division 8 of this chapter, the following uses may be permitted:

(1)

Heliports and helistops.

(2)

Light manufacturing and assembly (Class A).

(3)

Commercial marinas (see section 138-270(13)).

(Ord. No. 90-1, § 1(303.4), 1-30-90; Ord. No. 98-6, § 4, 1-6-98; Ord. No. 01-58, § 2, 8-7-01)

Sec. 138-835. - Property development regulations.

(a)

Maximum height (see also section 138-1277). No structure in the C-2 district shall exceed 50 feet in height. When located within 50 feet of any residential property, no structure shall exceed 35 feet.

(b)

Minimum building site area requirements. The minimum building site area requirements in the C-2 district are as follows:

(1)

Area: Ten thousand square feet.

(2)

Width: Eighty feet (see section 138-1279).

(3)

Depth: One hundred feet.

See section 138-209 for lots or parcels of substandard dimensions.

(c)

Maximum area of land coverage. The maximum area of land coverage shall be expressed in terms of floor area ratio. The following floor area ratios shall apply in the C-2 district unless otherwise provided:

Use	Maximum FAR
Commercial general uses (except mini-storage)	0.35
Hotel and motel	0.40

When located in areas identified by the comprehensive land use plan as residential/office/retail, the following floor area ratios shall apply:

Use	FAR
Commercial general	0.20
Office	0.30

No use shall exceed a maximum impervious surface ratio of 0.90, or 0.75 when located in the residential/office/retail land use plan area.

(d)

Setback requirements (see also section 138-1281). In the C-2 district, the following minimum setbacks shall be provided:

(1)

Front: Twenty-five feet, measured from any right-of-way line to the structure.

(2)

Side or rear (interior lot or parcel): None required for commercial uses or structures; except when the side or rear of a lot abuts a residential district, there shall be a side or rear yard provided of a minimum of 20 percent of the lot width or depth, respectively, but this section shall not require more than 20 feet.

(e)

Special requirements. The following special requirements apply in the C-2 district:

(1)

Performance standards: See article VII, division 4 of this chapter.

(2)

Commercial vehicles may be stored on site within this district when utilized in conjunction with a permitted use. This shall not include the use or storage of heavy equipment or semitractors/trailers.

(3)

Compatibility with the comprehensive land use plan: The C-2 district may be utilized in areas classified by the comprehensive land use plan as follows:

a.

Residential/office/retail.

b.

Commercial general.

(Ord. No. 90-1, § 1(303.5), 1-30-90; Ord. No. 92-66, § 1, 10-27-92)

Secs. 138-836—138-855. - Reserved.

DIVISION 6. - C-3, COMMERCIAL, WHOLESALE, WAREHOUSING, AND INDUSTRIAL SUPPORT DISTRICT

Sec. 138-856. - Definition, purpose and intent of district.

The C-3, commercial, wholesale, warehousing and industrial support district will provide areas for general services, wholesale distribution, storage and light fabrication. These areas should be conveniently located to arterial highways and transportation facilities. This district is intended as a distribution center for products sold, serviced, stored and warehoused for retail or wholesale sales to a consumer, jobber, sales outlet or wholesaler. Such districts shall be so located in the community as to minimize the flow of heavy trucking routes through residential areas. These areas may also provide support services to adjacent or nearby industrial areas.

(Ord. No. 90-1, § 1(304.1), 1-30-90)

Sec. 138-857. - Permitted uses.

Within any C-3, commercial, wholesale, warehousing and industrial support district, only the following uses shall be permitted:

(1)

Bakeries, wholesale.

(2)

Automobile repairs.

(3)

Cold storage and frozen food lockers.

(4)

Contractor's storage and equipment areas (see section 138-1377(b)).

(5)

Dry cleaning, dyeing and laundry plants.

(6)

Wholesaling/distributing.

(7)

Wholesaling of building materials, including lumber, cement and plaster; feed and fuel; also including mill work and storage when conducted within a building or an area enclosed within a solid wall a minimum of six feet high.

(8)

Repair, maintenance facilities, and storage terminals for automobiles, buses, cabs, trucks or heavy equipment. Specific prohibition: No property within the C-3 district shall be used for the storage of garbage vehicles and/or containers (see section 138-1377(b)).

(9)

Laboratories for testing materials, chemical analysis.

(10)

Production and assembly of scientific, optical and electronic equipment.

(11)

Professional offices.

(12)

Meat storage, cutting and distribution, but not butchering.

(13)

Service operations such as, but not limited to: Milk bottling and distribution plants and ice cream production, printing, bookbinding, lithography and publishing plants, motion picture studios and offices.

(14)

Wholesale storage of gasoline, liquefied petroleum gas, oil or other flammable liquids or gases, provided they meet the requirements of all applicable laws and ordinances, the county building code and the front setbacks established for structures as contained in this chapter. All property line setbacks shall be measured from the nearest outer shell of container.

(15)

Storage warehouses.

(16)

Marinas, full service. The following conditions shall apply:

a.

The site shall contain sufficient upland area to accommodate all needed utilities and support facilities such as off-street parking, restrooms, dry storage, etc.

b.

All applications for marinas shall be accompanied by a hurricane plan which shall be filed with the county department of civil emergency services.

c.

All water and navigation permits shall be obtained prior to site plan approval where required.

d.

No marina shall be approved or expanded in areas determined by the state department of environmental protection to be critical to the survival of the West Indian manatee.

e.

See also section 138-1342.

(17)

Solid waste management facilities which are operated from within completely enclosed buildings. Prior to zoning clearance or site plan approval, applicants will be required to provide a statement of intent to comply with the waste stream reporting requirements as may be required by the county if determined to be applicable

by Pinellas County Utilities Solid Waste Operations Department.

(18)

Such other uses that would be similar to those listed in this section and which would be consistent with the definition of this district.

(Ord. No. 90-1, § 1(304.2), 1-30-90; Ord. No. 92-66, § 1, 10-27-92; Ord. No. 93-88, § 1, 10-19-93; Ord. No. 97-79, § 1, 9-30-97; Ord. No. 06-53, § 10, 6-20-06)

Sec. 138-858. - Special exceptions.

Upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter, the following uses may be permitted in the C-3 district:

(1)

Concrete mixing and dispensing facilities (see section 138-240(11)).

(2)

See section 138-240 for other special exceptions which may be permitted in this district.

(Ord. No. 90-1, § 1(304.3), 1-30-90)

Sec. 138-859. - Conditional uses.

Upon due application to and favorable action by the board of county commissioners, pursuant to article II, division 8 of this chapter, the following conditional uses may be permitted in the C-3 district:

(1)

Heliports or helistops.

(2)

Drive-in theaters.

(3)

Hazardous waste storage and transfer facilities.

(Ord. No. 90-1, § 1(304.4), 1-30-90)

Sec. 138-860. - Property development regulations.

(a)

Maximum height. No structure in the C-3 district shall exceed 75 feet in height unless otherwise provided in this chapter (see also section 138-1277). Within 50 feet of any residentially zoned land, no structure shall exceed 35 feet in height.

(b)

Minimum building site area requirements. The minimum building site area requirements in the C-3 district are as follows:

(1)

Area: Twelve thousand square feet.

(2)

Width: Eighty feet (see section 138-1279).

(3)

Depth: One hundred feet.

See section 138-209 for lots or parcels of substandard dimensions.

(c)

Maximum area of land coverage. The maximum area of land coverage shall be expressed in terms of floor area ratio (FAR). The maximum FAR in the C-3 district shall be 0.50; the impervious surface ratio shall not exceed 0.85.

(d)

Setback requirements (see also section 138-1281). In the C-3 district, the following minimum setbacks shall be provided:

(1)

Front: Twenty-five feet, measured from any right-of-way line to the structure.

(2)

Side or rear: None required for structures; except that, when the side or rear of a lot abuts a residential district, there shall be a side or rear setback provided of a minimum of 20 percent of the lot width or depth respectively, but this section shall not require more than 20 feet.

(e)

Special requirements. The following special requirements apply in the C-3 district:

(1)

Performance standards: See article VII, division 4 of this chapter.

(2)

Compatibility with the comprehensive land use plan: The C-3 district may be utilized in areas classified by the comprehensive land use plan as follows:

a.

Commercial general.

b.

Industrial limited.

c.

Industrial general.

(Ord. No. 90-1, § 1(304.5), 1-30-90; Ord. No. 92-66, § 1, 10-27-92)

Secs. 138-861—138-885. - Reserved.

DIVISION 7. - CR, COMMERCIAL RECREATION DISTRICT

Sec. 138-886. - Definition, purpose and intent of district.

The CR, commercial recreation district will provide certain areas in the county situated to provide certain uses of land for commercial outdoor recreation purposes. Location of this classification within the county is intended primarily to be on or near major highways where the public can stop while en route to some more distant destination, or located at or near a scenic, historic, or outdoor recreation area where the public is attracted. This district shall include those areas on the zoning atlas maps designated as CR.

(Ord. No. 90-1, § 1(305.1), 1-30-90)

Sec. 138-887. - Permitted uses.

Within any CR, commercial recreation district, only the following uses shall be permitted:

(1)

Travel trailer parks (ten sites per gross acre maximum).

(2)

Outdoor recreation facilities limited to:

a.

Campgrounds (may include cabins at up to ten per acre).

b.

Golf courses, driving ranges, miniature golf.

c.

Riding stables.

d.

Private parks and playgrounds.

e.

Fishing camps.

f.

Tennis facilities.

g.

Swimming pools.

h.

Playing fields for baseball, football, soccer and similar recreation.

i.

Other similar recreation facilities.

(3)

Accessory dwellings (see section 138-1337).

(Ord. No. 90-1, § 1(305.2), 1-30-90; Ord. No. 95-28, § 13, 4-18-95; Ord. No. 01-58, § 5, 8-7-01)

Sec. 138-888. - Special exceptions.

Section 138-240 contains special exceptions which may be permitted in the CR, commercial recreation district, upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter.

(Ord. No. 90-1, § 1(305.3), 1-30-90)

Sec. 138-889. - Property development regulations.

(a)

Maximum height. No structure in the CR, commercial recreation district shall exceed 50 feet in height, unless otherwise provided in this chapter (see also section 138-1277).

(b)

Minimum building site area requirements. The minimum building site area requirements in the CR, commercial recreation district are as follows:

(1)

Area: One acre of upland.

(2)

Width: One hundred fifty feet (see section 138-1279).

(3)

Depth: Two hundred feet.

See section 138-209 for lots or parcels of substandard dimensions.

(c)

Maximum area of land coverage. The maximum area of allowable coverage of a lot or parcel by structures or recreation vehicles shall be expressed in terms of floor area ratio and shall not exceed 35 percent of the area of the lot or parcel, and the impervious surface ratio (ISR) shall not exceed .75.

(d)

Setback requirements (see also section 138-1281). In the CR, commercial recreation district, the following minimum setbacks shall be provided:

(1)

Front: Thirty-five feet, measured from any right-of-way line to the structure.

(2)

Side or rear: Twenty feet.

(e)

Special requirements. The following special requirements apply in the CR, commercial recreation district:

(1)

Area requirements for travel trailer parks and campgrounds:

a.

Area: One acre of uplands.

b.

Width: One hundred fifty feet.

c.

Depth: Two hundred feet.

(2)

Vehicle site requirements for travel trailer parks and campgrounds:

a.

Area: Two thousand five hundred square feet.

b.

Width: Twenty-five feet.

c.

Density: Ten sites per gross acre (includes cabins).

d.

Each vehicle site shall be clearly defined by a permanent marker.

e.

No part of a vehicle or structure which is accessory to the vehicle placed on a vehicle site shall be closer than five feet to a site line. On perimeter lots, the setback requirements of subsection (d) of this section shall prevail.

(3)

Recreation and open space requirements for travel trailer parks and campgrounds:

a.

Not less than ten percent of the gross site area shall be devoted to recreation and open space.

b.

Recreation areas may include space for community buildings and community use facilities, such as adult recreation and child play areas, swimming pools, clothes washing areas and drying yards and open space areas.

(4)

Street requirements for travel trailer parks and campgrounds: Roadways within a travel park may be private, but the following requirements shall apply:

a.

Internal collector streets shall be 25 feet in width, with a minimum of 20 feet of paved surface, in accordance with standards established by the public works and engineering department.

b.

Internal minor streets shall have a smooth, hard and dense surface as follows:

1.

One-way traffic, ten feet in width.

2.

Two-way traffic, 18 feet in width.

For purpose of this section, a collector street shall be defined as a street designed to facilitate adequate traffic flow from two or more internal minor streets to a dedicated right-of-way. All streets which provide ingress and egress from dedicated public rights-of-way shall be deemed collector streets. All other streets may be internal minor streets. Except as provided herein, design and construction of streets or roads, sidewalks, utilities and drainage installations shall be in compliance with the site development regulations, the county utilities system, and other state and local laws. The county administrator may require a state registered engineer to provide a statement of such compliance prior to the issuance of a certificate of occupancy.

(5)

Compatibility with the comprehensive land use plan: The CR, commercial recreation district may be utilized in areas classified by the comprehensive land use plan as follows:

a.

Any residential category permitting a density of ten units per acre (not including high density) or more with a temporary tourist facilities overlay;

b.

Any commercial general or residential/office/retail category;

c.

Commercial recreation.

(Ord. No. 90-1, § 1(305.5), 1-30-90; Ord. No. 90-55, § 1, 7-24-90; Ord. No. 92-66, § 1, 10-27-92; Ord. No. 95-28, § 14, 4-18-95)

Sec. 138-890. - Conditional uses.

Upon application to and upon favorable action by the board of county commissioners, pursuant to article II, division 8 of this chapter, the following uses may be permitted:

(1)

Commercial marinas.

(Ord. No. 01-58, § 6, 8-7-01)

Secs. 138-891—138-910. - Reserved.

DIVISION 8. - CP, COMMERCIAL PARKWAY DISTRICT

Sec. 138-911. - Definition, purpose and intent of district.

(a)

The CP, commercial parkway district shall include those areas indicated on the zoning atlas maps as CP, CP-1, CP-2 and P-C. Adoption of this chapter will not change this classification designation, but will make this division applicable to it. Those areas indicated as CP, CP-1 and/or P-C shall be designated as CP-1. Those areas designated as CP-2 shall remain designated as CP-2 until otherwise changed by law. This district is stratified into two integrally linked highway oriented segments, the characteristics of which vary only by the intensity of use allowed in each. These subclassifications are denoted as:

(1)

CP-1: Includes those areas fronting on major arterial highways where established land use planning criteria would indicate this district could be located.

(2)

CP-2: Includes those areas located at major arterial highway intersections, where established land use planning criteria indicate that more intense uses of land as permitted in this division are appropriate.

(b)

The purpose of establishing the CP, commercial parkway district is to allow for a variety of uses along the arterial roadways and to require that development occur in such a manner as to protect the interest, health, safety and welfare of the general public. Toward that end, the following statements of intent are applicable:

(1)

Minimize development in the CP-1 classification to a level of intensity having lower traffic generation rates than normally found in a general business area.

(2)

Allow development in the CP-2 classification to a level of intensity more equivalent to a general business category.

(3)

Minimize points of access which interrupt the smooth and safe flow of traffic, by encouraging the provision of service roads, common curb and median cuts, acceleration/deceleration lanes and/or interconnected parking facilities between properties under individual ownership.

(4)

Provide adequate structural setbacks.

(5)

Promote an aesthetic appearance to and from the roadway.

(Ord. No. 90-1, § 1(306.1), 1-30-90)

Sec. 138-912. - Permitted uses.

The following uses are permitted in the CP, commercial parkway district:

(1)

Single-family and multifamily dwellings up to ten units per acre. These are subject to compliance with section 138-645(c), (d), (e)(6), (e)(7), (e)(8) and (e)(9), as would be applicable to the specific type of residential use, except that, where the provisions of this division are more stringent, the provisions of this division shall prevail. Residential uses shall not be permitted in areas designated general commercial by the comprehensive land use plan.

(2)

Professional offices, neighborhood commercial uses and general commercial uses, and those uses permitted within a P-1, C-1, or C-2 district, except as provided in this section.

(3)

Outdoor displays of products sold at retail which by their nature or size dictates that the operation be outdoors. Such uses may include but not be limited to the following: plant nurseries and sale of landscape materials, swimming pools and spas and similar uses. Such uses, when abutting residential districts, shall be screened from view from the residential district with an opaque six-foot high fence or wall in compliance with subsection 138-1377(b). These uses shall also be in strict accord with the provisions of article VII, division 4 of this chapter. It is not the intent of this section to permit unrestricted outdoor sales, and the provisions of this section shall apply only to those types of uses listed in this section. The sale, storage, or display of all other products not normally found or used outdoors shall be conducted form indoor locations only.

(4)

Miniwarehouses in accordance with the following:

a.

Maximum building height for all storage units shall be 12 feet.

b.

Exterior storage is not permitted.

c.

Facilities shall be used for dead storage only and shall not be used for assembly processing, fabrication, repair, business or sales, practice rooms, meeting rooms or living units. The storage of explosives or highly flammable material is prohibited. Garage sales or flea market activities are also prohibited.

(5)

Hotels or motels (maximum density of 30 units per acre).

(6)

Congregate care facilities with a maximum density of 30 beds per gross acre. Refer to section 138-1282 for restrictions on the location or expansion of congregate care facilities.

(Ord. No. 90-1, § 1(306.2), 1-30-90; Ord. No. 92-66, § 1, 10-27-92; Ord. No. 97-57, § 19, 7-28-97; Ord. No. 11-19, § 9, 6-14-11)

Sec. 138-913. - Special exceptions.

Upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter, the following uses may be permitted:

(1)

Concrete mixing facilities (see section 138-240(11)).

(2)

See section 138-240 for other special exceptions which may be permitted in this district.

(Ord. No. 90-1, § 1(306.3), 1-30-90; Ord. No. 97-57, § 20, 7-28-97)

Sec. 138-914. - Conditional uses.

Upon application to and upon favorable action by the board of county commissioners, pursuant to article II, division 8 of this chapter, the following uses may be permitted:

(1)

Heliports and helistops.

(2)

Light manufacturing and assembly (Class A).

(3)

Commercial marinas.

(Ord. No. 90-1, § 1(306.4), 1-30-90; Ord. No. 98-6, § 5, 1-6-98; Ord. No. 01-58, § 4, 8-7-01)

Sec. 138-915. - Property development regulations.

(a)

Maximum height (see also section 138-1277). The maximum height of structures in the CP, commercial parkway district shall be as follows:

(1)

CP-1: Thirty-five feet.

(2)

CP-2: Fifty feet.

(b)

Minimum building site area requirements. The minimum building site area requirements in the CP, commercial parkway district are as follows:

(1)

Minimum lot size: One acre.

(2)

Minimum width: One hundred fifty feet (see section 138-1279).

(3)

Minimum depth: Two hundred feet.

See section 138-209 for lots or parcels of substandard dimensions.

(c)

Maximum area of lot coverage. The maximum area of lot coverage (exclusive of residential uses) allowed by all structures is expressed in terms of floor area ratio (FAR) and varies among the permitted uses. Floor area ratio is the square footage of total floor area for each square foot of land area. To determine the maximum floor area of a structure, multiply the appropriate FAR by the gross lot area. FAR is exclusive of covered parking, walkways, and open court spaces. The maximum area of lot coverage in the CP, commercial parkway district shall be as follows:

Permitted uses		CP-1 FAR	CP-2 FAR
(1)	Residential (maximum 40 percent lot coverage)	N/A	N/A
(2)	Commercial and restaurant	.20	.30
(3)	Hotel, motel, office, institutional, research facilities and mini-warehouse	.30	.40

(d)

Setback requirements (see also section 138-1281). In CP, commercial parkway districts, the following minimum setbacks shall be required:

(1)

Front: Fifty feet measured from any arterial road right-of-way line as established by the sector right-of-way requirements and traffic corridor plan to the front of the structure. The first 30 feet of this area, measured

from the right-of-way, shall remain in permeable open space and may be used for planting, screening, fencing, etc., but in no case shall be used for parking or display of merchandise. Where a parcel or tract of land has multiple frontage involving minor roadways, the required front setback shall be a minimum of 25 feet in depth measured from the right-of-way line of the minor roadway.

(2)

Side and rear: Twenty-five feet.

(e)

Special requirements. The following special requirements apply in the CP, commercial parkway district:

(1)

Maximum density: The maximum density for residential uses shall be ten dwelling units per acre.

(2)

Open space requirements: All uses of properties within the CP district shall maintain a minimum of 25 percent of the total area of the lot or parcel in permeable open space.

(3)

Performance standards: See article VII, division 4 of this chapter.

(4)

Lots or parcels of substandard dimensions: When an individual lot or parcel has an area smaller than the requirements of the district in which it is located, but was a lot or parcel of record on February 22, 1977, the permitted uses of the zone district will be allowed to the person who then held title or beneficial interest in the lot, provided all requirements, other than building site area, are maintained. This exception will not inure to the benefit of any persons acquiring title or any beneficial interest in the lot subsequent to February 22, 1977. This subsection shall not apply where two or more lots or parcels adjoin in such a fashion that, should they be considered as one lot or parcel, such single lot or parcel would meet all minimum requirements as to area and dimension, provided that all the area so considered is in the same ownership. (See section 138-209 for other lots or parcels of substandard dimensions.)

(5)

Compatibility with the comprehensive land use plan: The CP district may be utilized in areas classified by the comprehensive land use plan as follows:

a.

Commercial general.

b.

Residential/office/retail.

(6)

Commercial vehicles may be stored on site within this district when utilized in conjunction with a permitted use. This shall not include the use or storage of heavy equipment or semitractors/trailers.

(Ord. No. 90-1, § 1(306.5), 1-30-90; Ord. No. 92-8, 2-18-92; Ord. No. 92-66, § 1, 10-27-92; Ord. No. 98-6, §§ 6, 7, 1-6-98)

Secs. 138-916—138-940. - Reserved.

DIVISION 9. - IPD, INDUSTRIAL PLANNED DEVELOPMENT DISTRICT

Sec. 138-941. - Definition, purpose and intent of district.

The IPD, industrial planned development district will provide areas exclusively for and conducive to the development of highly specialized and technological industries, industrial support facilities, research and experimental institutions, administrative facilities and commercial uses, all of which are within a planned industrial park. It is intended that these parks be created to produce a campus-like setting; to be aesthetically pleasing and not obnoxious or offensive to the surrounding area. These should also provide maximum protection for the specialized uses against odor, fumes, smoke, gas, dust, noise, vibration, and similar objectionable hazards. It is further intended that this district be located in keeping with established planning and zoning practices so as to be readily accessible to major transportation facilities and other municipal services and to provide compatibility between the uses both internal and external to the site so that these uses may be established and operated in keeping with the purpose and intent of the district. This district shall include those areas indicated on the zoning atlas maps as IPD.

(Ord. No. 90-1, § 1(307.1), 1-30-90)

Sec. 138-942. - Permitted uses.

The following uses are permitted in the IPD district:

(1)

Specialized and technological industrial activities which are not offensive or obnoxious by reason of emission of odor, fumes, dust, smoke, gas, noise, or vibration and which are conducted within enclosed buildings and provide no outdoor storage of materials or finished products.

(2)

Administrative and executive offices as part of the overall development plan. The areas within the industrial planned development devoted to such use shall not exceed 25 percent of the total permitted floor area of the site. It is further intended that such uses shall be incidental to and in conjunction with the total site design.

(3)

Commercial uses as a part of the overall development plan. The areas within the industrial planned development devoted to such use shall not exceed ten acres except when located within an approved development of regional impact in which the commercial area shall not exceed 25 percent of the total permitted floor area of the industrial planned development site.

(4)

Billboards (see section 138-1334(b)).

(5)

Accessory dwellings (see section 138-1337).

(Ord. No. 90-1, § 1(307.2), 1-30-90; Ord. No. 96-41, § 1, 4-30-96)

Sec. 138-943. - Special exceptions.

Section 138-240 contains other special exceptions which may be permitted in the IPD district, upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter.

(Ord. No. 90-1, § 1(307.3), 1-30-90)

Sec. 138-944. - Conditional uses.

Upon application to the board of county commissioners and favorable action thereon, pursuant to article II, division 8 of this chapter, heliports and helistops may be permitted as conditional uses in the IPD district.

(Ord. No. 90-1, § 1(307.4), 1-30-90)

Sec. 138-945. - Property development regulations.

(a)

Maximum height. No structure in the IPD district shall exceed 75 feet in height, except as otherwise provided in this chapter (see section 138-1277). When located within 50 feet of any residentially zoned property, no structure shall exceed 35 feet in height.

(b)

Minimum building site area requirements. The minimum district area for the IPD district shall be 50 acres. This area may be platted into lots a minimum of 20,000 square feet. These lots shall be at least 100 feet wide (see section 138-1279) at the front building setback line and a minimum of 200 feet in depth. See section 138-209 for lots or parcels of substandard dimensions.

(c)

Maximum area of land coverage. The maximum area of allowable coverage of a lot or parcel by structures in the IPD district shall be expressed in terms of floor area ratio and shall not exceed 50 percent. Development shall not exceed an impervious surface ratio of 0.85.

(d)

Setback requirements. In the IPD district, the following minimum setbacks shall be required (see also section 138-1281):

(1)

Front: Fifty feet from any arterial highway as shown on the sector right-of-way requirements and traffic corridor plan and 25 feet from any minor street measured from any right-of-way line to a structure.

(2)

Side and rear: Ten feet.

(e)

Special requirements. The following special requirements apply in the IPD district.

(1)

Performance standards: See article VII, division 4 of this chapter.

(2)

Outdoor storage is prohibited and all uses shall be conducted within enclosed buildings or structures.

(3)

The IPD district shall have a minimum of 100 feet of frontage on an arterial street as shown on the sector right-of-way requirements and traffic corridor plan.

(4)

All requests for rezoning to the IPD district shall be accompanied by an overall development plan which shall include the following:

a.

Those items required in subsections 138-178(a)(1) and (a)(2).

b.

Identification of the major street or drive system throughout the project.

(5)

Compatibility with the comprehensive land use plan: The IPD district may be utilized in areas classified by the comprehensive land use plan as follows:

a.

Industrial limited.

b.

Industrial general.

(Ord. No. 90-1, § 1(307.5), 1-30-90; Ord. No. 92-66, § 1, 10-27-92)

Secs. 138-946—138-970. - Reserved.

DIVISION 10. - M-1, LIGHT MANUFACTURING AND INDUSTRY DISTRICT

Sec. 138-971. - Definition, purpose and intent of district.

The M-1, light manufacturing and industry district will provide areas for light manufacturing, industry, industrial support facilities, and certain public service functions. It is intended that this district will provide low intensity general industrial development which will have minimal impact on the surrounding areas. This district differs from the next lower industrial district (IPD) in that a more broad range of uses including certain outdoor storage and activity is permitted. This district shall include those areas indicated on the zoning atlas maps as M-1A, M-1 and LI. Adoption of this chapter will not change these classification designations but will make this division applicable to them.

(Ord. No. 90-1, § 1(308.1), 1-30-90)

Sec. 138-972. - Permitted uses.

The following uses are permitted in the M-1 district:

(1)

Light industrial activities, including but not limited to:

a.

Light manufacturing and industry, except concrete and asphalt products and processing of fiberglass products (these operations are permitted in the M-2 district).

b.

Food processing.

c.

Ice plants.

d.

Machine shops.

e.

Bottling plants.

f.

Tobacco processing.

g.

Heavy equipment repair.

h.

Shops, offices and storage for contractors.

i.

Storage of products manufactured on site (see article VII, division 4).

j.

Wholesale bakeries.

k.

Lumberyards, including truss plants and similar operations.

l.

Solid waste management facilities which are operated from within completely enclosed buildings. Prior to zoning clearance or site plan approval, applicants will be required to provide a statement of intent to comply with the waste stream reporting requirements as may be required by the County if determined to be applicable by Pinellas County Utilities Solid Waste Operations Department.

(2)

Business services as defined by this article may include but not be limited to printing, engineering and architectural services, blueprint and reproduction services, cabinet shops, equipment repair, technical training facilities, account services, catalog order processing facilities, insurance claims and account processing centers, airline reservations centers and other such services that would be in keeping with the purpose and intent of this district.

(3)

Carpet cleaning plants.

(4)

Retail commercial uses shall be allowed only as accessory uses, located on the parcel to which such use is accessory, and shall not exceed 25 percent of the floor area of the principal use to which it is accessory.

(5)

Wholesaling, distributing and warehousing.

(6)

Research and development centers.

(7)

Wholesale storage of gasoline, liquefied petroleum gas, oil or other flammable liquids or gases, provided the use meets the requirements of all applicable laws and ordinances, the county building code, and the

aboveground containers meet front setbacks required in this division. (All setbacks shall be measured from the outer shell of the container.)

(8)

Crematoriums.

(9)

Dairying, including maintaining and raising of cattle, milk bottling and processing.

(10)

Government buildings.

(11)

Marinas, full service; the following conditions shall apply: The site shall contain sufficient upland areas to accommodate all needed utilities and support facilities such as off-street parking, restrooms, dry storage, etc. (see also section 138-1342).

(12)

Navigation safety devices and structures.

(13)

Professional offices.

(14)

Public or private utility rights-of-way or substations.

(15)

Radio and television transmitting stations.

(16)

Recreation areas such as parks, tennis and basketball courts, jogging trails, picnic areas and similar outdoor recreation facilities shall be semipassive in nature and are permitted in this district to provide location for breaks, lunches and recreational opportunities for persons working and doing business within the surrounding industrial area.

(17)

Accessory dwellings (see section 138-1337).

(18)

Such other uses that would be similar to those listed in this section and which would be consistent with the definition of this district.

(Ord. No. 90-1, § 1(308.2), 1-30-90; Ord. No. 92-66, § 1, 10-27-92; Ord. No. 93-88, § 1, 10-19-93; Ord. No. 96-41, § 1, 4-30-96; Ord. No. 97-79, § 2, 9-30-97; Ord. No. 98-97, § 6, 11-17-98; Ord. No. 06-53, § 10, 6-20-06)

Sec. 138-973. - Special exceptions.

Upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter, the following uses may be permitted in the M-1 district:

(1)

Outdoor gun clubs (see section 138-240(9)).

(2)

Restaurants (see section 138-240(12)).

(3)

The storage of garbage collection vehicles or containers.

(4)

See section 138-240 for other special exceptions which may be permitted in this district.

(Ord. No. 90-1, § 1(308.3), 1-30-90)

Sec. 138-974. - Conditional uses.

Upon application to the board of county commissioners and favorable action thereon, pursuant to article II, division 8 of this chapter, the following conditional uses may be permitted in the M-1 district:

(1)

Airports or airstrips.

(2)

Heliports or helistops.

(3)

Repealed.

(4)

Solid waste management facility (outdoor).

(5)

Off-site biohazardous or hazardous waste storage and/or treatment facilities. In order to protect property values, alleviate real and perceived health concerns and reduce the probability of entry of unauthorized

persons, these facilities shall not be located within one-half mile of residentially zoned property. For purposes of this restriction, the following definitions shall apply:

a.

Biohazardous waste shall be as defined in Rule 17-712.200(2), Florida Administrative Code.

b.

Hazardous waste shall be as defined in F.S. § 403.703(23) and as that definition is further defined in Rule 17-775.200(5), Florida Administrative Code.

c.

Off-site means any site which is not a part of the facility where biohazardous or hazardous waste is generated.

d.

Storage means the holding of biohazardous or hazardous waste in a place other than at the generating facility, for a temporary period at the end of which the waste is treated or stored elsewhere.

e.

Treatment means any process, including steam sterilization, chemical sterilization or incineration, which changes the character or composition of biohazardous or hazardous waste to render it nonbiohazardous or nonhazardous.

Distances shall be measured in a straight line from the outside perimeter of the subject property to the closest point of any residential zoning district, regardless of municipal or county jurisdiction. The one-half mile distance provided in this section shall, if it is determined to be unconstitutional, be read in decreasing segments of 500 feet until reaching such distance as is constitutional, with respect to each use. Any variances to these distance requirements shall be in response to a demonstrated hardship and shall be consistent with the purpose and intent of the distance requirements of this section. If such variance is requested, notice of such request shall be provided by regular U.S. mail to all residential property owners as listed by the county property appraiser's office within one-half mile of such site.

(6)

Hotels and motels with a maximum density of 40 units per acre within permanent structures, pursuant to the acreage thresholds in the Additional Standards section of the Future Land Use Map Category, Descriptions, and Rules of the Pinellas County Comprehensive Plan; these shall be licensed as such by the state (see definitions, section 138-1).

(Ord. No. 90-1, § 1(308.4), 1-30-90; Ord. No. 92-66, § 1, 10-27-92; Ord. No. 93-88, § 1, 10-19-93; Ord. No. 97-57, § 22, 7-28-97; Ord. No. 09-35, § 1, 6-16-09)

Sec. 138-975. - Property development regulations.

(a)

Maximum height. No structure in the M-1 district shall exceed 75 feet (see section 138-1277), or 35 feet when located within 50 feet of any residential zoned property.

(b)

Minimum building site area requirements. The minimum building site area requirements in the M-1 district are as follows:

(1)

Area: Twelve thousand square feet.

(2)

Width: Eighty feet (see section 138-1279).

(3)

Depth: One hundred feet.

See section 138-209 for lots or parcels of substandard dimensions.

(c)

Maximum land coverage by structures. In the M-1 district, the maximum floor area ratio shall not exceed 0.60 with a maximum of 50 percent lot coverage, and a maximum impervious surface ratio of 0.85.

(d)

Setback requirements (see also section 138-1281). In the M-1 district, the following minimum setbacks shall be required:

(1)

Front: Twenty-five feet.

(2)

Side: Ten feet.

(3)

Rear: Ten feet.

(e)

Special requirements.

(1)

Performance standards: See article VII, division 4 of this chapter.

(2)

Compatibility with the comprehensive land use plan: The M-1 district may be utilized in areas classified by the comprehensive land use plan as industrial limited or industrial general.

(Ord. No. 90-1, § 1(308.5), 1-30-90; Ord. No. 92-66, § 1, 10-27-92)

Secs. 138-976—138-1000. - Reserved.

DIVISION 11. - M-2, HEAVY MANUFACTURING AND INDUSTRY DISTRICT

Sec. 138-1001. - Definition, purpose and intent of district.

The M-2, heavy manufacturing and industry district is intended to permit general manufacturing and industry. It is further intended that this district will be less restrictive than the M-1 district so as to provide a wider variety of industrial uses. This district shall include those areas indicated on the zoning atlas maps as HI and M-2. Adoption of this chapter will not change these classification designations, but will make this division applicable to them.

(Ord. No. 90-1, § 1(309.1), 1-30-90)

Sec. 138-1002. - Permitted uses.

The following uses are permitted in the M-2 district:

(1)

Any use permitted in the M-1 district.

(2)

Concrete product manufacture.

(3)

Asphalt product manufacture.

(4)

Processing of fiberglass products, subject to performance standards (see article VII, division 4 of this chapter).

(5)

Any industrial use similar to those listed in this section.

(Ord. No. 90-1, § 1(309.2), 1-30-90)

Sec. 138-1003. - Special exceptions.

Upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7, the following uses may be permitted in the M-2 district:

(1)

Outdoor gun clubs (see section 138-240(9)).

(2)

The storage of garbage collection vehicles or containers.

(3)

See section 138-240 for other special exceptions which may be permitted in this district.

(Ord. No. 90-1, § 1(309.3), 1-30-90; Ord. No. 95-28, § 15, 4-18-95)

Sec. 138-1004. - Conditional uses.

Upon application to the board of county commissioners and favorable action thereon, pursuant to article II, division 8 of this chapter, the following uses may be permitted in the M-2 district:

(1)

Junkyards and vehicle salvage.

(2)

Airports and airstrips.

(3)

Heliports and helistops.

(4)

Off-site biohazardous or hazardous waste storage and/or treatment facilities. In order to protect property values, alleviate real and perceived health concerns and reduce the probability of entry of unauthorized persons, these facilities shall not be located within one-half mile of residentially zoned property. For purposes of this restriction, the following definitions shall apply:

a.

Biohazardous waste shall be as defined in rule 17-712.200(2), Florida Administrative Code.

b.

Hazardous waste shall be as defined in F.S. § 403.703(23) and as that definition is further defined in rule 17-775.200(5), Florida Administrative Code.

c.

Off-site means any site which is not a part of the facility where biohazardous or hazardous waste is generated.

d.

Storage means the holding of biohazardous or hazardous waste in a place other than at the generating facility, for a temporary period at the end of which the waste is treated or stored elsewhere.

e.

Treatment means any process, including steam sterilization, chemical sterilization or incineration, which changes the character or composition of biohazardous or hazardous waste to render it nonbiohazardous or nonhazardous.

Distances shall be measured in a straight line from the outside perimeter of the subject property to the closest point of any residential zoning district, regardless of municipal or county jurisdiction. The one-half-mile distance provided in this section shall, if it is determined to be unconstitutional, be read in decreasing segments of 500 feet until reaching such distance as is constitutional, with respect to each use. Any variances to these distance requirements shall be in response to a demonstrated hardship and shall be consistent with the purpose and intent of the distance requirements of this section. If such variance is requested, notice of such request shall be provided by regular U.S. mail to all residential property owners as listed by the county property appraiser's office within one-half mile of such site.

(5)

Solid waste management facility (outdoor).

(Ord. No. 90-1, § 1(309.4), 1-30-90; Ord. No. 92-66, § 1, 10-27-92; Ord. No. 93-88, § 1, 10-19-93)

Sec. 138-1005. - Property development regulations.

(a)

Maximum height. No structure in the M-2 district shall exceed 100 feet in height except as provided for in section 138-1277.

(b)

Minimum building site area requirements. The minimum building site area requirements in the M-2 district are as follows:

(1)

Area: Twenty-five thousand square feet.

(2)

Width: One hundred feet (see section 138-1279).

(3)

Depth: Two hundred feet.

See section 138-209 for lots or parcels of substandard dimensions.

(c)

Maximum area of land coverage. In the M-2 district, the maximum floor area ratio shall not exceed 0.70 with a maximum lot coverage of 50 percent and a maximum impervious surface ratio of 0.95. Development shall not exceed an impervious surface ratio of 0.95.

(d)

Setback requirements (see also section 138-1281). In the M-2 district, the following minimum setbacks shall be required:

(1)

Front: Twenty-five feet, measured from any right-of-way line to the structure.

(2)

Side: Twenty feet.

(3)

Rear: Twenty feet.

(e)

Special requirements. The following special requirements apply in the M-2 district:

(1)

Performance standards: See article VII, division 4 of this chapter.

(2)

Compatibility with the comprehensive land use plan: The M-2 district may be utilized in areas classified by the comprehensive land use plan as industrial general.

(Ord. No. 90-1, § 1(309.5), 1-30-90; Ord. No. 92-66, § 1, 10-27-92)

DIVISION 12. - OPH-D, OLD PALM HARBOR-DOWNTOWN DISTRICT

Sec. 138-1006. - Definition, purpose and intent of district.

The Old Palm Harbor-Downtown (OPH-D) District will provide a set of regulations that recognize, maintain and encourage the special character, uses and history of Downtown Old Palm Harbor and its historic district. The area will include a mixture of retail, lodging, residential, office and service uses. The OPH-D district is intended to assist in implementing the Downtown Historic Palm Harbor Master Plan adopted by the board of county commissioners by Ordinance No. 01-85 on December 18, 2001, and as it may be amended from time to time. Only those properties located within the master plan study area as adopted, or as it may be amended by the board, are eligible for designation with this district. The OPH-D district incorporates design and dimensional regulations that maximize the pedestrian experience and that recognize the existing character of Old Palm Harbor and its historic buildings.

Due to the increased mix of uses promoted, there is the opportunity to combine multiple purposes into one trip. As a result, parking requirements reflect this increased rate of internal capture and other unique circumstances such as a mix of uses, on-street parking, and bike traffic from the Fred Marquis Pinellas Trail.

There are two sub-districts within the OPH-D district based upon the desired uses and the street function. The sub-district assignments will differentiate uses and dimensional regulations, as outlined in the following sections.

(1)

East sub-district: Represents the historic downtown commercial center for Old Palm Harbor.

(2)

West sub-district: Represents a transitional area between residential uses near the waterfront and the historic downtown commercial center.

(Ord. No. 02-42, § 3, 5-21-02; Ord. No. 15-08, § 1, 2-10-15)

Sec. 138-1007. - Applicability and noncon- formities.

(a)

The OPH-D district zoning and design criteria will provide for the regulation and restriction of uses, structures, lots and parcels, or combinations thereof, which were lawfully established prior to the adoption of the ordinance from which this section derives.

(1)

All new uses, development, alteration, demolition, relocation, reconstruction and excavation within the OPH-D district shall be subject to the requirements of this division.

(2)

All new development, alteration, demolition, relocation, reconstruction, and excavation within the OPH-D district shall be subject to the requirements and procedures of section 146-7 for certificates of appropriateness. The design criteria for issuance of a certificate of appropriateness in the OPH-D district shall be as stated in section 138-1013.

(b)

Sections 138-201 through 138-213, regarding nonconformities, shall apply to the OPH-D district.

(c)

In cases where an individual lot or parcel has a building site area smaller than the requirements of the district:

(1)

Individual lots of record that were legally platted as of the date of adoption of the ordinance from which this section derives and no less than 25 feet in width may be developed.

(2)

No new lots less than 50 feet in width shall be created.

(d)

Section 138-1009, first floor uses, shall be made compliant according to the criteria of sections 138-201 through 138-213, regarding nonconforming uses.

(e)

Communication towers and antennas as defined in the Pinellas County Code, section 138-1347, must comply with the height requirements in the OPH-D zoning district and in the Downtown Palm Harbor Historic District and be camouflaged and consistent with the architectural character of the Downtown Palm Harbor Historic District.

(Ord. No. 02-42, § 3, 5-21-02; Ord. No. 04-72, § 1, 10-19-04; Ord. No. 12-34, § 1, 7-24-12; Ord. No. 15-08, § 2, 2-10-15)

Sec. 138-1008. - Permitted uses.

The following uses are permitted individually or in combination within the OPH-D district sub-districts.

Permitted Use	Allowable Sub-District
Commercial and Public/Semi-Public Uses:	
Retail business or commercial use (e.g. grocery, convenience shopping, drugstore, hardware, sundries)	East sub-district
Medical and dental offices	East sub-district
Professional, scientific, and technical services (e.g. attorneys, accounting, engineering, architecture, real estate, stockbrokers, advertising, interior design, surveying and mapping, consulting services, scientific research, financial investment advise, software publishing, insurance)	Both sub-districts
Personal services (e.g. barbershops, beauty parlors, shoe repair, framing shop, personal and household goods repair and maintenance)	East sub-district
Eating and drinking establishments (indoor/outdoor)	East sub-district
Veterinary clinic (no kennel/all enclosed)	East sub-district
Studios and galleries (e.g. artist, photographer, musician)	Both sub-districts
Medical clinic provided it can be carried out in a manner compatible with the definition of this district	East sub-district
School (public or private)	East sub-district
Churches	East sub-district
Day care center(1)	Both sub-districts
Parks and related uses	Both sub-districts
Bank facilities	East sub-district

Bank drive-through facilities(2)	East sub-district
Parking lots or structures (stand-alone)(3)	East sub-district
Government and community buildings and uses(4)	East sub-district
Theatres(5)	East sub-district
Artisan establishments6	East sub-district
Alcoholic beverage production facilities7	East sub-district
Residential and Lodging Uses:	
Single-family dwellings	West sub-district
Duplex and triplex dwellings	Both sub-districts
Multiple-family dwellings	Both sub-districts
Home occupations	Both sub-districts
Accessory dwelling units	Both sub-districts
Bed and breakfast8	Both sub-districts

Notes to permitted uses:

Outdoor display and/or sales of retail goods, wares and merchandise are permitted in the east sub-district, provided such activities are accessory to the primary use of the subject property and do not occur within public rights-of-way. Only the business or entity occupying the principal use or structure may be permitted to sell merchandise in outdoor display areas. Areas so utilized must be permitted and depicted on a county-approved site plan. When abutting a residential use, such areas shall be screened with a six-foot high opaque wall or fence, consistent with subsection 138-1013(c). The height of displayed merchandise shall not exceed the height of any wall or fence used for screening purposes.

The following additional standards apply to specific permitted uses:

(1)

Day care centers shall be subject to the following requirements:

a.

Provide a gross land area of 500 square feet per child (does not apply to adult day care).

b.

Orient all children's play areas and provide buffering and separation, as deemed appropriate by the director of development review services, so as to prevent adverse impacts to adjacent properties (does not apply to adult day care).

c.

Facilities to be licensed as required by appropriate governmental agencies.

d.

Parking required at one space per employee plus one space per each ten students or clients.

(2)

Bank drive-through facilities shall be subject to the following requirements:

a.

Shall be set back 25 feet from existing residential uses including stacking lanes.

b.

Shall only be considered for bank facilities located along Alternate U.S. 19.

(3)

Parking lots or structures (stand-alone): In addition to all other applicable requirements, parking lots shall comply with sections 138-1011 and 138-1012.

a.

Not permitted on Florida Avenue.

(4)

Government and community uses and buildings: Pursuant to section 138-270(6).

(5)

Theatres shall be subject to the following requirements:

a.

Limited in size to 200 seats.

b.

Shall not be located adjacent to existing residential uses.

(6)

Artisan establishments are intended to produce high-quality or distinctive products generally in small quantities. The production is usually by hand or traditional methods. Examples include, but are not limited to, glass blowing, jewelry making, woodworking, baking and traditional food product making. Artisan establishments shall be subject to the following:

a.

Building space used for artisan establishments shall not exceed a floor area of 7,500 square feet.

b.

Artisan establishments are permitted accessory outdoor work areas for purposes of creating art pieces and hosting demonstrations of artisan practices. Areas so utilized must be permitted and depicted on a county-approved site plan. When outdoor work areas abut a residential use, the area shall be screened with a six-foot-high opaque wall or fence, consistent with the standards of subsection 138-1013(c).

c.

Artisan establishments are permitted to teach artisan crafts, skills and techniques.

d.

When located in the area of the OPH-D district described in section 138-1009, artisan establishments shall provide a retail storefront.

e.

Artisan establishments shall strictly adhere to the performance standards required by article VII, division 4 of this chapter.

(7)

Alcoholic beverage production facilities include microbreweries, brewpubs, wineries, distilleries, cideries, meaderies, and other producers of alcoholic beverages for sale and distribution. Alcoholic beverage production facilities in the OPH-D district shall be subject to the following requirements:

a.

The facility shall produce no more than 30,000 barrels (930,000 U.S. gallons) of beer and/or cider per year (microbrewery/cidery), 100,000 U.S. gallons of wine and/or mead per year (winery/meadery), or 15,000 U.S. gallons of spirits per year (distillery).

b.

This use shall be permitted only in conjunction with a restaurant, tasting room or retail sales.

c.

No more than 75 percent of the total gross floor space of the establishment shall be used for the alcohol production function, including, but not limited to, the brewhouse or equivalent, boiling and water treatment areas, laboratories, bottling, canning and kegging lines, milling and storage, fermentation tanks, conditioning tanks, and serving tanks.

d.

All outdoor mechanical equipment shall be concealed from public streets (excluding alleys) and adjacent residential uses.

e.

No outdoor storage shall be allowed, including the use of portable storage units, cargo containers and tractor trailers.

(8)

Bed and breakfast shall be subject to the following requirements:

a.

Offers transient accommodations to lodgers in ten or fewer guest rooms for rent.

b.

A maximum six-square-foot sign may be provided to identify the facility location in the east sub-district.

c.

A maximum two-square-foot sign may be provided to identify the facility location in the west sub-district.

(Ord. No. 02-42, § 3, 5-21-02; Ord. No. 15-08, § 3, 2-10-15)

Sec. 138-1009. - First floor uses.

In that portion of the east sub-district of the OPH-D district located south of Nebraska Avenue, north of Georgia Avenue, east of Alternate U.S. Highway 19, and west of C.R. 1, pedestrian-oriented uses are required on the first floor.

(1)

The allowable uses from section 138-1008 are:

a.

Retail businesses.

b.

Personal service establishments (e.g. personal and household goods repair and maintenance, personal care services such as barber shops, beauty salons, shoe repair, framing shops).

c.

Medical and dental offices.

d.

Eating and drinking establishments (indoor and/or outdoor).

e.

Food markets.

f.

Studios and galleries (artists, photographer, etc.).

g.

Bank facilities (no drive-through facilities).

h.

Bed and breakfast.

i.

Professional, scientific, and technical services (e.g. attorneys, accounting, engineering, architecture, real estate, stockbrokers, advertising, interior design, surveying and mapping, consulting services, scientific research, financial investment advice, software publishing, insurance).

j.

Artisan establishments.

k.

Alcoholic beverage production facilities.

(2)

The criteria for compliance with this section are described in section 138-1007.

(Ord. No. 02-42, § 3, 5-21-02; Ord. No. 04-72, § 2, 10-19-04; Ord. No. 15-08, § 4, 2-10-15)

Sec. 138-1010. - Property development regulations.

(a)

New buildings or alterations/additions to existing structures shall not be built higher than the existing buildings in the district on the date the Downtown Palm Harbor Historic District was established (August 16, 1994). The height of new construction, or of alterations/additions to existing structures, shall not exceed 30 feet in height when measured at the lowest point of the eaves of the structure.

(b)

Minimum building site area requirements. The minimum building site area requirements in the OPH-D district are as follows:

(1)

Area: 4,500 square feet.

(2)

Width: 50 feet.

(3)

Depth: 90 feet.

(4)

Lots less than 50 feet in width that are lawfully existing as of the date of adoption of this ordinance may be developed pursuant to the conditions outlined in section 138-1007.

(c)

Maximum lot development.

Maximum Lot Development	Sub-District	
	East	West
Floor Area Ratio (F.A.R.)(1)	0.40 maximum(2)	0.30 maximum(3)
Residential Density	10 units per gross acre	10 units per gross acre
Impervious Surface Ratio	0.85 maximum	0.75 maximum

Notes to the maximum lot development:

(1)

Floor area used as a dwelling unit shall not be included in calculating floor area and are exempt from F.A.R. limitations.

(2)

The maximum F.A.R. for properties where first floor uses are restricted per section 138-1009 is 0.60.

(3)

Professional, scientific, and technical service uses, galleries, and studios shall not exceed an FAR of 0.30 or 1,500 square feet, per lot, whichever is less. These nonresidential uses shall only be permitted within an existing residential structure that has been converted for these types of uses. Any structural changes, modifications, or enlargements to existing residential structures shall retain the residential character of the building.

(d)

Setback requirements. The following setbacks shall be required:

	Setbacks

	Front	Side	Rear	Abutting Residential	Corner
East sub-district, abutting Florida Avenue east of Alt. 19; and the property at 1205 Omaha Cir. Minimum Maximum	0 ft. 15 ft.	0 ft. —	0 ft. —	7.5 ft. —	0 ft. —
East sub-district, not abutting Florida Avenue east of Alt. 19 Minimum Maximum	10 ft. 20 ft.	0 ft. —	0 ft. —	7.5 ft. —	5 ft. —
West sub-district Minimum	10 ft.	7.5 ft.	15 ft.	—	10 ft.

Notes to the setback requirements:

(1)

The maximum setback on the east side of Omaha Circle/College Hill Drive, between Nebraska Avenue and Georgia Avenue, shall be 30 feet to accommodate the historic perpendicular parking pattern that was incorporated into the Downtown Historic Palm Harbor Master Plan adopted on December 18, 2002.

(Ord. No. 02-42, § 3, 5-21-02; Ord. No. 04-72, § 3, 10-19-04; Ord. No. 15-08, § 5, 2-10-15)

Sec. 138-1011. - Off-street parking.

This section provides for safe and efficient parking while recognizing the unique conditions in Palm Harbor. Some internal capture of vehicle trips results from the mixture of uses and the bicycle traffic from the Fred Marquis Pinellas Trail. This combined with the public street parking improvements allows a reduced off-street parking requirement for comparable uses in conventional zoning districts.

(1)

There shall be provided at the time of the erection of any structure, or at the time any structure is enlarged or increased in capacity, a minimum number of off-street parking spaces.

(2)

In the east sub-district, the minimum number of off-street parking spaces provided shall be equal to the following:

a.

For retail uses, personal services, studios and galleries, eating and/or drinking establishments, artisan establishments, and alcoholic beverage production facilities, the minimum number of off-street spaces provided shall be equal to 2.1 parking spaces per 1,000 square feet of gross floor area. Outdoor work areas and outdoor display and/or sales of retail goods, wares and merchandise that are equal to or less than 400

square feet in area are not included when calculating the required number of minimum off-street parking spaces.

b.

For medical and veterinary clinics, medical and dental offices, and other office uses, the minimum number of off-street spaces provided shall be equal to four parking spaces per 1,000 square feet of gross floor area. A rate reduction of 0.2 parking space for every one public parking space located within a radius of 500 feet from the center of the parcel or parcels where the improvement will be located shall be applied towards meeting the off-street parking requirements. The county may request a survey be provided locating the center of the parcel or parcels where the improvement will be located for the purpose of determining the 500-foot radius. Only those public parking spaces completely located (both the entire width and length of the space) within the 500-foot radius can be counted toward the parking rate reduction. Calculation of this reduction shall not include on-street public parking spaces located along Florida Avenue, Michigan Avenue, and Nebraska Avenue. Regardless of the resulting rate reduction, a minimum of two off-street parking spaces shall be provided.

c.

For other nonresidential uses, the minimum number of off-street parking spaces provided shall be equal to 45 percent of the minimum number of off-street parking spaces required in section 138-1302, with a minimum of two spaces.

(3)

For nonresidential uses in the west sub-district: the minimum number of off-street spaces provided shall be equal to four-fifths the minimum number of off-street automobile parking spaces required in section 138-1302, with a minimum of two spaces.

(4)

Off-street parking for nonresidential uses in the west sub-district shall not be located in the front or comer setback areas.

(5)

Any outdoor seating area shall be included when calculating the required number of minimum off-street parking spaces, except that no off-street parking shall be required for an outdoor seating area that allows up to 24 seats and is equal to or less than 400 square feet in area. An outdoor seating area shall be accessory to an eating and/or drinking establishment with indoor dining.

(6)

Alleys may be used for access to off-street parking spaces.

(7)

Parking spaces for nonresidential uses may be provided on a separate lot or parcel not more than 500 feet from the primary parcel to be served as measured along the most direct pedestrian route.

(8)

Bed and breakfast in the east sub-district: one off-street parking space for every two guest rooms plus one space. Bed and breakfast in the west sub-district: one off-street parking space for every guest room plus two spaces. Parking shall be provided in a manner that is compatible with the surrounding area.

(9)

Single-family dwellings: two off-street parking spaces per dwelling unit.

(10)

For all other residential uses: one off-street parking space per efficiency unit and one and one-half off-street parking spaces per dwelling unit with one or more bedrooms.

(11)

Where not specifically changed in this section, parking requirements shall otherwise comply with article VII, division 2 of chapter 138.

(12)

Off-street parking shall not be located on the Florida Avenue frontage east of Alternate U.S. Highway 19.

(13)

Shared parking: parking facilities may be used jointly with parking facilities for other uses when operations are not normally conducted during the same hours, or when hours of peak use vary. Requests for the use of shared parking are subject to approval by the county administrator or his/her designee, and must meet the following conditions:

a.

The applicant must demonstrate to the county administrator's satisfaction that substantial conflict shall not exist in the principal hours or periods of peak demand for the uses for which the joint use is proposed.

b.

The number of parking spaces which may be credited against the requirements for the structures or uses involved shall not exceed the number of parking spaces reasonably anticipated to be available during differing hours of operation. The maximum reduction in the number of parking spaces required for all uses sharing the parking area shall be 25 percent.

c.

Parking facilities designed for joint use should not be located further than 500 feet from any structure or use served, measured along. the most direct pedestrian route.

d.

A written agreement shall be drawn to the satisfaction of the county attorney and executed by all parties concerned assuring the continued availability of the number of parking spaces designated for joint use.

(14)

For properties within this district that have existing buildings, as of May 21, 2002, the off-street parking arrangement in existence on that date for each building shall continue to be recognized by the county as meeting the minimum parking requirements of the OPH-D district. Such existing building square foot area may be renovated and redeveloped even if it involves the demolition and subsequent reconstruction of a similar size to the existing building square foot area without providing any additional off-street parking spaces. However, this recognition of existing parking arrangements shall not apply to additional building square footage or to a change in use that increases the required number of off-street parking spaces. Parking shall be provided, as required by this section, for any increase in building square foot area, or for the increased number of parking spaces required by a change muse.

(Ord. No. 02-42, § 3, 5-21-02; Ord. No. 12-08, § 1, 2-21-12; Ord. No. 13-07, § 1, 3-19-13; Ord. No. 15-08, § 6, 2-10-15)

Sec. 138-1012. - Landscaping for vehicular use (parking) areas.

In addition to the requirements of section 166-55 of the land development code, parking lots or vehicular use areas shall comply with the following.

(1)

Parking areas with three spaces or less are exempt per section 166-55.

(2)

Parking areas using alley access and not visible from the street are exempt from this section.

(3)

Parking or vehicular use areas shall be designed to complement the streetscape design plan.

a.

Where appropriate, the site design shall coordinate with and connect with the streetscape on the public right-of-way.

_____

b.

Plant materials and species shall be selected from the following list:

Botanical Name	Common Name
Palms:	
Sabal palmetto	Cabbage Palm
Acoelorrhaphe wrightii	Paurotis Palm (Needs ample water)
Trees:	

Cornus florida	Dogwood
Ilex cassine	Dahoon Holly
Ilex opaca	American Holly
Ilex x attenuata 'East Palatka'	East Palatka Holly
Ilex x attenuata 'Savannah'	Savannah Holly
Ilex vomitoria	Yaupon Holly
Lagerstroemia indica	Crape Myrtle
Liquidambar styraciflua	Sweet Gum
Magnolia grandiflora	Southern Magnolia
Quercus laurifolia	Laurel Oak
Quercus virginiana	Live Oak
Ulmus alata	Winged Elm
Accents:	
Cercis canadensis	Redbud
Crinum spp.	Spider Lily*
Phoenix roebelenii	Pygmy Date Palm
Prunus angustifolia	Chickasaw Plum
Zamia floridana	Coontie
Shrubs:	
Forestiera segregata	Florida Privet
Ilex cornuta 'burfordii'	Chinese Holly
Ilex cornuta 'rotunda'	Round Chinese Holly
Ilex vomitoria 'schillings'	Dwarf Yaupon Holly
Illicium parviflorum	Anise
Rhaphiolepis indica	Indian Hawthorn
Viburnum obovatum	Walter's Viburnum
Viburnum odoratissimum	Sweet Viburnum
Viburnum suspensum	Sandankwa Viburnum
Ground Covers:	
Juniperus spp.	Juniper
Liriope muscari 'evrgn gnt'	Evergreen Giant
Ophiopogon japonicus	Mondo Grass
Stachytarpheta jamaicensis	Trailing Porterweed
Zamia floridana	Coontie

Zamia furfuracea	Cardboard Palm
Trachelospermum asiaticum minima	Minima Jasmine
Ornamental Grasses:	
Miscanthus sinensis	Miscanthus
Muhlenbergia capillaris	Muhly Grass
Pennisetum setaceum	Fountain Grass
Pennisetum setaceum 'rubrum'	Red Fountain Grass
Tripsacum floridana	Dwarf Fakahatchee Grass
Ornamentals:	
Lantana species	Sterile subspecies or varieties such as 'Gold Mound'
Lantana montevidensis	
Pentas lanceolata	Pentas*
Plumbago 'Imperial Blue'	Plumbago
Annuals	Annuals

* cold sensitive

c.

Hardscape, paving and construction materials shall match or complement the streetscape materials within the right-of-way.

(Ord. No. 02-42, § 3, 5-21-02; Ord. No. 04-72, § 4, 10-19-04)

———

Sec. 138-1013. - Design criteria.

(a)

All new development, alteration, demolition, relocation, reconstruction, and excavation within the Old Palm Harbor-Downtown (OPH-D) District shall be subject to the criteria for historic properties set forth in chapter 146 and reiterated below. Those properties that are also located within the Downtown Palm Harbor Historic District shall continue to be subject to the provisions of chapter 146, the Historical Preservation Code.

(b)

The following design criteria apply to the OPH-D district. Downtown Old Palm Harbor is the historic commercial center for one of the oldest communities in Pinellas County. There are several contributing buildings within the OPH-D district. The historical "contributing" buildings located in the OPH-D district do not fall into any specific architectural style but are instead considered a part of the "folk" architectural tradition. For this reason, design criteria cannot be based upon specific, stylistic elements but instead must be

based upon the connecting elements and characteristics that are present in the district. These characteristics include: the relationship between the shape, size and height of the buildings, the front-facing orientation of the buildings and the lack of setbacks from the main street, the major roof types; window/door design and placement; and minimal ornamentation and architectural detailing. Minor connecting elements in the district include shutters, porches, and fences.

(1)

General design criteria.

a.

The scale (height/width ratio) of new construction, or of alterations/additions to existing structures, shall be similar to that of the contributing structures in the district.

b.

The historical setback patterns and street-facing orientation shall be maintained for new and reconstructed buildings. The orientation of new buildings, and of alterations/additions to existing buildings, shall maintain front-facing facades with the main entrance on the street side of the building.

c.

The size, slope, and type of roofs for new construction, or for alterations/additions to contributing structures, shall be similar to those of the contributing structures.

d.

Shutters shall be in character with the style and period of the building. Replacement shutters shall be similar to the original in size, configuration, and style, and shall fit the window openings, not to overlap on the surface of the wall.

e.

Porch additions shall have a roof type that is either similar to the existing roof or that is in character with the style and period of the building.

f.

Historically, building, trim, and roof colors have not been a major defining component of the district. Choice of colors should complement and enhance the character of the district. For new construction and noncontributing structures, specific color choice is left to the discretion of the property owner. For contributing structures, the general criteria for evaluating certificates of appropriateness as cited in subsection 146-7(a)(6) of the historic preservation code shall be followed.

g.

On-street or alley parking should be maintained. Historical parking patterns should be followed in site-plan requirements for new construction.

(2)

Contributing structures.

a.

If windows and doors in contributing structures are determined to be unrepairable, they shall be replaced with new windows and/or doors matching the size, spacing, and materials of the originals.

b.

Porches and porch features that are in good condition or repairable, and which are in character with the style and period of the building, shall be retained. Porches and porch features shall be repaired so they match the existing in materials, size and configuration.

(3)

Noncontributing structures.

a.

Where possible and appropriate, alterations and additions to noncontributing structures shall be similar to the major features, details and materials found in the contributing structures. Alterations and additions shall not introduce false historical architectural features not found in the district.

b

Where possible and appropriate, when renovating an existing noncontributing structure, new or replacement windows and/or doors shall be similar to the size, spacing, materials and general rhythm of the windows and doors found in the contributing structures.

(4)

New construction.

a.

The roof types of new buildings shall conform to the roof types of the contributing structures in the district. Gable, pyramidal (hip), and flat roofs with parapets are found in the contributing structures. Use of a roof type that is not present in the contributing structures, and which can be seen from the street is prohibited. Alternative roof styles can be used if they are concealed by a parapet and are not visible from the street.

b.

Proportions, configurations, and placement of windows and doors in new buildings shall be similar to the size, spacing, materials and general rhythm of the window/door fenestration found in the contributing structures.

c.

Use of double-hung sash windows with two four-lites is encouraged. Jalousie windows are prohibited. Recessed entrances are encouraged.

d.

Major architectural features, detailing and materials used in new construction shall be similar to those of the contributing structures found in the district.

e.

Modem equipment such as solar collectors, air conditioners, etc. shall be concealed from public view.

(c)

Fences within the OPH-D district shall be limited to the following styles and materials:

(1)

All fences and walls shall be constructed of materials appropriate to their purpose and location and shall be compatible with the streetscape materials.

a.

Fences and walls on all street frontages shall be constructed only of decorative open pickets, decorative metal, brick, or stamped concrete which are compatible with the streetscape design materials.

b.

No fence or wall shall be constructed of corrugated sheet metal, barbed wire, chicken wire, or similar materials.

c.

Chain link fences concealed by landscaping may be allowed along the side of property that has no street or alley frontage.

(2)

On all street frontages (except for frontage on an alley), walls and fences shall not exceed three feet in height, except in those instances where a higher fence is required by section 138-1286 for screening dumpsters.

(3)

No fence or wall shall be constructed within a public right-of-way, right-of-way easement or utility easement, unless authorized by Pinellas County.

(4)

No fence or wall shall enclose a water meter box or manhole, unless authorized by Pinellas County.

(5)

Where not specifically changed in this section, fences and walls shall otherwise comply with section 138-1336.

(Ord. No. 02-42, § 3, 5-21-02; Ord. No. 09-31, § 1, 5-19-09; Ord. No. 12-34, § 2, 7-24-12; Ord. No. 15-08, § 7, 2-10-15)

Sec. 138-1014. - Signs.

Except as modified herein, signs shall be subject to the regulations outlined in section 138-1334. Nonconforming signs shall be made compliant under the provisions of subsection 138-1334(b)(3), "nonconforming signs". Signs and standards in the OPH-D district shall be permitted as follows:

(1)

In the east sub-district:

a.

Freestanding signs shall be permitted only as follows:

1.

Number. A maximum of one sign per zone lot is permitted. One additional sign may be permitted for each additional street frontage.

2.

Area. The total maximum area for any freestanding sign or signs shall be that area calculated according to subsections (e)(1) and (e)(2) of section 138-1334 or 50 square feet per sign face, whichever is less.

3.

Height. For properties with frontage facade orientation on Alternate U.S. Highway 19, the maximum height for a freestanding sign is 20 feet or the height of the building, whichever is less. For all other freestanding signs the maximum height is ten feet.

4.

Setbacks. Such signs shall be set back as follows:

i.

Three feet from any public right-of-way.

ii.

Additional setbacks may be required when determined appropriate per subsection (e)(4) of section 138-1334.

5.

Time and temperature signs. Such signs are only permitted on sites fronting and oriented to Alternate U.S. Highway 19. The maximum area for the time and temperature portion only shall be 20 square feet per sign face.

6.

Flags. Flags containing a corporate name, logo, or other message directing attention to the business on site including any commodity or service for sale on site shall be part of the computation of allowable area for freestanding signs.

b.

Attached signs shall be permitted only as follows:

1.

Area. The maximum total area for all attached signs shall be that area calculated according to subsections (e)(1) and (e)(2) of section 138-1334, or 100 square feet, whichever is less.

2.

Types of signs permitted. The following attached signs may be permitted, provided the cumulative area of the attached signs does not exceed the maximum area according to subsection (1)b.1., above:

i.

Wall sign;

ii.

Canopy or awning sign;

iii.

Permanent window sign;

iv.

Projecting sign;

v.

Integral roof sign.

3.

Time and temperature signs. Such signs are only permitted on sites fronting and oriented to Alternate U.S. Highway 19. The maximum area for the time and temperature portion only shall be 20 square feet per sign face.

c.

Directory/information signs shall be permitted only as follows:

1.

Number. A maximum of one sign per street frontage is permitted.

2.

Area. The maximum area for a directory/information sign shall be 20 square feet per sign face for any one sign.

3.

Setback. Three feet from any public right-of-way.

d.

Public/semi-public land uses shall comply with the sign provisions of subsection 138-1334(f)(2)b.

e.

Community event signs may be permitted within public rights-of-way provided that they are safely located.

(2)

In the west sub-district, signs shall be permitted pursuant to section 138-1334(f)(2)b. Nonresidential uses permitted in the west sub-district are allowed up to one two-square-foot sign.

(Ord. No. 02-42, § 3, 5-21-02)

Sec. 138-1015. - Reserved.

Editor's note— Ord. No. 12-34, § 1, adopted July 24, 2012, deleted § 138-1015, which pertained to the Downtown Palm Harbor Review Committee organization, powers and duties and derived from Ord. No. 02-42, § 3, adopted May 21, 2002; and Ord. No. 04-72, § 5, adopted Oct. 19, 2004.

Sec. 138-1016. - Reserved.

Editor's note— Ord. No. 12-34, § 1, adopted July 24, 2012, deleted § 138-1016, which pertained to procedures for review and derived from Ord. No. 02-42, § 3, adopted May 21, 2002; and Ord. No. 04-72, § 5, adopted Oct. 19, 2004.

Secs. 138-1017—138-1030. - Reserved.
ARTICLE VI. - SPECIAL DISTRICTS
DIVISION 1. - GENERALLY

Secs. 138-1031—138-1050. - Reserved.
DIVISION 2. - AL, AQUATIC LANDS DISTRICT

Sec. 138-1051. - Definition, purpose and intent of district.

The purpose and intent of the AL, aquatic lands district is to protect coastal waterways and coastal wetlands which are subject to tidal action or periodic tidal inundation. Coastal areas are characterized by mangrove stands and other salt-tolerant vegetation found in tidal fringe lands, and also include all adjacent coastal waters. Any significant alteration of these lands and waterways would result in damage to the aquatic ecosystem and its ecological value to the public. This district shall include those areas designated on the zoning atlas maps as AL.

(Ord. No. 90-1, § 1(401.1), 1-30-90)

Sec. 138-1052. - Permitted uses.

Within any AL, aquatic lands district, no building or structure shall be erected, altered or used, nor shall any land or water use be permitted, except for one or more of the following, upon showing that such use, building or structure will not result in a pollution discharge to the waters of the United States, or public waters of the state; result in injury to the aquatic ecosystem; alter the normal ebb and flow of tidal waters; or alter the normal water elevation of interior wetlands and/or lakes.

(1)

Wildlife management structures and accessory uses.

(2)

Docks and piers.

(3)

Recreation and park uses and/or structures compatible with the above.

(4)

Stormwater management facilities.

(Ord. No. 90-1, § 1(401.2), 1-30-90)

Sec. 138-1053. - Special exceptions.

No special exceptions may be authorized within the AL district.

(Ord. No. 90-1, § 1(401.3), 1-30-90)

Sec. 138-1054. - Conditional uses.

There are no conditional uses which may be authorized within the AL district.

(Ord. No. 90-1, § 1(401.4), 1-30-90)

Sec. 138-1055. - Property development regulations.

The following property development regulations are applicable to the AL district:

(1)

This division shall not conflict with other federal, state and local laws, ordinances and regulations; and to the extent of any such conflict, the more stringent regulations shall prevail unless otherwise provided by law.

(2)

Development requirements will be established in conjunction with site plan review.

(3)

Any use, building or structure requiring alteration of the land and/or water shall meet the conditions of article II, division 5 of this chapter.

(4)

Compatibility with the comprehensive land use plan: The AL, aquatic lands district should be used in those areas classified as preservation; however, this district shall be compatible with any classification of the comprehensive land use plan where the property in question meets the definition of the AL, aquatic lands district.

(Ord. No. 90-1, § 1(401.5), 1-30-90)

Secs. 138-1056—138-1080. - Reserved.

DIVISION 3. - PC, PRESERVATION/CONSERVATION DISTRICT

Sec. 138-1081. - Definition, purpose and intent of district.

The purpose of the PC, preservation/conservation district is to regulate the use of properties having unique environmental, biological, or ecological features. This division provides criteria to protect areas containing endangered species of flora or fauna, preserve areas considered vital to the maintenance and recharge of water resources, preserve areas with unique or valuable topographic or subsurface features, protect areas of significant environmental or ecological importance to the county, protect areas of natural drainage, and ensure the least intensive development compatible with the protection of native plants, wildlife and habitats in their natural condition. These areas may consist of wetlands and/or uplands. This category also supports environmental research and environmental education that is dependent on, or interprets, the surrounding natural environment, and is consistent with applicable management plans on County owned or managed property. It is further the intent of this division that all lands and water classified as preservation/conservation shall remain in an essentially undeveloped state with no appreciable impervious surface coverage and with as much natural vegetation retained as possible. Residential density at a maximum density of one unit per acre or nonresidential floor area credit at a maximum of 0.05 may be transferred to contiguous non-preservation areas of the site under uniform ownership provided such contiguous area is appropriately zoned to receive such transfer of development rights. This district shall include those areas indicated on the zoning atlas map as PC.

(Ord. No. 90-1, § 1(402.1), 1-30-90; Ord. No. 09-18, § 2, 3-17-09)

Sec. 138-1082. - Permitted uses.

The following uses are permitted in the PC, preservation/conservation district:

(1)

Facilities, structures and accessory uses for natural resources and wildlife management.

(2)

Natural resource and wildlife management activities.

(3)

Docks and piers, nature trails, and boardwalks; observation towers, and canopy walk(s) for environmental research, education and appreciation on public-owned land.

(4)

Stormwater management facilities that are compatible with the purpose and intent of this district and are consistent with approved county watershed or land management plans.

(5)

Small diameter groundwater/wetland monitoring wells, existing permitted (non-vertical) potable water transmission lines.

(6)

A maximum residential density credit of one unit per acre to be transferred to the contiguous nonpreservation area of the site under uniform ownership provided the receiving area is appropriately zoned to receive such transfer.

(7)

Nonresidential floor area credit (0.05 maximum) to be transferred to the contiguous non-preservation area of the site under uniform ownership provided the receiving area is appropriately zoned to receive such transfer.

(Ord. No. 90-1, § 1(402.2), 1-30-90; Ord. No. 09-18, § 2, 3-17-09)

Sec. 138-1083. - Special exceptions.

There are no special exceptions permitted within the PC, preservation/conservation district.

(Ord. No. 90-1, § 1(402.3), 1-30-90)

Sec. 138-1084. - Conditional uses.

There are no conditional uses permitted within the PC, preservation/conservation district.

(Ord. No. 90-1, § 1(402.4), 1-30-90)

Sec. 138-1085. - Property development regulations.

The following property development regulations are applicable to the PC, preservation/conservation district:

(1)

This division shall not conflict with other federal, state and local laws, ordinances and regulations; and to the extent of any such conflict, the more stringent regulations shall prevail unless otherwise provided by law. All development requirements will be established in conjunction with site plan review; however, in no case shall any structure be located within 25 feet of adjacent property. No structures may exceed 35 feet in height, with the exception of observation towers and/or associated canopy walkways, which are required to be located on public-owned land and which shall not exceed 75 feet. Maximum impervious coverage shall not exceed five

percent of the site area.

(2)

The PC district is intended to be utilized in areas designated as preservation by the future land use map of the comprehensive plan; however, it may be utilized under any designation of the plan provided the subject property meets the intent of the definition of this division.

(Ord. No. 90-1, § 1(402.5), 1-30-90; Ord. No. 09-18, § 4, 3-17-09)

Secs. 138-1086—138-1100. - Reserved.

DIVISION 4. - PSP, PUBLIC/SEMIPUBLIC DISTRICT

Sec. 138-1101. - Definition, purpose and intent of district.

The purpose of the PSP, public/semipublic district is to regulate the location of a broad range of public service facilities, government facilities and institutions throughout the county. This district shall provide a wide range of services, facilities and institutions and therefore shall be located in appropriate areas accessible to the public or in areas with demonstrated demand or need for such and otherwise ensure development which is compatible with existing zoning and uses in areas surrounding or adjacent to this district and with the comprehensive land use plan. This district shall include those areas indicated on the zoning atlas map as PSP.

(Ord. No. 90-1, § 1(403.1), 1-30-90; Ord. No. 93-13, 2-16-93)

Sec. 138-1102. - Permitted uses.

Within any PSP, public/semipublic district, only the following uses shall be permitted:

(1)

Any use permitted in the IL, institutional limited district.

(2)

Colleges, universities, and high schools.

(3)

Museums, performing arts centers, convention centers, cultural centers and similar uses.

(4)

Congregate care facilities; maximum density shall be three beds per each unit of permitted density. Refer to section 138-1282 for restrictions on the location or expansion of nursing homes.

(5)

Hospitals. Refer to section 138-1282 for restrictions on the location or expansion of hospitals.

(6)

Medical clinics.

(7)

Parks, playgrounds or similar recreation complex.

(8)

Governmental facilities which are characterized as low intensity or primarily office uses such as a city hall, courthouse, post office, public safety facility, library, government office and similar public service and government oriented uses.

(Ord. No. 90-1, § 1(403.2), 1-30-90; Ord. No. 93-13, 2-16-93; Ord. No. 11-19, § 10, 6-14-11; Ord. No. 15-32, § 7, 8-18-15)

Sec. 138-1103. - Conditional uses.

Upon application to and favorable action by the board of county commissioners, pursuant to article II, division 8 of this chapter, the following conditional uses may be permitted in the PSP district:

(1)

Utility substations, such as electric power substation, water treatment, sewage treatment and similar utility uses.

(2)

Government buildings and public uses other than those listed as permitted uses in this chapter (such as military installations, airports, penal facilities and similar uses).

(Ord. No. 90-1, § 1(403.4), 1-30-90; Ord. No. 93-13, 2-16-93)

Sec. 138-1104. - Property development regulations.

(a)

Building height regulations. No structure in the PSP district shall exceed 50 feet in height except as otherwise provided in this chapter. In approving a conditional use within the PSP district, the board of county commissioners may increase maximum allowable heights where deemed appropriate.

(b)

Minimum building site area requirements. The minimum building site area requirements in the PSP district are as follows:

(1)

Area: One acre.

(2)

Width: One hundred feet (see section 138-269).

(3)

Depth: One hundred feet.

(c)

Maximum area of land coverage. Development in the PSP district shall not exceed a floor area ratio of 0.65 nor an impervious surface ratio of 0.85.

(d)

Setback requirements (see also section 138-1281). The following minimum setbacks shall be required in the PSP district:

(1)

Front: A minimum of 25 feet from any right-of-way line to the structure.

(2)

Side and rear: A minimum of 20 feet.

(e)

Special requirements. The following special requirements apply in the PSP district:

(1)

Performance standards. In order to minimize effects on the surrounding residential area the following standards shall apply:

a.

All vehicular use areas, play areas, recreation areas, ballfields or similar recreation areas shall be effectively screened from contiguous residential properties.

b.

Performance standards required by article VII, division 4 of this chapter shall also apply.

(2)

Compatibility with comprehensive land use plan. The PSP district may be utilized in areas designated by the future land use map as public/semipublic or institutional. When regulating a transportation or utility type use, the district shall also be appropriate within the transportation/utility category.

(3)

Locational criteria. In keeping with the purpose and intent of this district, it may be appropriate to locate this district in or near residential areas so as to serve the community needs for a broad range of public and semipublic uses. In reviewing requests to locate this district, the board of county commissioners shall consider the potential impacts of traffic, noise, neighborhood disruption, operational characteristics and

similar potentially adverse effects on the surrounding neighborhood. Where it is found that the uses permitted by this district may cause these adverse effects and where the restriction and performance standards of the district would not reasonably protect the neighborhood from such effects, this district shall not be approved.

(Ord. No. 90-1, § 1(403.5), 1-30-90; Ord. No. 92-66, § 1, 10-27-92; Ord. No. 93-13, 2-16-93; Ord. No. 95-28, § 16, 4-18-95)

Secs. 138-1105—138-1125. - Reserved.

DIVISION 5. - WPD, WELLHEAD PROTECTION OVERLAY DISTRICT

Sec. 138-1126. - Definition, purpose and intent of district.

The purpose of the WPD, wellhead protection overlay district is to protect the health, safety and welfare of the residents and visitors of the county and to strive to achieve the goal of the comprehensive plan to protect the functional integrity of natural groundwater aquifer recharge areas and wellheads in a manner that preserves and enhances water quality. Since the county is completely dependent on groundwater for its potable water supply, it is imperative that action be taken to protect the function of the recharge areas. Large amounts of impervious surfaces, seepage from landfills, septic systems, urban runoff and storage tanks all potentially degrade the function of the recharge area. It is the intent of this division to protect the groundwater through an overlay district whereby land use controls in addition to those of the zoning district may be applied.

(Ord. No. 90-1, § 1(404.1), 1-30-90)

Sec. 138-1127. - District boundaries.

Within the county, the wellhead protection overlay district is generally located in the northeastern portion (sector 2) of the county and shall encompass the area described in section 166-194. Such areas shall be indicated on the zoning atlas.

(1)

Interpretation of district boundary:

a.

Properties located wholly within the zone of protection shall be governed by the provisions of that zone.

b.

Properties having parts lying within the zone of protection shall be governed by the provisions of that zone.

(2)

The boundaries of this district, as described above, shall be indicated on the zoning atlas by an overlay pattern or shading, as deemed appropriate.

(Ord. No. 90-1, § 1(404.2), 1-30-90)

Sec. 138-1128. - District regulations.

The uses and associated regulations of chapter 166, article IV are adopted by reference and shall apply to those areas within the wellhead protection district.

(Ord. No. 90-1, § 1(404.3), 1-30-90)

Secs. 138-1129—138-1160. - Reserved.

DIVISION 6. - HISTORIC PRESERVATION OVERLAY DISTRICT

Sec. 138-1161. - Definition, purpose and intent of district.

The purpose of the historic preservation overlay district is to assist in implementing the goals, objectives, and policies in the adopted comprehensive plan pertaining to the protection, preservation, and appropriate use of historic resources in the county, including historic structures and buildings identified in the county historic resource data base referenced in chapter 146. The county has conducted a comprehensive survey of historic and archaeological resources in the unincorporated area which identified several historic resources, and it is therefore the intent of this district to protect and preserve the county's historic resources through an overlay district whereby land use controls in addition to those of the underlying zoning districts may be applied.

(Ord. No. 90-1, § 1(405.1), 1-30-90; Ord. No. 92-8, 2-18-92)

Sec. 138-1162. - Permitted uses.

Uses permitted in the historic preservation overlay district shall be those permitted by the underlying zoning district.

(Ord. No. 90-1, § 1(405.2), 1-30-90; Ord. No. 92-8, 2-18-92)

Sec. 138-1163. - Special exceptions.

Upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter, the following uses may be permitted in the historic preservation overlay district:

(1)

Any use permitted as a special exception in the underlying zoning district; such uses shall comply with chapter 146.

(2)

Any use which will permit the continued use of the property as a historic resource as defined in chapter 146. It shall be the intent and purpose of this section to permit a reasonable use of the property, other than the generally permitted uses or allowable special exceptions, when no other use of the property would be available to logically preserve the building or structure as a historic resource or as an incentive to encourage the continued use of the property as a historic resource. In approving these special exceptions, the board of adjustment shall find that:

a.

All requirements of article II, division 3 of this chapter are met.

b.

The applicant has presented substantial competent evidence to show that no other use which is generally permitted or otherwise allowed as a special exception within the underlying zoning district is reasonably available to allow a continued use of the property as a historic resource or that a financial hardship would result if the applicant was not permitted to use the property in the manner requested so as to preserve the property as a historic resource.

c.

The approval of the special exception is for the sole purpose of fostering the preservation of the historic resource and will not confer on the applicant any special privilege other than allowing the continued preservation of a historic resource.

(Ord. No. 90-1, § 1(405.3), 1-30-90; Ord. No. 92-8, 2-18-92)

Sec. 138-1164. - Conditional uses.

Upon application to and favorable action by the board of county commissioners, pursuant to article II, division 8 of this Code, those conditional uses that are permitted in the underlying zoning district may be allowed in the historic preservation overlay district. When located in the historic preservation overlay district, such uses shall comply with chapter 146.

(Ord. No. 90-1, § 1(405.4), 1-30-90; Ord. No. 92-8, 2-18-92)

Sec. 138-1165. - Property development regulations.

All development in the historic preservation overlay district shall comply with the requirements of the underlying zoning district.

(Ord. No. 90-1, § 1(405.5), 1-30-90; Ord. No. 92-8, 2-18-92)

Sec. 138-1166. - District boundaries.

The historic preservation overlay district shall be indicated on the zoning atlas by an overlay pattern or shading, as deemed appropriate.

(Ord. No. 90-1, § 1(405.6), 1-30-90; Ord. No. 92-8, 2-18-92)

Sec. 138-1167. - District regulations.

The uses and associated regulations of chapter 146 are adopted by reference and shall apply to those areas within the historic preservation overlay district.

(Ord. No. 90-1, § 1(405.7), 1-30-90; Ord. No. 92-8, 2-18-92)

Secs. 138-1168—138-1190. - Reserved.

DIVISION 7. - IL, INSTITUTIONAL LIMITED DISTRICT

Sec. 138-1191. - Definition, purpose and intent of district.

The purpose of the IL, institutional, limited district is to regulate the location of essential and/or desirable public services compatible with neighboring residential uses. This district is generally appropriate in

locations where religious, educational, civic, health or similar institutional uses are necessary or desirable to serve the community. This district shall be so located as to recognize the special needs of these uses relative to surrounding uses and shall have adequate access to the transportation system. Performance standards are required to minimize impact on the surrounding residential areas.

(Ord. No. 90-1, § 1(406.1), 1-30-90; Ord. No. 93-13, 2-16-93)

Sec. 138-1192. - Permitted uses.

Within any IL district, only the following uses shall be permitted:

(1)

Churches, synagogues, houses of worship and their traditional accessory uses and functions which are incidental and ancillary to the use of the site as a church or place of worship.

(2)

Public or private elementary or middle schools.

(3)

Libraries.

(4)

Congregate care facilities; maximum density shall be three beds per each unit of permitted density. Refer to section 138-1282 for restrictions on the location or expansion of nursing homes.

(5)

Day care centers.

(6)

Facilities for fraternal or civic organizations.

(7)

Such other uses that would be similar to those listed in this section and which would be in keeping with the intent and purpose of the IL district.

(Ord. No. 90-1, § 1(406.2), 1-30-90; Ord. No. 93-13, 2-16-93; Ord. No. 11-19, § 11, 6-14-11; Ord. No. 15-32, § 8, 8-18-15)

Sec. 138-1193. - Property development regulations.

(a)

Maximum height. No structure in the IL district shall exceed 50 feet in height. When abutting any single-family residential area, no structure shall exceed 35 feet in height.

(b)

Minimum building site area requirements. The minimum building site area requirements in the IL district are as follows:

(1)

Area: One acre.

(2)

Width: One hundred feet (see section 138-269).

(3)

Depth: One hundred feet.

(c)

Maximum area of land coverage. Development in the IL district shall not exceed a floor area ratio of 0.65 nor an impervious surface ratio of 0.85.

(d)

Setback requirements (see also section 138-1281). In the IL district, the following minimum setbacks shall be required:

(1)

Front: A minimum of 25 feet from any right-of-way to the structure.

(2)

Side and rear: A minimum of 15 feet from property lines to the structure.

(e)

Special requirements. The following special requirements apply in the IL district:

(1)

Performance standards. In order to minimize effects on the surrounding residential area the following standards shall apply:

a.

All vehicular use areas, play areas, recreation areas, ballfields or similar recreation areas shall be effectively screened from contiguous residential properties.

b.

The performance standards required by article VII, division 4 of this chapter shall also apply.

(2)

Compatibility with comprehensive land use plan. The IL district may be utilized in areas classified by the future land use map as institutional or public/semipublic.

(3)

Locational criteria. In keeping with the purpose and intent of this district, it may be appropriate to locate this district in or near residential areas so as to serve the community needs for religious, civic, limited educational or similar limited institutional functions. In reviewing requests to locate this district, the board of county commissioners shall consider the potential impacts of traffic, noise, neighborhood disruption, operational characteristics and similar potentially adverse effects on the surrounding neighborhood. Where it is found that the uses permitted by this district may cause these adverse effects and where the restriction and performance standards of the district would not reasonably protect the neighborhood from such effects, this district shall not be approved.

(Ord. No. 90-1, § 1(406.5), 1-30-90; Ord. No. 93-13, 2-16-93)

Secs. 138-1194—138-1220. - Reserved.

DIVISION 8. - ARCHAEOLOGICAL PRESERVATION OVERLAY DISTRICT

Sec. 138-1221. - Definition, purpose and intent of district.

The purpose of the archaeological preservation overlay district is to assist in implementing the goals, objectives, and policies in the adopted comprehensive plan pertaining to the protection, preservation, and appropriate use of archaeological resources in the county, including archaeological sites and districts identified in the county historic resource data base referenced in chapter 146. The county has conducted a comprehensive survey of historic and archaeological resources in the unincorporated area which identified several historic and archaeological resources, and it is therefore the intent of this district to protect and preserve the county's archaeological resources through an overlay district whereby land use controls in addition to those of the underlying zoning districts may be applied.

(Ord. No. 90-1, § 1(407.1), 1-30-90; Ord. No. 93-88, § 1, 10-19-93)

Sec. 138-1222. - Permitted uses.

Permitted uses in the archaeological preservation overlay district shall be those permitted by the underlying zoning district.

(Ord. No. 90-1, § 1(407.2), 1-30-90; Ord. No. 93-88, § 1, 10-19-93)

Sec. 138-1223. - Special exceptions.

Upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter, the following uses may be permitted in the archaeological preservation overlay district:

(1)

Any use permitted as a special exception in the underlying zoning district; such uses shall comply with chapter 146.

(2)

Any use which will permit the continued use of the property as an archaeological resource as defined in chapter 146. It shall be the intent and purpose of this section to permit a reasonable use of the property, other than the generally permitted uses or allowable special exceptions, when no other use of the property would be available to logically preserve the site or district as an archaeological resource or as an incentive to encourage the continued preservation of the property as an archaeological resource. In approving these special exceptions, the board of adjustment shall find that:

a.

All requirements of article II, division 7 of this chapter are met.

b.

The applicant has presented substantial competent evidence to show that no other use which is generally permitted or otherwise allowed as a special exception within the underlying zoning district is reasonably available to allow a continued use of the property as an archaeological resource or that a financial hardship would result if the applicant was not permitted to use the property in the manner requested so as to preserve the property as an archaeological resource.

c.

The approval of the special exception is for the sole purpose of fostering the preservation of the archaeological resource and will not confer on the applicant any special privilege other than allowing the continued preservation of an archaeological resource.

(Ord. No. 90-1, § 1(407.3), 1-30-90; Ord. No. 93-88, § 1, 10-19-93)

Sec. 138-1224. - Conditional uses.

Upon application to and favorable action by the board of county commissioners, pursuant to article II, division 8 of this chapter, those conditional uses that are permitted in the underlying zoning district may be allowed in the archaeological preservation overlay district. When located in the archaeological preservation overlay district, such uses shall comply with chapter 146.

(Ord. No. 90-1, § 1(407.4), 1-30-90; Ord. No. 93-88, § 1, 10-19-93)

Sec. 138-1225. - Property development regulations.

All development in the archaeological preservation overlay district shall comply with the requirements of the underlying zoning district.

(Ord. No. 90-1, § 1(407.5), 1-30-90; Ord. No. 93-88, § 1, 10-19-93)

Sec. 138-1226. - District boundaries.

The archaeological preservation overlay zoning district shall be indicated on the zoning atlas by an overlay pattern or shading, as deemed appropriate.

(Ord. No. 90-1, § 1(407.6), 1-30-90; Ord. No. 93-88, § 1, 10-19-93)

Sec. 138-1227. - District regulations.

The uses and associated regulations of chapter 146 are adopted by reference and shall apply to those areas within the archaeological preservation overlay district.

(Ord. No. 90-1, § 1(407.7), 1-30-90; Ord. No. 93-88, § 1, 10-19-93)

Secs. 138-1228—138-1245. - Reserved.

DIVISION 9. - P-RM PRESERVATION-RESOURCE MANAGEMENT

Sec. 138-1246. - Definition, purpose and intent of district.

The purpose of the P-RM, preservation-resource management district is to regulate the use of environmentally significant properties where the conservation and management of important natural and water resources is a priority. Environmental research and resource-based recreational and educational uses that promote environmental stewardship, consistent with an approved management plan for the respective county owned or managed property, are compatible with this district, as is the provision of public potable water supply in those areas designated with a Resource Management Overlay (RMO) on the future land use map.

The intent of the preservation-resource management district with the application of a resource management overlay is to provide for both the conservation and management of important natural resources, as well as the ability to develop and manage potable water supply resources and assets and to protect the functional integrity of natural aquifer recharge areas and potable well fields in a manner that preserves and enhances water quantity and quality.

The division provides criteria for ensuring the least intensive development compatible with protecting important habitat, protecting endangered species of flora or fauna, areas with unique or valuable topographic or subsurface features, protecting areas of significant environmental or ecological importance to the county, protecting functional and valuable ecosystems, and protecting areas of natural drainage. These areas may consist of wetlands and/or uplands. Most lands classified as preservation-resource management shall be environmentally important open space areas where resource-based recreational uses are compatible with protection and management of the natural resource. Where such resource-based recreational uses are allowed, no use shall exceed a floor area ratio of 0.05 or an impervious surface ratio of 0.10.

Refer to the property development regulations associated with this zoning district for the floor area and impervious surface standards associated with those properties with an RMO designation on the future land use map. In those cases where site alteration and development is allowed it shall be for facilities in which a public need or demand has been demonstrated and can be related to environmental education, resource-based recreational uses, natural resource management, the provision of potable water supply, and/or a land or watershed management plan.

(Ord. No. 97-57, § 23, 7-28-97; Ord. No. 09-18, § 5, 3-17-09)

Sec. 138-1247. - Permitted uses.

The following uses are permitted in the P-RM, preservation-resource management district:

(1)

Facilities, structures and accessory uses for natural resource and wildlife management.

(2)

Resource-based recreation uses.

(3)

Facilities, structures and accessory uses for environmental education.

(4)

Nature trails and boardwalks; observation towers, and canopy walk(s) for environmental research, education and appreciation located on public-owned land.

(5)

Surface water management facilities that are compatible with the purpose and intent of this district and are consistent with approved county watershed or natural resource management plans.

(6)

Natural resource and wildlife management activities.

(7)

Wellfield/recharge area protection, groundwater monitoring, existing water transmission lines.

(8)

Implementation of uses and activities directed by, or compatible with, an approved watershed or natural resource management plan.

(9)

Facilities, structures and accessory uses that enhance or support the provision of potable water supply, located on properties that have a Resource Management Future Land Use Map Overlay (RMO-1 or RMO-2) and that are consistent with the specific permitted uses associated with the respective overlay.

(Ord. No. 97-57, § 23, 7-28-97; Ord. No. 09-18, § 6, 3-17-09)

Sec. 138-1248. - Special exceptions.

Upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter, the following uses may be permitted in the preservation-resource management district:

Governmental telecommunication tower facilities.

(Ord. No. 97-57, § 23, 7-28-97)

Sec. 138-1249. - Conditional uses.

There are no conditional uses permitted within the P-RM, preservation-resource management district.

(Ord. No. 97-57, § 23, 7-28-97)

Sec. 138-1250. - Property development regulations.

The following property development regulations are applicable to the P-RM preservation-resource management district:

(1)

This division shall not conflict with other federal, state and local laws, ordinances and regulations, and to the extent of any such conflict, the more stringent regulations shall prevail unless otherwise provided by law. All development requirements will be established in conjunction with site plan review; however, in no case shall any structure be located within 25 feet of adjacent property, except that within the area designated with the RMO-2 category on the future land use map, any structure shall be required to be set back at least 500 feet from the northern edge of Old Keystone Road and the western edge of those portions of Section/Township /Range (STR) 02/27/16 and STR 11/27/16. The 500-foot setback will function as a vegetated buffer.

(2)

Final decisions regarding the location of vertical water supply infrastructure/structures within those areas designated with the P-RM zoning district that have the RMO-2 category on the Pinellas County Future Land Use Map, shall be the responsibility of the Pinellas County Board of County Commissioners, and be determined through the following process:

a.

County provides general notice to the public;

b.

County conducts two public information meetings to provide interested citizens with the opportunity to review and comment on the proposal for locating vertical water supply infrastructure/structures within the area designated with the RMO-2 category;

c.

Review by the Pinellas County Planning Department for compliance with the adopted Pinellas County Comprehensive Plan; and

d.

A public hearing and decision on the proposal by the board of county commissioners.

(3)

No structures may exceed 35 feet in height, except for the following: observation towers and/or associated canopy walkways shall not exceed 75 feet; vertical water supply structures on public owned property designated with the RMO-2 category on the future land use map shall not exceed 65 feet in height;

(4)

For properties designated with the P-RM zoning district, or with the P-RM zoning district with the RMO-1 category as an overlay on the future land use map, no use shall exceed a floor area ratio (FAR) of 0.05 nor an impervious surface ratio (ISR) of 0.10, based on the area of the project site.

(5)

For properties designated with the P-RM zoning district with the RMO-2 category as an overlay on the future land use map, no use shall exceed a floor area ratio (FAR) of 0.05 nor an impervious surface ratio (ISR) of 0.10, based on the area of the project site, unless the following conditions apply:

a.

Vertical water supply infrastructure/structures shall not exceed a cumulative FAR of 0.25 and an ISR of 0.50 that are calculated based on the area of the project site within the 260 acres that would permit these vertical water supply uses; and

b.

If a reservoir is constructed within the 260 acres that would permit vertical water supply infrastructure/structures, the reservoir may be permitted up to a maximum ISR of 0.50, calculated based on the area of the project site, and any other vertical water supply infrastructure/structures shall not exceed a cumulative FAR of 0.25 and an ISR of 0.50 based on the area of the project site within the remaining portion of the 260 acres not used as a reservoir.

(6)

The P-RM district is intended to be utilized in areas designated as preservation-resource management on the future land use map of the comprehensive plan; however, it may be utilized under any designation of the future land use map of the comprehensive plan provided the subject property meets the intent of the definition of this division.

(7)

A maximum residential density credit of one unit per acre may be transferred to contiguous non-preservation areas of the site under uniform ownership provided the receiving area is appropriately zoned to receive such transfer.

(8)

Nonresidential floor area credit (0.05 maximum) may be transferred to contiguous non-preservation areas of the site under uniform ownership provided the receiving area is appropriately zoned to receive such transfer.

(Ord. No. 97-57, § 23, 7-28-97; Ord. No. 09-18, § 7, 3-17-09)

Secs. 138-1251—138-1259. - Reserved.

DIVISION 10. - C-T, TRANSIENT ACCOMMODATION OVERLAY DISTRICT

Sec. 138-1260. - Definition, purpose and intent of district.

It is the purpose of this district to depict those areas of the county that are now developed, or appropriate to be developed, with more intensive medium density permanent transient accommodation uses and accompanying accessory uses; and to recognize such areas as well-suited for transient accommodation use consistent with their location, surrounding uses, public infrastructure and transportation facilities and, when applicable, the natural resource characteristics of these areas.

(Ord. No. 08-69, § III, 10-21-08)

Sec. 138-1261. - Permitted uses.

Within any C-T, transient accommodation overlay district, only the following uses shall be permitted:

(1)

Any use permitted in the underlying zoning district.

(2)

Permanent transient accommodation use up to the maximum densities and intensities provided for in this district, subject to meeting the requirements of subsection 138-1262(d) of this division.

(3)

Such other uses that would be similar to those listed in this section and that would be consistent with the definition of this district.

(Ord. No. 08-69, § III, 10-21-08)

Sec. 138-1262. - Property development regulations.

(a)

Maximum height (see also section 138-1277). The maximum height of structures in the C-T overlay district shall be as established in the underlying zoning district, except that the height of a permanent transient accommodation may be increased up to a maximum height of 100 feet if the following conditions are met:

(1)

The transient accommodation use requirements of subsection 138-1262(d) have been achieved.

(2)

The site consists of a minimum of five acres.

(3)

Any height allowed for a site that exceeds the maximum height established in the underlying zoning district shall be included within a development agreement developed and approved pursuant to subsection 138-1262(d)(1).

(4)

Any height allowed for a site that exceeds the maximum height established in the underlying zoning district must be compatible with adjoining property uses and with the character of the surrounding community.

(b)

Minimum building site area requirements. The minimum building site area requirements in the C-T overlay district shall be as established in the underlying zoning district.

(c)

Maximum area of land coverage. The maximum area of land coverage shall be as established in the underlying zoning district, with the exception of transient accommodation uses that meet the requirements of subsection 138-1262(d), which use shall not exceed the floor area ratios and impervious surface ratios in the following table:

DENSITY AND INTENSITY STANDARDS FOR PERMANENT
TRANSIENT ACCOMMODATIONS THAT MEETS
THE REQUIREMENTS OF SUBSECTION 138-1262(d)

		Maximum Density/Intensity Standards		
Zoning District	Permanent Transient Accommodations on Property That is Designated on the Future Land Use Map With the Following Category:	Units/Acre	FAR*	ISR
C-T Overlay	Residential/Office /Retail	45	1.0	0.85
	Commercial Recreation	60	1.2	0.90
	Commercial General	60	1.2	0.90
	Industrial Limited	75	1.5	0.85

*The floor area ratios in the above table apply to the transient accommodation use, associated parking structures, and uses accessory to transient accommodation uses (i.e., meeting space, restaurants, spas, clubs, etc.).

(d)

Transient accommodation use requirements. The standard transient accommodation densities and intensities specified in the underlying zoning district shall be utilized, unless the requirements of this section have been achieved, in which case, the higher densities and intensities specified in the table in subsection 138-1262(c)

may be used. A permanent transient accommodation use may utilize these higher densities and intensities, subject to the following:

(1)

A development agreement prepared and approved pursuant to F.S. § 163.3220—163.3243, that addresses at a minimum the following:

a.

The ability of the county, or the applicable service provider, to meet the concurrency management standards identified in Policy 1.5.1 of the Capital Improvements Element of the Pinellas County Comprehensive Plan.

b.

Provision for all transient accommodation uses to comply with all county and local hurricane evacuation plans and procedures to ensure orderly evacuation of guests and visitors pursuant to the Pinellas County Code, Chapter 34, Article III. All transient accommodation uses which are located in the coastal storm area, as identified in the Pinellas County Comprehensive Plan, shall prepare a legally enforceable mandatory evacuation/closure covenant, stating that the transient accommodation use will be closed as soon as practicable after a hurricane watch is posted for Pinellas County by the National Hurricane Center. A plan implementing the closure and evacuation procedures shall be prepared and submitted to the county emergency management coordinator prior to issuance of a certificate of occupancy. This plan will be updated and sent for review when there is a change of ownership or substantive change to the plan or as required by the county emergency management coordinator.

c.

Design considerations in subsection 138-1262(d)(3), the transportation concurrency management provisions in subsection 138-1262(d)(4), and the restrictions on transient accommodation use in subsection 138-1262(d)(5).

d.

A requirement that prior to issuance of building permits the conditions and restrictions in subsection 138-1262(d)(1)c. are generally described in a recorded deed restriction, which shall be perpetual and may be amended or terminated only with the consent of the county, which consent shall not be unreasonably withheld.

(2)

For development that includes a combination of transient accommodation and residential dwelling use, each use shall be allowed in proportion to the size of the property and the permitted density and intensity of the respective use.

(3)

Design considerations applicable to the proposed use shall address the following in the development agreement so as to ensure compatibility in terms of context-sensitive design, and the scale and placement of the proposed use so as to achieve a harmonious relationship and fit relative to its location and surroundings:

a.

Building scale — including height, width, location, alignment, and spacing.

b.

Building design — including elevations, facade treatment, entrance and porch or balcony projections, window patterns and roof forms. Building design considerations are optional for inclusion in the development agreement unless they are required to be included in order to meet requirements of the underlying zoning district or other applicable provision(s) of the county comprehensive plan or Land Development Code (e.g. the County's Historical Preservation Code).

c.

Site improvements — including building and site coverage, accessory structures, service and amenity features, walkway and parking areas, open space, and view corridors.

d.

Adjoining property use — including density/intensity, and building location, setbacks, and height.

(4)

A project authorized to use the increased density and intensity provided for in the transient accommodation overlay district shall be subject to a transportation analysis that is consistent with the Metropolitan Planning Organization's (MPO) countywide approach to the application of concurrency management, which includes the following:

a.

Recognition of standard data sources as established by the MPO.

b.

Identification of level of service standards for state and county roads as established in the Pinellas County Comprehensive Plan.

c.

Use of proportionate fair share requirements consistent with the Pinellas County Comprehensive Plan and the county's land development regulations.

d.

Use of the MPO Traffic Impact Study Methodology.

e.

Recognition of the designation of "constrained facilities" as set forth in the most current Pinellas County Concurrency Test Statement.

(5)

To ensure that a project authorized to use any portion of the transient accommodation uses at the higher densities and intensities provided for in the transient accommodation overlay district is built, functions, operates, and is occupied exclusively as transient accommodation, the project shall comply with the following restrictions:

a.

No transient accommodation unit shall be occupied as a residential dwelling unit, and a maximum length of stay for any consecutive period of time shall be established by Pinellas County to ensure that any transient accommodation use does not function as a residential use.

b.

Transient accommodation units shall not qualify or be used for homestead or home occupation purposes.

c.

All transient accommodation units must be included in the inventory of units that are available within a transient accommodation use.

d.

No conversion of transient accommodation units to residential dwelling units shall be permitted unless the conversion is in compliance with the Pinellas County Comprehensive Plan with respect to the permitted residential density and, where applicable, the intensity for associated nonresidential uses.

e.

A transient accommodation use may include accessory uses, such as recreational facilities, restaurants, bars, personal service uses, retail uses, meeting space, fitness centers, spa facilities, parking structures, and other uses commonly associated with transient accommodation uses. All such uses shall be included in the calculation of allowable floor area ratio.

f.

Any license required of a transient accommodation use by Pinellas County and/or a state agency shall be obtained and kept current.

g.

Transient accommodation uses shall be subject to all applicable tourist development tax collections.

h.

A reservation system shall be required as an integral part of the transient accommodation use and there shall be a lobby/front desk area that must be operated as a typical lobby/front desk area for transient accommodation would be operated.

i.

Transient accommodation uses must have sufficient signage that complies with the Pinellas County Land

Development Code and is viewable by the public designating the use as a transient accommodation use.

j.

The books and records pertaining to use of each transient accommodation unit shall be open for inspection by authorized representatives of Pinellas County, upon reasonable notice, in order to confirm compliance with these regulations as allowed by general law.

k.

Pinellas County may require affidavits of compliance with this section from each transient accommodation use and/or unit owner.

(6)

A copy of an approved development agreement prepared pursuant to this section shall be recorded with the clerk of the circuit court, a copy filed with the property appraiser's office, and a copy submitted to the Pinellas Planning Council and the Countywide Planning Authority for receipt and filing within 14 days after recording.

(e)

Setback requirements (see also section 138-1281). In the C-T overlay district, the minimum setbacks established in the underlying zoning district shall apply. Where the height of a permanent transient accommodation is allowed to exceed the maximum height established in the underlying zoning district pursuant to subsection 138-1262(a), the additional following minimum setback requirements shall apply:

(1)

When the underlying zoning district is either C-2, CR, or CP:

That portion of a building height above 50 feet to 75 feet requires a minimum setback of 65 feet on all sides.

That portion of a building height above 75 feet to 100 feet requires a minimum setback of 80 feet on all sides.

(2)

When the underlying zoning district is IPD:

That portion of a building height above 75 feet to 100 feet requires a minimum setback of 80 feet on all sides.

(f)

Special requirements. The following special requirements apply in the C-T overlay district:

(1)

Performance standards: See article VII, division 4, of this chapter.

(2)

Commercial vehicles may be stored on site within this district when utilized in conjunction with a permitted

use. This shall not include the use or storage of heavy equipment or semitractors/trailers.

(3)

Compatibility with the comprehensive plan: The C-T overlay district may be utilized in areas classified by the future land use map as follows:

a.

Residential/office/retail.

b.

Commercial recreation.

c.

Commercial general.

d.

Industrial limited.

(Ord. No. 08-69, § III, 10-21-08)

DIVISION 11. - RBR, RESOURCE-BASED RECREATION DISTRICT

Sec. 138-1263. - Definition, purpose and intent of district.

The purpose of the RBR, resource-based recreation district, is to provide for resource-based (passive) recreation uses, open space and accessory uses and facilities to meet the resource-based recreation and open space needs of the county. These uses and accessory facilities are located in areas accessible to the public where there is a demonstrated demand, need or opportunity for such. While not limited to regional county parks, this district is appropriate for such properties, as well as in park areas where natural resource features dominate and are worthy of protection, enhancement, and interpretation for the public. Uses and facilities within this district should be compatible with existing zoning and uses in surrounding or adjacent areas, and with the comprehensive plan. This district shall include those areas indicated on the zoning atlas map as RBR.

(Ord. No. 09-65, § 2, 12-15-09)

Sec. 138-1264. - Permitted uses.

Within any RBR, resource-based recreation district, the following uses are permitted:

(1)

Resource-based (passive) recreation uses such as:

a.

Picnicking/picnic shelters.

b.

Low-impact camping and accessory uses.

c.

Facilities, structures and accessory uses for environmental education.

d.

Wildlife viewing/observation decks and towers.

e.

Horseback riding on trails.

f.

Fishing/fishing piers.

g.

Hiking on trails/boardwalks.

h.

Saltwater beach activities, including bath houses.

i.

Boating/boat ramps.

j.

Canoeing and kayaking/canoe and kayak launch areas.

k.

Playgrounds/playground equipment.

l.

Historical/cultural interpretation and activities.

m.

Bike riding.

n.

Dog parks.

o.

Non-organized field sports.

p.

Community gardens.

q.

Concessions.

r.

Restrooms.

s.

Special events that are not facility dependent.

t.

Maintenance activities and facilities.

u.

Such other uses that would be similar to those listed in this section and which would be in keeping with the intent and purpose of the RBR district.

(2)

Natural resource management uses, including:

a.

Those facilities, structures and accessory uses necessary for wildlife and natural resource management, including the conservation, protection and enhancement of natural plant communities.

b.

Watershed and habitat management activities.

c.

Surface water management facilities.

d.

Uses and activities that implement park management plans.

(3)

Accessory dwellings.

(Ord. No. 09-65, § 3, 12-15-09)

Sec. 138-1265. - Property development regulations.

(a)

Building height regulations. No structure in the RBR district shall exceed 35 feet in height, or 70 feet for observation towers, unless otherwise provided in this chapter (see also section 138-1277).

(b)

Maximum area of land coverage. Development in the RBR district shall not exceed a floor area ratio (FAR) of 0.10, nor an impervious surface ratio (ISR) of 0.20.

(c)

Setback requirements (see also section 138-1281). The following minimum setbacks shall be required for any building or structure in the RBR district:

(1)

Front: 75 feet, measured from any right-of-way line to the structure.

(2)

Side and rear: 75 feet, measured from any property line to the structure.

(d)

Special requirements. The following special requirements apply in the RBR district:

(1)

Performance standards. In order to minimize potential effects on surrounding residential areas, the following standards shall apply:

a.

All vehicular use areas, play areas, recreation areas, etc. shall be effectively screened from contiguous residential properties.

b.

Artificial outdoor lighting shall be low-impact, directional and limited to security purposes only.

(2)

Compatibility with comprehensive plan. The RBR district may be utilized in areas designated by the future land use map as recreation/open space.

(3)

Locational criteria. In keeping with the purpose and intent of this district, it may be appropriate to locate this district in or near residential areas so as to serve the community needs for passive recreational uses. In

reviewing requests to locate this district, the board of county commissioners shall consider the potential impacts of traffic, noise, neighborhood disruption, operational characteristics and similar potentially adverse effects on the surrounding neighborhood.

(Ord. No. 09-65, § 4, 12-15-09)

DIVISION 12. - FBR, FACILITY-BASED RECREATION DISTRICT

Sec. 138-1266. - Definition, purpose and intent of district.

The purpose of the FBR, facility-based recreation district, is to provide facility-based (active) recreation uses in certain areas of the county. This district shall provide recreation facilities for active uses located in appropriate areas accessible to the public and/or in areas with demonstrated demand or need for such. Uses and facilities within this district are required to be compatible with the existing zoning and uses in surrounding or adjacent areas, and with the comprehensive plan. This district shall include those areas indicated on the zoning atlas map as FBR.

(Ord. No. 09-65, § 5, 12-15-09)

Sec. 138-1267. - Permitted uses.

Within any FBR, facility-based recreation district, the following uses shall be permitted:

(1)

Facility-based (active) recreation uses such as:

a.

Organized field sports such as football, baseball, softball, soccer, etc., with the exception of those that require conditional use approval (see article II, division 8 of this chapter).

b.

Court-related activities such as tennis, basketball, racquetball, etc.

c.

Equestrian activities/horse stables.

d.

Pool swimming/swimming pools.

e.

Spray parks/splash parks.

f.

Skating/skate parks.

g.

Bicycling/BMX facilities.

h.

Fitness activities.

i.

Restrooms.

j.

Community centers/social activities such as dance, recreational classes, special events, etc.

k.

Such other uses that would be similar to those listed in this section and which would be in keeping with the intent and purpose of the FBR district.

(2)

All uses allowed in the RBR, resource-based recreation district.

(Ord. No. 09-65, § 6, 12-15-09)

Sec. 138-1268. - Conditional uses.

Upon application to and favorable action by the board of county commissioners, pursuant to article II, division 8 of this chapter, the following conditional uses may be permitted in the FBR district:

(1)

If a field sport or court requires nighttime lighting and intends to operate during non-daylight hours, conditional use application and review is required.

(2)

Field sports that are proposed within 300 feet, measured from the actual playing surface, of a residential zoning district require conditional use application and review.

(3)

If over three fields are proposed, conditional use application and review is required.

(Ord. No. 09-65, § 7, 12-15-09)

Sec. 138-1269. - Property development regulations.

(a)

Building height regulations. No structure in the FBR district shall exceed 35 feet in height, unless otherwise provided in this chapter (see also section 138-1277). Sports lighting poles shall not exceed 75 feet in height.

(b)

Maximum area of land coverage. Development in the FBR district shall not exceed a floor area ratio (FAR) of 0.25, nor an impervious surface ratio (ISR) of 0.60.

(c)

Setback requirements (see also section 138-1281). The following minimum setbacks shall be required in the FBR district:

(1)

Front: 50 feet, measured from any right-of-way line to the structure.

(2)

Side and rear: 50 feet, measured from any property line to the structure.

(d)

Special requirements. The following special requirements apply in the FBR district:

(1)

Performance standards. In order to minimize effects on surrounding residential areas, the following standards shall apply:

a.

All vehicular use areas, play areas, recreation areas, playfields or similar recreation areas shall be effectively screened from contiguous residential properties.

b.

Outdoor lighting must be directional and low-impact.

c.

Noise levels from public address systems, piped music and other similar sources in the FBR district shall adhere to the standards outlined in section 58-453.

d.

The location can accommodate the required parking and potential queuing of vehicles onsite.

(2)

Compatibility with comprehensive plan. The FBR district may be utilized in areas designated by the future land use map as recreation/open space.

(3)

Locational criteria. In keeping with the purpose and intent of this district, it may be appropriate to locate this district in proximity, although not limited to, residential areas, with consideration of the scale and intensity of the activity, and where the use can serve community needs for active recreation. This district may also be appropriate in commercial and industrial areas. In reviewing requests to locate this district, the board of county commissioners shall consider the potential impacts of traffic, noise, neighborhood disruption, operational characteristics and similar potentially adverse effects on the surrounding neighborhood.

(Ord. No. 09-65, § 8, 12-15-09)

DIVISION 13. - FBC, FORM BASED CODE DISTRICT

Sec. 138-1270. - Definition, purpose and intent of district.

(a)

Form based code means a land development regulation mechanism that fosters predictable built results and a high-quality public realm by using physical form (rather than separation of uses) as the organizing principle for the district.

(b)

The purpose of the FBC, form based code district is to establish an alternative to existing zoning districts found elsewhere in this Land Development Code in order to promote and conserve traditional neighborhood development patterns; promote and conserve mobility and walkable neighborhoods; and accommodate mixed use development patterns that may be excluded by standard, Euclidian-type zoning districts. The application of the FBC district designation may require a Pinellas County Future Land Use Map designation that supports the use of the FBC district.

(c)

FBC districts in the county are intended to:

(1)

Identify target areas throughout the County ideal for concentrating urban development with land uses in near proximity to one another, to reduce automobile dependency, and that accommodate the demand for housing, employment, shopping, entertainment and recreation;

(2)

Promote quality redevelopment that considers and accommodates multiple users, land uses and transportation modes to allow residents more living options and transportation choices;

(3)

Provide a mix of land uses, including minimum levels of residential density sufficient to support compatible nonresidential land uses, such as but not limited to retail goods and services, professional business and office services, restaurants, and recreation places that are convenient to all intended users;

(4)

Provide greater certainty to developers of property and the public in terms of urban form and neighborhood character to be expected when property is developed; and

(5)

Establish a process for interpreting and applying land development regulations that gives more clarity to development possibilities and potential outcomes.

(d)

The subject property to be considered for a FBC district shall consist of a minimum 30 acres and include a minimum 20 acres of upland area. The planning director or designee may administratively approve adjustments to this minimum property and/or upland area requirement, on a case-by-case basis, if they determine that such adjustment will not compromise the purpose and intent of this section. Adjustments to this minimum acreage requirement shall be considered unique and shall not set precedent for others.

(e)

Properties considered for FBC district designation should comprise contiguous areas suitable for cohesive redevelopment and meet the intent of the district as identified in subsection (c) of this section.

(f)

The preparation of FBC districts per this section is intended to be initiated by county staff; however, property owners and developers of property may petition the county for the creation of a FBC district per this section. The planning director, or designee, will review FBC district requests for consistency with the comprehensive plan and the expressed purpose, intent and requirements as outlined in this section, and will provide a written response thereto.

(Ord. No. 15-32, § 9, 8-18-15)

Sec. 138-1271. - Adoption process.

(a)

The FBC district and regulating plan shall be adopted by ordinance and the official zoning atlas shall be amended to reflect the FBC district.

(b)

Each FBC district designation shall include a form based regulating plan based on the following:

(1)

The expressed purpose and intent of section 138-1270; and

(2)

The use of urban design standards and practices generally accepted by professional planning organizations,

such as, but not limited to, the American Planning Association, the Congress of the New Urbanism, the Form Based Codes Institute, Urban Land Institute and Transect-Based plans such as the SmartCode™ and Neighborhood Conservation Code.

(c)

Interpretation. Where additional clarity or interpretation is needed in order to apply this section of the code to an area or a specific project, the decision rendered shall be by the planning director, or designee. The interpretation should be documented in a written statement which demonstrates how the interpretation is consistent with the purpose and intent of the district.

(d)

Each form based code district (including the associated regulating plan) shall be adopted by ordinance to the zoning chapter of the Land Development Code or as a separate appendix to the Land Development Code.

(Ord. No. 15-32, § 9, 8-18-15)

Sec. 138-1272. - Implementation.

(a)

Each FBC district regulating plan must adhere to all applicable local, state, and federal regulations as well as appropriate planning and urban design principles.

(b)

Conflicting provisions. Should conflicts between the FBC district and other zoning or zoning-related provisions be discovered, the FBC district shall take precedence, unless such conflicts are found to negatively impact the health, safety or welfare of the county.

(Ord. No. 15-32, § 9, 8-18-15)

DIVISION 14. - CO, CONDITIONAL ZONING OVERLAY DISTRICT

Sec. 138-1273. - Definition, purpose and intent.

The purpose of a CO, conditional zoning overlay district is to provide for the conditional and limited approval of infill development and redevelopment in defined areas to ensure compatibility with surrounding uses and consistency with the comprehensive plan and this Code.

(Ord. No. 15-32, § 9, 8-18-15)

Sec. 138-1274. - Development regulations generally.

The development regulations imposed by a CO are more restrictive than the regulations otherwise applicable to the property under this Code. Development of property subject to the application of a CO shall be pursuant to its underlying zoning district, as limited by the regulations imposed by the CO. Each ordinance applying a CO shall define the land area which it covers along with the specific regulations imposed. The property specific development regulations shall be made a part of the zoning atlas and noted on each property to which they apply. Conditional overlays shall be indicated on the zoning atlas by an overlay pattern or shading, as

deemed appropriate.

(Ord. No. 15-32, § 9, 8-18-15)

Sec. 138-1275. - Limitation on permitted development regulations.

Development regulations imposed by a conditional overlay shall be limited to those which:

(1)

Prohibit permitted uses, special exceptions and conditional uses as well as accessory uses otherwise authorized in the underlying zoning district;

(2)

Decrease the number of dwelling units or density that may be constructed on the subject property;

(3)

Increase minimum lot area, minimum lot width or minimum lot depth requirements;

(4)

Decrease maximum floor area ratio (FAR);

(5)

Decrease maximum height;

(6)

Increase minimum yard and setback requirements; or

(7)

Decrease maximum building or impervious coverage.

(Ord. No. 15-32, § 9, 8-18-15)

ARTICLE VII. - SUPPLEMENTAL REGULATIONS
DIVISION 1. - GENERALLY

Sec. 138-1276. - Deed restrictions, covenants, easements, other regulations.

Nothing contained in this chapter shall abrogate or annul any easement, covenant, or other agreement between parties; provided, however, that where this chapter imposes a greater restriction upon the uses of structures, land and water, or requires more open space than is required by other rules or regulations, or by easements, covenants or agreements, recorded deed, plat or otherwise, the provisions of this chapter shall govern.

(Ord. No. 90-1, § 1(505.1), 1-30-90)

Sec. 138-1277. - Height limitations generally.

Chimneys, water, fire, radio and television towers, smokestacks, flagpoles and similar structures and their necessary mechanical appurtenances, such as elevator shafts, ventilation equipment, etc., may be erected to a maximum of 20 feet above the height limits established in this chapter; however, the heights of these structures or appurtenances thereto shall in no case exceed the height limitations prescribed by the Federal Aviation Agency within the flight approach zone patterns of airports. Approval by the Federal Aviation Administration of such structure heights shall be required when structures are located within the flight approach zones of airports (see airport zoning regulations). This provision shall not apply to signs, billboards or amateur radio antennas protected under F.S. § 125.085 and F.S. § 166.0435.

(Ord. No. 90-1, § 1(505.2), 1-30-90; Ord. No. 91-54, § 3, 10-29-91; Ord. No. 98-6, § 8, 1-6-98)

Sec. 138-1278. - Boundary lines and survey.

Prior to construction on any lot or parcel, the boundaries of such lot or parcel shall be accurately marked with appropriate markers set by a surveyor registered to practice in the state. Markers shall thereafter be protected and shall be used by inspectors to determine required setbacks. A survey shall be required with all applications for a zoning clearance (see section 138-152(b)).

(Ord. No. 90-1, § 1(505.3), 1-30-90)

Sec. 138-1279. - Road frontage.

(a)

Except as otherwise provided in this chapter, no building shall be built, constructed, enlarged or structurally altered or moved on a lot, tract, or parcel of land which does not abut a publicly accessible right-of-way for a distance equal to the minimum lot width required in the zoning district in which the property is located. The county administrator or designee may waive the road frontage requirement when one of the following applies:

(1)

It is impractical to provide adequate roadway frontage.

a.

It is intended that such waiver may be granted to properties fronting on established private roads or easements where owing to the size or configuration of properties or the size or configuration of the road or easement it would be impractical to provide adequate roadway frontage. Prior to such waiver being granted the applicant shall submit proof of a recorded ingress/egress easement for access to the property (such easement shall be reviewed and approved by the county attorney) and shall demonstrate compliance with established standards for emergency access as required by the applicable fire department.

b.

It is also intended that a waiver may be granted for infill and redevelopment properties where roadway frontage constraints exist due to existing property configurations and the inability to combine with or connect to adjacent properties.

(2)

On a lot, tract, or parcel of land recorded prior to January 30, 1990, the length of the abutting publicly accessible right-of-way frontage is less than the minimum lot width required per the zoning district in which the property is located. In evaluating a potential waiver of this subsection requirement, the county administrator or designee shall consider the property's ability to accommodate emergency access through established standards as required by the applicable fire department. A waiver will not be granted in instances where there are adjacent properties under same ownership that can be combined to meet this section requirement.

(b)

Where the curvature of such publicly accessible right-of-way prevents this requirement from being met, the road frontage required in this section may be reduced up to 36 percent.

(Ord. No. 90-1, § 1(505.4), 1-30-90; Ord. No. 97-57, § 24, 7-28-97; Ord. No. 15-32, § 10, 8-18-15)

Sec. 138-1280. - Surface drainage.

Prior to issuance of a building permit for any structure, a site drainage plan may be required if the proposed improvement is determined by the department of environmental management or the engineering department to affect existing drainage patterns and, if required, shall be examined by the county engineering department and department of environmental management. Such examination shall determine whether the drainage of the lot or parcel is compatible with the county drainage standards established in accordance with the comprehensive plan adopted pursuant to state law. Additionally, a stormwater pollution prevention plan and/or an erosion control plan, as appropriate, is required for new construction activities which will disturb existing soil conditions. No zoning clearance shall be issued in such instances where the county engineering department or department of environmental management finds the plan to be incompatible with established standards (see section 138-152(b)).

(Ord. No. 90-1, § 1(505.5), 1-30-90; Ord. No. 03-24, § 14, 4-15-03)

Sec. 138-1281. - Measurement of setbacks.

(a)

Setbacks shall be measured by the shortest dimension, running from the property line to the structure.

(b)

No portion of an alley shall be considered as part of a required setback.

(c)

For determination of setbacks, corner lots and multiple-frontage lots shall be considered to have fronts on all street frontages unless otherwise specified in this chapter. Side setbacks shall apply to all other sides of such a lot or parcel.

(d)

Where right-of-way lines are established by action of the board of county commissioners for the purpose of

future roads or widening of existing roads, all street setbacks shall be measured from the proposed right-of-way line.

(e)

Sills, eaves, cornices, chimneys, flues, mechanical equipment and similar projections may project into a setback area not more than three feet and shall not extend over adjacent property.

(f)

Wing walls shall conform to the normal setback requirements whenever they exceed the allowable height of a fence (see section 138-1336).

(g)

An open, unroofed porch, patio, or paved terrace may project into a required front setback for a distance not exceeding ten feet.

(h)

All residential structures, and their accessory structures, on waterfront lots or parcels shall be set back 25 feet from the mean high water mark in tidal areas or normal high water on lakes; except where adequate seawalls or riprap stabilization exist, the setback requirement shall be 15 feet from the seawall or stabilization. Pools may be constructed pursuant to subsection (i) of this section provided that certification from an engineer registered in the state, stating that the proposed structure will not affect the integrity or functioning of the seawall or its deadmen, is submitted prior to issuance of a permit.

(i)

Requirements for residential accessory uses. Only one utility shed or storage building shall be permitted accessory to a residence and shall meet the requirements set forth in the Pinellas County Code, section 22-299. Utility sheds of 100 square feet or less and no higher than ten feet may be located with no setback from a side or rear property line which is enclosed with an opaque six-foot high fence or wall. Where no such fence exists, utility sheds of 100 square feet or less and no higher than ten feet shall be setback at least two feet from the property line. All such sheds shall be designed in a manner so that water runoff from the roof of the structure is not directed onto neighboring properties. All other sheds and accessory residential structures shall meet setbacks as required by the zoning district where located, or as otherwise provided in this chapter except that utility sheds of 100 square feet or less and no higher than ten feet that have been in place for at least seven years shall be considered a legitimate nonconforming use subject to the standards set forth in this chapter governing such nonconformities. Screen-only enclosures may be located within a required side or rear yard provided a minimum setback of five feet is maintained from the side or rear property line. Pools may be located within a required rear yard provided a minimum setback of eight feet is maintained from the rear property line. When located on lots with frontage on two streets on the opposite sides of the lot, pools and screen-only enclosures may be located within 15 feet of the public right-of-way in the area of the lot which is commonly considered the rear yard.

(j)

Wherever a side or rear lot line in a commercial or industrial district abuts a railroad right-of-way, a railroad siding tract, or a railroad easement, the side and rear setback requirements will not apply at the abutting side

or rear line and construction of buildings will be permitted up to the abutting side or rear property line.

(k)

No portion of any structure shall be located within the area of a recorded public easement unless authorized by the county engineering department, the department of environmental management or other appropriate agency. This requirement shall not be varied by the board of adjustment.

(l)

On a parcel which does not abut a public right-of-way, the required front setback shall be measured from the edge of the roadway or easement edge, whichever is greater, except as otherwise provided in this chapter.

(m)

For nonconforming setbacks, see section 138-208.

(n)

All decks (this shall not include docks approved by the water and navigation authority) which exceed one foot above grade shall be considered as structures for the purpose of setback requirements in order to preclude encroachment and violation of privacy onto neighboring properties. Where this situation does not exist such as lots which abut natural areas or similar areas where there will be no such encroachment or violation of privacy the county administrator may waive this provision and such deck shall not be considered as a structure for purpose of setback requirements. This provision, however, in no way precludes the application of other provisions such as habitat management requirements, easement restrictions or similar provisions regulating the location of such uses.

(Ord. No. 90-1, § 1(505.6), 1-30-90; Ord. No. 90-55, § 1, 7-24-90; Ord. No. 92-66, § 1, 10-27-92; Ord. No. 95-28, § 19, 4-18-95; Ord. No. 02-60, § 5, 7-23-02; Ord. No. 05-11, § 3, 2-22-05; Ord. No. 06-46, § 1, 6-6-06)

Sec. 138-1282. - Hospitals and health care facilities, location restricted.

New or expanded hospitals, nursing homes, group living homes I, II, III and congregate care facilities are prohibited within the coastal storm area, the area inundated by a category 2 hurricane, or a floodway as defined by this chapter. This restriction does not preclude substantial improvements as defined in section 170-101 or the replacement of an existing facility as long as its use as a hospital, nursing home, group living home, and/or congregate care facility has not been abandoned, and the improvements or replacement do not result in additional beds.

(Ord. No. 90-1, § 1(505.7), 1-30-90; Ord. No. 11-19, § 12, 6-14-11)

Sec. 138-1283. - Measurement of distance between group homes and congregate care facilities.

Measurement of distance between group living homes I, II, III and congregate care facilities of any size shall be measured from home to home between the closest portions thereof and where applicable from the closest portion of the home to the nearest single-family residential zoning boundary.

(Ord. No. 90-1, § 1(505.8), 1-30-90; Ord. No. 11-19, § 13, 6-14-11)

Sec. 138-1284. - Uses over open water.

No developed use, except docks, bridges and piers, shall occur over natural water areas (comprehensive plan, future land use element, policy 2.2.3).

(Ord. No. 90-1, § 1(505.9), 1-30-90)

Sec. 138-1285. - Airport uses.

Uses at the St. Petersburg-Clearwater International Airport and in the surrounding area shall be regulated and restricted pursuant to chapter 142, article II.

(Ord. No. 90-1, § 1(606), 1-30-90)

Sec. 138-1286. - Dumpsters.

(a)

Dumpsters are prohibited on all parcels zoned R-1, R-2, R-3, and R-4 and R-6 with single-family dwelling units. For parcels in any other residential zoning district, R-4 where a duplex or triplex is located, or R-6 with a mobile home park, dumpsters shall meet the minimum setbacks of the zoning district, shall be screened from view by a solid fence or wall a minimum of six feet in height, and shall be serviceable in that location by a waste hauler vehicle. For parcels in commercial and industrial zoning districts, dumpsters shall be subject to the performance standards in subsection 138-1377(b) and shall not cause a sight distance obstruction for vehicles maneuvering on the adjacent or any nearby street system. For purpose of this chapter, a dumpster shall be defined as a trash receptacle which generally is not emptied by hand, but is required to be emptied by mechanical means due to its size.

(b)

Exemptions. A dumpster which is located on a site on a temporary basis for the purpose of construction being done pursuant to a valid, current permit, trash collection, or cleaning of the site shall be exempt from this requirement.

(Ord. No. 05-9, § 1, 2-22-05; Ord. No. 06-55, § 1, 7-11-06; Ord. No. 09-34, § 1, 6-16-09)

Secs. 138-1287—138-1300. - Reserved.

DIVISION 2. - OFF-STREET PARKING AND LOADING[11]

Footnotes:
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State Law reference— Provisions for parking required, F.S. § 163.3202(2)(h).

Sec. 138-1301. - Purpose and intent.

This division will provide for the public welfare and safety by requiring the provision of safe and efficient on-site traffic flow and adequate off-street parking to reduce traffic congestion on the public streets.

(Ord. No. 90-1, § 1(502.1), 1-30-90)

Sec. 138-1302. - Specific requirements.

There shall be provided at the time of the erection of any main structure, or at the time any main structure is enlarged or increased in capacity by adding dwelling units, guestrooms, floor area or seats, a minimum number of off-street automobile parking spaces in accordance with the following:

(1)

Residential uses:

a.

Single-family dwellings: Two spaces per unit.

b.

Multifamily dwellings: One and one-half spaces per unit.

c.

Congregate care facilities and dormitories: One space per three beds. This requirement may be reduced by the board of county commissioners or the board of adjustment provided the applicant can demonstrate that such a reduction is justified.

(2)

Commercial or industrial uses:

a.

General business, commercial or personal service establishments: One space per 250 square feet of gross floor area.

b.

Medical clinics or offices: One space for each 200 square feet of gross floor area.

c.

Other office buildings: Four spaces per 1,000 square feet of gross floor area.

d.

Motels and hotels: One space per hotel or motel unit plus three spaces. Ancillary uses such as restaurants, lounges, and meeting areas shall be provided with the required number of spaces.

e.

Eating or drinking establishments: One space for each 60 square feet, or fraction thereof, of floor area devoted to patron use, plus one space for each 400 square feet, or fraction thereof, of other area.

f.

Auto service station: Three spaces per service bay plus three spaces (bays shall be considered as spaces).

g.

Furniture or carpet store: One space per 1,000 square feet of gross floor space.

h.

Open sales (i.e., autos, boats, and other vehicles): An area equal to 20 percent of the sales area shall be provided for off-street parking.

i.

Marinas: One space per each four berths.

j.

Campgrounds and travel parks: One space per campsite and/or vehicle site plus those required for any accessory uses.

(3)

Community service facilities:

a.

Churches, temples or places of worship: One space per 40 square feet of floor space in the main auditorium.

b.

Clubs, lodges and similar uses: One space per 50 square feet of floor area used for assembly, meeting or dining areas.

c.

Hospitals, sanitariums, nursing homes: One space for each two patient beds.

d.

Libraries, museums, art galleries and similar uses: One space for each 400 square feet of public area.

e.

Theaters, auditoriums, places of assembly: One space for each four seats.

f.

Commercial (such as wholesale or business services), manufacturing and industrial concerns not catering to the retail trade: One space per each 400 square feet of gross floor area.

g.

Warehousing: One space per each 1,500 square feet of gross floor area.

(4)

Educational facilities:

a.

Elementary, middle, or high schools: One space per employee plus one space per four seats in combination of an auditorium, stadium or gymnasium.

b.

College, university or similar institution: Same as above plus seven spaces for each classroom.

c.

Day care facility: One space for each ten students plus one space per employee.

(Ord. No. 90-1, § 1(502.2), 1-30-90; Ord. No. 91-54, §§ 4, 5, 10-29-91; Ord. No. 15-32, § 11, 8-18-15)

Sec. 138-1303. - Off-street loading.

The following off-street loading spaces shall be provided for the uses indicated:

(1)

Every use having a floor area in excess of 10,000 square feet requiring the receipt or distribution by vehicle of materials and merchandise shall have at least one permanently maintained off-street loading space for each 10,000 square feet, or fraction thereof, of gross floor area.

(2)

Retail operations, wholesale operations and industrial operations with a gross floor area of less than 10,000 square feet shall provide sufficient space (not necessarily a full space) so as not to hinder the free movement of vehicles and pedestrians over a sidewalk, right-of-way or alley.

(3)

Each loading space shall have direct access to an alley or street and shall have the following minimum dimensions:

a.

Length: Twenty-five feet.

b.

Width: Twelve feet.

(Ord. No. 90-1, § 1(502.3), 1-30-90)

Sec. 138-1304. - General requirements.

(a)

Parking spaces for all dwellings shall be located on the same lot or parcel. Parking for other uses may be provided on a separate lot or parcel not more than 300 feet from the primary parcel to be served as measured by the nearest public walkway. For the purpose of this section, a "public walkway" is a paved sidewalk or other similar public walkway.

(b)

Parking for two or more uses may be satisfied by the allocation of the required number of spaces of each use in a common parking facility.

(c)

Any area reserved for off-street parking or loading in accordance with this division shall not be reduced in area or changed to any other use unless the permitted use which it serves is discontinued or modified, except when equivalent parking or loading space is provided.

(d)

The required number of spaces may be reduced up to ten percent by the county administrator when required to meet drainage requirements, to increase the absorption rate of stormwater or to protect existing vegetation or wetland areas of the site.

(e)

Off-street parking shall be designated to ensure that all vehicular traffic entering or leaving the public street right of way shall be traveling in a forward motion, except driveways serving one- and two-family dwellings. However, on sites which meet the definition of redevelopment, as defined by this code, backing onto a public street may be permitted and will be evaluated on a case by case basis.

(f)

All off-street parking spaces, except compact spaces and spaces required for the physically disabled, including access drives or aisles, shall be designed in accordance with the standards identified in the table set out in subsection (k) of this section. No more than 20 percent of the number of proposed spaces within a site shall be designated as compact car spaces.

(g)

Access from public streets to all parking facilities shall be in accordance with the requirements of applicable county regulations regarding access and curb cuts.

(h)

Drive-through facilities shall provide standing spaces in accordance with the following:

Number of drive-through lanes	Number of standing spaces

One lane	8
Two lanes	12
Three lanes	18
For each additional lane	2 additional spaces

(i)

Parking surfaces shall be paved or a usable and durable surface provided at all times. Nonpaved surfaces of parking areas and associated drives shall be stabilized and provided with appropriate dust control. For developments larger than five acres and/or providing more than 200 parking spaces, no area proposed to be used for parking shall be paved within 25 feet of the perimeter property line.

(j)

All off-street parking, loading areas, driveways, roadways and pedestrian circulation facilities shall be designed to be safe and convenient. Sites shall be designed so that pedestrians moving from parking areas to buildings and between buildings are not unreasonably exposed to vehicular traffic. All parking areas which provide for 20 vehicles or more shall be clearly marked with directional arrows and lines or low level directional signs (per section 138-1334) to expedite traffic flow and provide pedestrian safety. The county traffic engineer may require additional signage during site plan review to reasonably accomplish the intent of this section.

(k)

Accessible parking spaces for disabled persons shall be provided in the following manner:

(1)

Number:

Total parking spaces in lot	Required number of accessible spaces
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total

Over 1,000	20
Plus, for each 100 spaces over 1,000	1

A minimum of four spaces for the disabled shall be provided at a hospital or physical rehabilitation center.

(2)

Size: Diagonal or perpendicular spaces for the disabled shall be a minimum of 12 feet wide.

(3)

Access: All spaces for the disabled shall be provided with a curb cut or curb ramp to a pathway, a minimum of 44 inches wide, to provide access to the building served and shall be located so that users will not be compelled to wheel behind parked vehicles. All spaces shall have an adjacent access aisle 60 inches wide, minimum. Parking access aisles shall be part of the accessible route to the building or facility entrance. Two accessible parking spaces may share a common access aisle.

(4)

Location: Disabled parking spaces shall be located immediately adjacent to the building to be served.

(5)

Marking: Disabled parking spaces shall be posted with a permanent above-grade sign bearing the international symbol of accessibility and the caption "Parking by disabled permit only."

(Ord. No. 90-1, § 1(502.4), 1-30-90; Ord. No. 91-54, § 6, 10-29-91; Ord. No. 92-66, § 1, 10-27-92; Ord. No. 94-36, § 1, 4-19-94; Ord. No. 98-97, § 7, 11-17-98)

Chart—ms 7804

Secs. 138-1305—138-1330. - Reserved.

DIVISION 3. - SPECIAL PROVISIONS FOR SPECIFIC USES

Sec. 138-1331. - Airports.

(a)

New or enlarged airports. In addition to all other items required by the pertinent sections of this chapter, applications for enlarging or changing existing airfields or to permit a new airfield shall be accompanied by:

(1)

Proof of compliance with all county, state and federal laws, regulations and requirements.

(2)

Complete plans for all airport facilities, including approach zones, horizontal zones and conical zones.

(3)

A fee sufficient in amount to reimburse the county for all costs of installing and maintaining warning lights or markers upon any existing tree or structure outside of the property of the applicant and which extends into any approach zone, horizontal zone, or conical zone.

(4)

A list of all trees or structures which extend into any approach zone, horizontal zone or conical zone and the dimensions of such trees or structures.

(b)

Clear space.

(1)

In order to reduce danger from low-flying planes approaching and taking off from the airfield, the end of a runway shall not be closer than the applicable distance as set out in this subsection and as measured within the area drawn by the means provided in subsection (b)(2) of this section.

a.

Seven hundred fifty feet for airstrips.

b.

One thousand feet for class I airfields.

c.

Two thousand feet for class II or class III airfields.

d.

Twenty-five hundred feet for class IV airfields.

(2)

Such distance shall be measured from the end of each runway by extending a line perpendicular to the centerline of such runway 1½ times the width of the runway in each direction from the centerline and taking the points from each end of such line so drawn; thence extending a line from each of such points away from the centerline at an angle of seven degrees on each side for the distance as required in subsection (b)(1) of this section; an arc shall then be drawn connecting the point at the far end of each seven-degree angle line using the end of the centerline of the runway as the center point for such arc.

(c)

Runways. All runways shall conform in length and width to the Federal Aviation Agency's minimum standards.

(d)

Aprons and ramps.

(1)

Aprons and ramps shall be perpendicular to runways and taxiways.

(2)

Vehicles or aircraft shall not be parked or stored in the area outlined by the directions in subsection (b)(2) of this section, nor within 100 feet of the edge of the runway, whichever distance is greater.

(e)

Construction within the airfield.

(1)

Structures within the airfield shall be constructed of material which will provide not less than two hours' fire-resistant construction according to the standards established by the American Society of Testing Materials or the requirements of the National Fire Protection Association.

(2)

All airports shall be fenced; such fences shall be a minimum of four feet in height.

(3)

Storage of gasoline shall be underground and in accordance with the requirements of all applicable laws and ordinances.

(f)

Height limitations near airports.

(1)

No existing use, structure or tree may be extended, expanded or enlarged so as to encroach into any portion of the approach zones, horizontal zones or conical zones, nor shall any existing use, structure or tree be permitted to encroach into any of the aforesaid zones.

(2)

Any use, structure or tree existing on January 30, 1990, and which extends into any approach zone, horizontal zone or conical zone of an existing airport shall be considered nonconforming and may not further encroach into any of the aforesaid zones.

(3)

Where any use, structure or tree which shall be in existence on the date on which a proposed airport shall be approved and where such use, structure or tree extends into the approach zones, horizontal zones or conical zones of such an airport, such use, structure or tree shall be considered nonconforming as of the date specified in subsection (f)(2) of this section and shall be in no way expanded to further encroach into the

aforesaid zones.

(g)

Airport hazards (Florida Aviation Laws, F.S. § 333.02):

(1)

It is hereby found that an airport hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein. Accordingly, it is hereby declared that:

a.

The creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question;

b.

It is therefore necessary in the interest of the public health, safety and general welfare that the creation or establishment of airport hazards be prevented; and

c.

This should be accomplished, to the extent legally possible, by the exercise of the police power, without compensation.

(2)

It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or property interests therein, or air rights thereover.

(h)

Other hazards.

(1)

Uses within two miles of any airfield runway shall conform to the performance standards established in this section.

(2)

No electrical use or operation shall be permitted that interferes with instrument control or landing operations of planes or of radar, radio or ground control approach systems for such airport.

(Ord. No. 90-1, § 1(506.1), 1-30-90)

Sec. 138-1332. - Alcoholic beverages.

(a)

Definitions. As used in this section:

Alcoholic beverages means any beer, wine, or liquor as defined by the state beverage law.

Business establishment means and includes any place of business, whether or not licensed under the state beverage law, of any vendor, club, organization, corporation, firm, person, partnership or similar entity which dispenses alcoholic beverages. This shall include any establishment commonly known as a bottle club which may permit persons to carry alcoholic beverages onto the premises of such establishment with the knowledge, actual or implied, that such beverages will be consumed thereon.

Dispense or dispensing means the storing, handling, preparation, distribution, serving, sale, or gift of any alcoholic beverage. For the purpose of this definition, permitting or allowing any person to carry alcoholic beverages onto the premises of a business establishment with such beverages to be consumed thereon shall be deemed as dispensing such beverages.

State beverage law means F.S. chs. 561, 562, 563, 564 and 565, including subsequent amendments or successors thereto.

(b)

Dispensing for off-premises consumption. The dispensing of alcoholic beverages for off-premises consumption only by any business establishment shall be permitted only in zoning districts classified by this chapter as C-1, C-2, C-3, CP, CR, M-1, OPH-D or IPD. Such sales shall also be permitted within any authorized commercial building located in an RPD district. The wholesale storage and distribution only of alcoholic beverages shall be permitted in zoning districts C-3, M-1, M-2, and IPD.

(c)

Dispensing for on-premises consumption; distance required from residential zoning districts.

(1)

The dispensing of alcoholic beverages by any business establishment for on-premises consumption shall be permitted only within the following zoning districts: C-1, C-2, C-3, CP, CR, M-1, OPH-D and IPD. Such sales shall also be permitted within any authorized commercial building located in an RPD district.

(2)

No building or structure in which alcoholic beverages are sold, dispensed or consumed under this subsection shall be located within 150 feet of any residential zoning district boundary line. In the case of a building located in an RPD commercial sales area, such distance shall be measured to the boundary of the nearest property used for residential or accessory residential purposes. Such distance shall be measured along a straight line from the nearest residential zoning district to the closest portion of the building or structure; except that, in a multi-tenant or multi-user building, such as a shopping center, such distance requirement shall be measured from any residential district, boundary along a straight line to the unit or portion of the building or structure in which alcoholic beverages are actually sold, dispensed or consumed under this subsection. The distance requirements of this section shall not apply to residentially zoned property which consists of public right-of-way, water ways, wetlands, or similar lands which cannot be used for actual

residential purposes.

(3)

It is further provided that a building or structure located on a bona fide golf course or country club premises, in which alcoholic beverages are dispensed for consumption by the members and guests thereof only, may be located in any zoning district, but shall be located within the boundaries of the golf course or country club and shall be located not less than 200 feet from any residential structure. The sale of alcoholic beverages from a mobile vehicle, which travels along established cart paths within a bona fide golf course shall be permitted as an ancillary use of the golf course or country club where alcohol sales are permitted within the main clubhouse.

(4)

The dispensing of alcoholic beverages for on-premises consumption in conjunction with a bona fide restaurant shall be exempt from the distance provisions of this chapter provided sale of alcohol is incidental to food sales (at least 51 percent sale in food). Vendors may be required to provide verification from a certified public accountant of such sales ratio.

(d)

Dispensing for on-premises consumption by social clubs, or veterans, fraternal, benevolent, civic or other organization described in F.S. § 561.20(7). Social clubs, veterans', fraternal, benevolent, civic or other organizations described in F.S. § 561.20(7) may dispense alcoholic beverages for on-premises consumption within any zoning district or location provided such location is approved by the board of county commissioners as a conditional use pursuant to article II, division 8 of this chapter. This subsection shall not apply to those areas which meet the provisions of subsection (c) of this section.

(e)

Prohibition of dispensing near schools. The dispensing of alcoholic beverages by any business establishment shall not be permitted from any building or structure within 500 feet, measured in a straight line, from the nearest point of any building or structure (in a multi-tenant or multi-user building such as a shopping center, the distance may be measured from the unit or portion of the building where alcoholic beverages are sold, dispensed, or consumed) to the boundary of any tract of land on which a public or private elementary school, middle school, or secondary school is located or which has received authority to locate. If the school property contains wetlands, waterways, or similar geographic features that would not permit the physical use of the property for school use such as buildings, parking, playgrounds or other traditional school usage, the distance requirement shall include the wetland, waterway, or similar area and the measurement shall be taken from the area of the school site that would physically allow such traditional school use. This subsection shall not be retroactive; and the subsequent erection of a school within the distance of a legally authorized business establishment shall not be cause for the revocation or suspension of any permit, certificate, or license, or cause for denial of any permit or certificate thereafter requested for that use. The dispensing of alcoholic beverages for on-premises consumption within a bona fide restaurant shall be exempt from this provision provided the sale of alcohol is incidental to food sales (at least 51 percent of sales shall be in food). Vendors may be required to provide verification by a certified public accountant of such sales ratio.

(f)

Uniform closing hours. The provisions of Laws of Fla. ch. 63-1790, as amended (compiled in ch. 6, art. II),

relating to uniform closing hours and other restrictions, apply to all business establishments as defined in this section, and the reasonable evidence of any violation thereof shall constitute grounds for the revocation or suspension by the board of county commissioners of any zoning or use approval, building permit, occupancy certificate, or license approval to any such business establishment.

(g)

Exemptions.

(1)

The sale or dispensing of alcoholic beverages within any zoning district at one time or at short duration fundraisers, special events, [and] promotions, shall be exempt from the provisions of this section except for the uniform closing hours established in subsection (f) of this section, under the following conditions:

a.

Sale or dispensing shall be for a maximum of three days only during any six-month period. This condition shall not apply to the number of annual fundraising and special events held in the Downtown Palm Harbor Historic District provided the events have received street closure approval from the Pinellas County Public Works Department and have received a waiver from section 6-47(b) of the Pinellas County Code by the board of county commissioners.

b.

Sale or dispensing shall be located on the site of an authorized use as permitted by this chapter.

(2)

The sale or dispensing of alcoholic beverages at special events of community interest and importance may be permitted to occur as early as 8:00 a.m. as provided for in section 6-30(e) of the Pinellas County Code, under the following conditions:

a.

Sale or dispensing shall be located on the site of an authorized use as permitted by this chapter or otherwise waived pursuant to section 6-47(b) of the Pinellas County Code.

b.

A permit is obtained from the department of development review services detailing the conditions required under this section and section 6-30(e).

(Ord. No. 90-1, § 1(506.2), 1-30-90; Ord. No. 92-8, 2-18-92; Ord. No. 97-57, §§ 25, 26, 7-28-97; Ord. No. 98-97, § 8, 11-17-98; Ord. No. 99-66, § 20, 7-20-99; Ord. No. 01-58, § 8, 8-7-01; Ord. No. 02-25, § 1, 4-16-02; Ord. No. 03-69, § 1, 9-9-03; Ord. No. 04-72, § 6, 10-19-04; Ord. No. 14-02, § 1, 1-14-14; Ord. No. 15-08, § 8, 2-10-15; Ord. No. 15-32, § 12, 8-18-15)

Cross reference— Alcoholic beverages, ch. 6.

Sec. 138-1333. - Service stations.

(a)

All pump islands and canopy supports at service stations shall be set back at least 15 feet from a road right-of-way line.

(b)

Service stations shall strictly adhere to performance standards required by this chapter and with any restrictions required by the particular zoning district where located. Additionally, when located within 300 feet of a residential zone, all storage of tires, parts, and equipment shall be within an area enclosed by a solid wall a minimum of eight feet in height.

(Ord. No. 90-1, § 1(506.3), 1-30-90; Ord. No. 92-8, 2-18-92)

Sec. 138-1334. - Signs.

(a)

Definitions. All words used in this section, except where specifically defined in this subsection, shall carry their customary meaning when not inconsistent with the context in which they are used. The following words set forth in this subsection shall have the meanings as defined in this subsection:

Advertising means any form of public announcement intended to aid, directly or indirectly, in the sale, use, or promotion of a product, commodity, service, activity or entertainment.

Area or surface area of signs means the square foot area enclosed by a rectangle, parallelogram, triangle, circle, semicircle or other geometric figures, or other architectural design, the sides of which make contact with the extreme points or edges of the sign, excluding the supporting structure which does not form part of the sign proper or of the display. The area of a sign composed of characters or words attached directly to a large, uniform building wall surface shall be the smallest rectangle, triangle, circle, parallelogram or other geometric figure, or other architectural design, which encloses the whole group of words or characters.

Artwork means drawings, pictures, symbols, paintings or sculptures which in no way identify a product or business and which are not displayed in conjunction with a commercial, for-profit or nonprofit enterprise.

Banners means any sign of lightweight fabric or similar material that is mounted to a pole, a wall or a building at one or more edges. Flags shall not be considered banners.

Beacon means a stationary or revolving light which flashes or projects illumination, single color or multicolored, in any manner which is intended to attract or divert attention; except, however, this term is not intended to include any kind of lighting device which is required or necessary under the safety regulations described by the Federal Aviation Agency or similar agencies.

Building official means the local government official or his designee responsible for the administration, interpretation and enforcement of the building codes of the local government.

Bulletin board means a sign of permanent character, but with removable letters, words, numerals or symbols, indicating the names of persons associated with, or events conducted upon, or products or services offered upon, the premises upon which such sign is maintained.

Business establishment means any individual person, nonprofit organization, partnership, corporation, other

organization or legal entity holding a valid occupational license and occupying distinct and separate physical space.

Changeable message sign means a sign or portion of a sign on which message copy is changed manually or mechanically in the field through the utilization of attachable letters, numbers, symbols and other similar characteristics.

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

Dwell time is the minimum duration of a single display on a changeable or electronic changeable message sign. During the dwell time, the message display shall be static, and there shall not be any change of color, flash, fade, rotation, twinkle, twirl, alternate luminance, scroll, show of action or motion, or illusion of action or motion.

Electronic changeable message sign (also referred to as digital sign) means an on-premises or off-premises sign or portion thereof that displays electronic static images, static graphics, static pictures, or non-pictorial text information in which each alphanumeric character, graphic, or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes, fiber optics, light bulbs, liquid crystal or any other emerging illumination technology within the display area. Electronic changeable messages include computer programmable, microprocessor-controlled electronic displays. Electronic changeable messages include images or messages with these characteristics projected onto buildings or other objects. Electronic changeable message sign shall not include any sign that does not maintain a static image for a minimum dwell time of 60 seconds or such other minimum dwell time that is expressly permitted under this Code.

Erect means to build, construct, attach, hang, place, suspend or affix, and shall also include the painting of signs.

Federal-Aid Primary (FAP) is a system of highways or portions thereof, which shall include the National Highway System designated as the federal-aid primary highway system by the Florida Department of Transportation and shall also include the federal interstate highways. The parts of the federal-aid primary roadways within unincorporated Pinellas County are:

(1)

U.S. Highway 19 from the Pasco County line to I-275;

(2)

State Road 580 from U.S. Highway 19 eastward to Hillsborough County line;

(3)

Gulf-to-Bay Boulevard (State Road 60) from U.S. Highway 19 eastward to the Hillsborough County line;

(4)

Ulmerton Road (State Road 688) from U.S. Highway 19 eastward to I-275;

(5)

Roosevelt Boulevard (State Road 686) from the St. Petersburg-Clearwater International Airport southward to State Road 688;

(6)

Gandy Boulevard (SR 600/694) from U.S. Highway 19 eastward to the Hillsborough County line; and

(7)

I-275 from the Hillsborough County line (Howard Frankland Bridge) to the Hillsborough County line (Sunshine Skyway Bridge).

Flag means any fabric, banner or bunting containing distinct colors, patterns or symbols, used as a symbol of a government, political subdivision, corporation, business or other entity.

Flash means an entry or exit mode in an electronic changing message with any single frame that repeats two or more times consecutively without change. This does not include official warning signs to the motoring public.

Frontage means the length of the property line for a parcel which runs parallel to, and along, a road right-of-way or street, exclusive of alleyways. "Building frontage" means the single facade constituting the length of the building or that portion of a building occupied by a single office, business, or enterprise abutting a street, parking area, or other means of customer access such as an arcade, mall or walkway.

Ground level means the level of finished grade of a parcel of land, exclusive of any filling, berming, mounding or excavating, solely for the purpose of locating a sign. Ground level on marina docks or floating structures shall be the finish grade of the landward portion of the adjoining parcel.

Height means the vertical distance measured from the ground level nearest the base of the sign to the highest point of the sign.

Illuminance means the amount of light coming from a light fixture that lands on a surface.

Legally existing, for the purpose of describing a sign or sign structure, means that the sign or sign structure was lawfully erected in conformance with all applicable local, state, and federal laws, has been lawfully maintained and is lawfully operated in compliance with all applicable local, state, and federal laws (including any legal nonconforming signs), or that the sign or sign structure is lawfully operating in accordance with a settlement agreement to which Pinellas County is a party.

Local government means the county government and the municipalities within the county.

Luminance means the amount of light reflected off a surface in a particular direction.

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

Message sequencing means dividing a single thought or message into two or more successive sign displays on a single electronic changeable message sign or multi-vision sign. For example, it shall be considered

message sequencing if the second display answers a textual question posed in the first display, continues or completes a sentence started on the first display, or continues or completes a story line started on the prior display.

Multitenant building means a building where more than one business is serviced by a common entrance, and where such businesses may be located above the first story or otherwise be without frontage on a public right-of-way.

Multi-vision sign, also known as a tri-vision sign, means an on-premises or off-premises sign composed in whole or in part of a series of vertical or horizontal slats or cylinders that are capable of being rotated at intervals so that partial rotation of the group of slats or cylinders produces a different image and when properly functioning allows on a single sign structure the display at any given time one of two or more images.

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

Person means any individual, corporation, association, firm, partnership, and the like, singular or plural.

Physically removed means, for the purposes of this section, that an off-premises sign shall be deemed removed if the off-premises sign structure is permanently removed to a depth of 12 inches below grade.

Property means the overall area represented by the outside boundaries of a parcel of land or development.

Sign means any device, fixture, placard or structure that uses any color, form, graphic, illumination, architectural style or design or writing to advertise, attract attention, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public. "Sign" includes sign structure.

A-frame or sandwich sign means a portable sign which is ordinarily in the shape of an "A" or some variation thereof.

Abandoned signs means signs on which is advertised a business that is no longer licensed, no longer has a certificate of occupancy, or is no longer doing business at that location and such circumstances have continued for a period of more than 90 consecutive days.

Animated sign means any sign composed of moving parts or lights or lighting devices that change color, flash, fade, rotate, twinkle, twirl, alternate luminance, scroll, show action or motion, create the optical illusion of action or motion or otherwise change the appearance of the sign. Animated signs do not include electronic (digital) changeable message sign or multi-vision sign as defined in this section.

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

Bench signs/bus shelter signs means a bench or bus shelter upon which a sign is drawn, painted, printed, or otherwise affixed, and, where authorized by action of the board of county commissioners, shall be exempt from the provision of this section as per F.S. § 337.407(2).

Canopy (awning) sign means any sign that is a part of or attached to an awning, canopy, or other fabric, plastic or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not

a canopy.

Construction sign means any sign giving the name of principal contractors, architects, and lending institutions responsible for construction on the site where the sign is placed, together with other information included thereon.

Directional sign means any sign which exclusively contains information providing direction or location of any object, place, or area, including but not limited to those signs indicating avenues of ingress/egress.

Exempt signs means all signs for which permits are not required, but which must, nonetheless, conform to the other terms and conditions of this section.

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

Gasoline price display signs means changeable message signs, typically mounted on the freestanding identification sign, which display the prices of gasoline for sale.

Identification signs means any sign which indicates no more than the name, address, company logo and occupation or function of an establishment or premises.

Menu sign (for drive-through establishments) means a product sign placed so as to be viewed from a drive-through lane, and which contains only a listing of products, with prices, offered for sale by the business, and which may provide a mechanism for ordering products while viewing the sign.

Nonconforming sign means any sign that does not conform to the requirements of this section.

Off-premises sign means any sign identifying or advertising a product, business, person, activity, condition, or service not located or available on the same zone lot where the sign is installed and maintained.

On-premises sign means any sign which identifies a use or business or advertises a product for sale or service to be rendered on the zone lot where the sign is located.

Political sign means any sign which constitutes a political advertisement the primary purpose of which is related to the candidacy of any person for public office or any issue which has been submitted for referendum approval.

Portable sign means any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted from A-frames; menu and sandwich board signs; balloons and other inflatables; and umbrellas used for advertising.

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

Public/semipublic sign means any sign erected on a site for a nonprofit or quasipublic use, such as a library, school, church, hospital, or government owned building.

Real estate sign means any sign advertising the sale, rental or lease of premises, or part of the premises, on which the sign is displayed.

Roof sign means any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure. "Integral roof sign" means any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches. Any integral portion of the roof shall not extend more than five feet above the structural roof.

Snipe sign means a sign which is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, or to other objects with the message appearing thereon not applicable to the present use of the premises or structure upon which the sign is located.

Subdivision sign means a sign which contains only the name of a platted subdivision or other residential development.

Vehicle sign means a sign attached to or placed on a vehicle, including automobiles, trucks, boats, campers, and trailers, that is parked on or otherwise utilizing a public right-of-way, public property or on private property so as to be intended to be viewed from a vehicular right-of-way for the basic purpose of providing advertisement of products or services or of directing people to a business or activity. This definition is not to be construed to include those signs that identify a firm or its principal products on a vehicle or such advertising devices as may be attached to and within the normal unaltered lines of the vehicle of a licensed transit carrier, when and during that period of time such vehicle is regularly and customarily used to traverse the public highways during the normal course of business.

Wall sign means a sign which is painted on, fastened to, or erected against the wall of a building with its face in a parallel plane to the plane of the building facade or wall.

Warning sign means a sign located on property posting such property for warning or prohibitions on parking, trespassing, hunting, fishing, swimming, or other activity, provided such signs do not carry any commercial message or identification.

Window sign means a sign located on a window or within a building or other enclosed structure, which is visible from the exterior through a window or other opening.

Sign face means the part of the sign that is or can be used to identify, display, advertise, communicate information, or for visual representation which attracts or intends to attract the attention of the public for any purpose.

Sign structure means any structure which is designed specifically for the purpose of supporting a sign, has supported or is capable of supporting a sign. This definition shall include any decorative covers, braces, wires, supports, or components attached to or placed around the sign structure.

Street means a public right-of-way intended for the use of vehicular and pedestrian traffic.

Traditional off-premises sign means any off-premises sign that is not defined as an electronic changeable message sign.

Zone lot means a parcel of land that is of sufficient size to meet minimum zoning requirements for area, coverage, and use, and that can provide such setbacks and other open spaces as are required by the applicable local government zoning regulations. For the purpose of this definition, a shopping center, mall, or other lot or parcel of land which contains a single unit or an integrated group of commercial establishments and is developed, operated, managed and/or owned as a unit shall be considered as a zone lot.

(b)

General sign requirements.

(1)

Permitting process.

a.

All signs except those specifically exempted under this section shall require a zoning clearance and permit prior to erection.

b.

Applicants for sign permits shall provide the following information:

1.

Detailed scale drawing of the sign showing all dimensions.

2.

Accurate plot plan drawn to scale showing location of the sign on the site. Such plan shall show location of all uses on the site, including but not limited to structures, parking areas, driveways, green areas, walkways, and roadways.

3.

Survey of the parcel on which the sign is to be placed (this may be waived for attached signs).

4.

Statement signed by the permit applicant as to the number and size of existing on-site signs.

5.

Application for attached signs shall include a floor plan showing dimensions and layout of the building.

6.

Information as may be required by the county building department.

7.

Other appropriate information relative to the sign and its location.

8.

Signs of a height greater than six feet and within ten feet of current or proposed right-of-way lines shall require a letter of no objection from the local electric power company to ensure current and future compliance to applicable codes and to protect the safety of the public.

(2)

Relationship to other codes.

a.

All signs shall comply with applicable building, electrical, and maintenance codes.

b.

The maintenance of signs shall be in keeping with the intent of subsection 22-231(b)(2) to ensure the public health, safety and welfare is maintained. The owner and/or leaseholder shall be responsible for keeping the area immediately surrounding the sign free from trash and debris as per chapter 58, articles VIII and IX, and shall be responsible for maintaining the signs concerned in good operating conditions and appearance. Failure to comply with chapter 22, article V shall constitute cause for revocation of the sign permit and removal of the sign, if the owner and/or leaseholder fail to correct same within ten days after written notice of violation.

(3)

Nonconforming signs.

a.

Except as provided in this section, no nonconforming sign shall be moved, reconstructed, extended, enlarged, or altered, unless changed to conform with this section.

b.

Nonconforming signs may be maintained, repaired, or the message of the sign may be changed. If, however, the nonconforming sign is relocated, replaced, or structurally altered at a cost of more than 25 percent of the replacement cost of the sign, the sign must be made to conform to this section.

c.

A building or site which is improved or redeveloped at a cost in excess of 50 percent of the assessed value of the existing building or site shall require any nonconforming sign which is located on or is a part of such building or site to conform to this section.

d.

Signs that exist on the effective date of this section that were not in conformance with previous regulations are illegal signs and shall conform with this section or be removed within 90 calendar days of the effective date of this section.

e.

Notwithstanding any contrary provisions in this section, no nonconforming sign is required to be removed solely by the passage of time if to so require, without compensation, is otherwise prohibited by state and federal laws.

(4)

Removal of nonconforming signs.

a.

All legally erected nonconforming signs must be made to conform to the applicable provisions of this section within seven years of the effective date of this section. All such signs shall be made to comply by March 15, 1999.

b.

In the event that a court of competent jurisdiction determines that, as applied to a particular nonconforming sign, the seven-year period for attaining conforming status is not enforceable, then a ten-year period shall apply.

c.

In the event that a court of competent jurisdiction determines that, as applied to a particular nonconforming sign, the period for attaining conforming status provided for in subsections (b)(4)a or b, above, is unenforceable, then the court shall determine what additional period of time shall be required and, consistent with subsection (b)(4)d, that period shall tack on to the otherwise applicable time period.

d.

The intent of subsections (b)(4)b and c, above, is to prevent a successful legal challenge to the application of these removal provisions from requiring the amortization period to begin anew. Therefore, any additional period of time either required by the preceding three-year extension provision of subsection (b)(4)b, above, or any court decision that extends the time beyond the ten-year period provided for under subsection (b)(4)c, shall tack on to the period of time that has passed since the effective date of this section for purpose of calculating the eventual removal date.

(5)

Variances.

a.

Requests for variances from any provisions of this section shall be processed and authorized pursuant to article II, division 3 of this chapter.

b.

Variances from the terms of this section may not be contrary to the public interest; but variances may be granted where, owing to special conditions, the literal enforcement of the provisions of this section would result in unnecessary hardship, not to include economic hardship. However, no variance shall be granted unless the criteria of section 138-113 is met. In addition to these usual criteria for variances to the provisions of this section, any additional signage allowed pursuant to a variance shall be conditioned in such a way that, taking into consideration existing allowable signage in the area, the additional signage does not exacerbate visual clutter, driver distraction, or traffic safety in the area.

c.

Variances to the time limit for removal of nonconforming signs.

1.

Requests for variances of up to three additional years beyond the seven-year period that would otherwise be allowed under subsection (b)(4)a, above, may be granted where, owing to the peculiar facts of the structure involved, and based on no single one of the criteria listed below, but rather when, on balance, the private loss suffered by owners of the particular structure is substantial when compared to the public benefit achieved by the consistent application of the amortization period. The specific criteria for determination of a variance to the seven-year removal period shall include the following considerations:

i.

Length of the amortization period in relation to the investment;

ii.

A sign owner does not have to be given a period of time necessary to permit him to recoup his investment entirely, but an amortization period should not be so short as to result in a substantial loss of the sign owner's investment;

iii.

Initial capital investment;

iv.

Investment realization to date;

v.

Life expectancy of investment; depreciation schedules;

vi.

Existence or nonexistence of a lease obligation, as well as a contingency clause permitting termination of the lease;

vii.

Removal costs directly attributable to the regulatory effects of this section;

viii.

The depreciation period of the sign structure;

ix.

Location of the sign structure;

x.

What part of the owner's total business is concerned;

xi.

Monopoly or advantage, if any, resulting from the fact that similar new structures are prohibited in the same area; and

xii.

The fact that the use is also on public streets since the messages are directed to the passerby.

2.

No variance under this subsection shall be granted unless the conditions listed under article II, division 3 of this chapter are also satisfied.

(6)

Signs on public lands. Signs shall not be located on publicly owned land or easements or inside street rights-of-way except signs required or erected by permission of the authorized governmental agency. Such prohibited signs shall include, but not be limited to, handbills, posters, advertisements, or notices that are attached in any way upon lampposts, telephone poles, utility poles, bridges and sidewalks. All signs shall be moved by the owner of the sign at no expense to the applicable governmental jurisdiction when the signs are within any public property including existing rights-of-way. Nothing shall prohibit a duly authorized public official from removing a sign from public property.

(7)

Official signs and notices. Nothing in this section shall be construed to prevent or limit the display of legal notices, warnings, informational, directional, traffic or other such signs which are legally required or necessary for the essential functions of governmental agencies.

(8)

Illumination.

a.

The light from any illuminated sign shall be shaded, shielded, or directed from adjoining residential and nonresidential parcels.

b.

No sign shall have blinking, flashing, or fluttering lights or other illumination devices which have a changing light intensity, brightness, color, or direction.

c.

No colored lights shall be used at any location or in any manner so as to be confused with, construed as, or interfere with traffic control devices. Similarly, no electronic changeable message sign shall be permitted if it may be confused with, construed as, or interfere with traffic control devices.

d.

Neither the direct nor the reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares.

(9)

Electronic changeable message signs. Electronic changeable message signs shall meet the following criteria:

a.

Luminance: Luminance shall be measured in nits. A nit is a metric unit of luminance and is defined as candela per square meter (cd/m^2); a nit is a unit based on the candela, the modern metric unit of luminous intensity, and the square meter, the modern metric unit of area. Luminance shall not exceed the maximum brightness as set forth below:

1.

Luminance at night: Beginning at sunset and continuing until sunrise, the brightness of an electronic changeable message shall not exceed 350 nits.

2.

Luminance during daylight hours, beginning at sunrise and continuing until sunset: During daylight hours, the brightness of an electronic changeable message shall not exceed 5,000 nits.

b.

Illuminance: The illuminance of any electronic changeable message sign display shall not be greater than 0.3 footcandles above ambient light levels at any given time of day or night, as measured using a footcandle meter at a preset distance described in this subsection. To determine compliance with the 0.3 footcandle maximum illuminance, the footcandle measurements for a display shall be taken with the sign switched off and then taken again with the sign displaying all white (maximum sign brightness), and the brightness shall be measured at the pre-set distance perpendicular from the face of a sign. For electronic changeable message signs, the pre-set distance to measure the footcandle impacts vary with the expected viewing distances and the face size of each sign noted below.

The illuminance of any electronic changeable message sign which is less than 288 square feet in area shall be based upon a 100 square-foot display at a distance of 100 feet perpendicular to the display using a footcandle meter. To determine compliance with the 0.3 footcandles maximum illuminance, the footcandle measurements for a display shall be taken with the sign switched off and then taken again with the sign displaying all white (maximum sign brightness), and the brightness shall be measured 100 feet perpendicular from the face of a sign. If the sign face is other than 100 square feet, the measured reading shall be prorated to what an otherwise identical sign of 100 square feet would produce. The prorated, measured footcandle value is then used to compare to the limit of 0.3 footcandles (fc).

Example: For evaluation of a 200 square-foot sign, if the measured illuminance at a distance of 100 feet is 0.5 fc above ambient (i.e., with the sign on and showing an all white display, the reading at 100 feet is 0.5 fc greater than with the sign switched off), then the prorated footcandle value is 0.25 fc and the footcandle value is below the maximum of 0.3 fc.

To determine compliance with the 0.3 footcandle maximum illuminance for any electronic changeable message sign which is equal to or greater than 288 square feet in area, the footcandle measurements for a display shall be taken with the sign switched off and then taken again with the sign displaying all white (maximum sign brightness), and the brightness shall be measured using a footcandle meter at the preset distance described as follows: 150 feet perpendicular from the face of a sign that is equal to 288 square feet in area; 200 feet perpendicular from the face of a sign that is greater than 288 square feet in area but less than or equal to 378 square feet in area; and 250 feet perpendicular from the face of a sign that is greater than 378 square feet in area.

Note: The metric equivalent of footcandles is lux, and a luxmeter (as contrasted with a footcandle meter) is used when illuminance is measured in meters.

c.

All electronic changeable message signs shall be equipped with appropriate sensors, timers, or other equipment sufficient to maintain compliance with the brightness standards set forth herein, and the same must be set and operated in a manner to ensure that the brightness standards are not exceeded.

d.

Transition time: The maximum transition time between messages or images on an electronic changeable message sign shall be no more than one-half second. During transition, there shall not be any change of color, flash, fade, rotation, twinkle, twirl, alternate luminance, scroll, show of action or motion, or illusion of action or motion.

e.

Sign monitoring and malfunction: Electronic changeable message signs shall be operated with systems and monitoring in place to either turn the display off or show full black as soon as possible in the event of a malfunction.

(10)

Dwell time. The minimum amount of time that a message or display on a changeable message sign, an electronic changeable message sign or multi-vision sign remains fixed is one minute, except as otherwise permitted pursuant to subsection 138-1334(g)(11).

(11)

Message sequencing. Message sequencing on an electronic changeable message sign or multi-vision sign is prohibited.

(12)

In connection with the county's issuance of a notice of violation or other process pursuant to which the county seeks to enforce the provisions of section 138-1334 related to an alleged violation of the luminance, illuminance, message sequencing, or minimum message dwell time standards established in section 138-1334, 48 hours shall be deemed a reasonable time period for the owner or operator to cure a first-time alleged violation. Any time period in which the electronic changeable message display is turned off while the owner or operator attempts to address or cure the alleged violation shall toll the running of the 48-hour

period. Pursuant to subsection 2-625(b), the fine for a violation of any provision of section 138-1334 pertaining to an off-premises electronic changeable message sign shall be not less than $1,000.00 per day for the first violation, $2,500.00 per day for the second violation, and $5,000.00 per day for the third and subsequent violations.

(13)

Intent. It is the intent of the board of county commissioners that protection of First Amendment rights shall be afforded such that any sign, display, or device allowed under this section may contain, in lieu of any other copy, any otherwise lawful noncommercial message that complies with the size, lighting and spacing requirements of this section.

(c)

Exempt signs. The following types of signs are exempt from the permitting process and other provisions in this section, except those relating to construction, illumination, safety, nonconformity, and any other noted requirement (these signs shall not be located within ten feet of a public right-of-way or within 15 feet of the intersection of any road rights-of-way):

(1)

Address number. The address numbers shall be at least three inches in height, in Arabic numerals, and of contrasting color to background and displayed on the front of the establishment. (See section 170-4.)

(2)

Artwork.

(3)

Changeable message on permitted signs.

(4)

Commemorative and historic signs.

(5)

Construction signs. Such signs shall not exceed 32 square feet in area per sign face. The sign may be displayed only during the time a valid building permit is in force and shall be removed within one week after the certificate of occupancy is granted.

(6)

Government and public signs, including, but not limited to, community identity and entrance signs, signs for special community events, and coordinated countywide trail-blazing signs that provide direction to places of interest.

(7)

There shall be a maximum of three noncommercial flags permitted on each zone lot. Flags containing a

corporate name or logo or directing attention to a business operated for profit, or to a commodity or service for sale, shall be part of the computation of the allowable area for freestanding signs. Three additional noncommercial flags may be allowed for each additional street frontage and lots or parcels with over 500 feet of street frontage may be permitted three additional flags for each 500 feet of additional frontage.

(8)

Machinery signs. Examples of machinery signs are signs on newspaper machines, vending machines, gasoline pumps and public telephone booths.

(9)

Menu signs for drive-through establishments. There shall be a maximum of two such signs per zone lot or business; no more than one sign per drive-through lane. Sign area may not exceed 40 square feet per sign face.

(10)

On-site directional signs. No individual sign shall exceed four square feet in area per sign face.

(11)

Political signs. Signs in residential districts shall not exceed six square feet in area per sign face; signs in nonresidential districts shall not exceed 32 square feet in area per sign face. Such signs shall be removed within one week after the election.

(12)

Real estate signs. Signs in residential districts shall not exceed six square feet in area per sign face; signs in nonresidential districts shall not exceed 32 square feet in area per sign face. One such sign per saleable or leasable unit is permitted. Directional off-site real estate signs are permitted for a particular property only on those days when there is an open house. Waterfront parcels are permitted one real estate sign oriented toward the water in addition to the real estate sign permitted for nonwaterfront property. Saleable or leasable units fronting on two or more streets are allowed the permitted real estate signs for each frontage, but these signs cannot be accumulated and used on one street in excess of that allowed for the saleable or leasable units based on that one street frontage. For parcels with over 500 feet of street frontage on one right-of-way, one additional real estate sign may be permitted.

(13)

Small off-premises signs that are for public/semipublic purposes and are directional only, provided, that the maximum area of these signs shall be four square feet per sign face. No more than two such signs per zone lot shall be permitted. Such signs shall be located within a 2,500-foot radius of the public/semipublic property which the sign serves.

(14)

Temporary window signs. Such signs shall be allowed in areas classified as multifamily residential, office, commercial, industrial and public/semipublic. The maximum area of such signs in areas classified as office, commercial, industrial, and public/semipublic shall be 25 percent of windowpane area or 100 square feet,

whichever is less. In multifamily residential areas, the area of temporary window signs shall not exceed 25 square feet.

(15)

Warning signs. Such signs shall not exceed six square feet in area per sign face.

(16)

Temporary signs, when in conjunction with a temporary use permitted by section 138-1338 of this chapter. These signs shall not exceed 32 square feet in area and only one such sign shall be used in conjunction with and during the time period allowed for the temporary use (see section 138-1338).

(d)

Prohibited signs. The following types of signs are prohibited:

(1)

Abandoned signs.

(2)

Bus shelter signs and bench signs, except when approved by the board of county commissioners, pursuant to F.S. § 337.407(2)(a). This prohibition shall not be construed to include the identification of a transit company or its route schedule.

(3)

Off-premises signs, except for public/semipublic directional signs, per subsection (c)(13) of this section; where specifically provided for elsewhere in this section; and per subsection (g) of this section.

(4)

Pavement markings, except official traffic control markings as permitted by an authorized government agency.

(5)

Pennants, streamers, banners and cold air inflatables.

(6)

Portable signs.

(7)

Roof signs, except integral roof signs in nonresidential districts.

(8)

Sandwich board signs.

(9)

Signs attached to or painted on piers or seawalls, other than such official regulatory or warning signs as authorized by an appropriate government agency.

(10)

Signs in or upon any river, bay, lake, or other body of water within the limits of the county, unless authorized by an appropriate government agency.

(11)

Signs that are erected upon or protect over public rights-of-way or present a potential traffic or pedestrian hazard. This includes signs which obstruct visibility.

(12)

Signs that emit sound, vapor, smoke, odor, particles or gaseous matter, or project three-dimensional images, holographic images or pyrotechnics.

(13)

Signs that have unshielded illuminating devices, other than electronic changeable message sign displays permitted in accordance with section 138-1334.

(14)

Animated signs, multiprism signs and beacon lights, except when required by the Federal Aviation Administration or other governmental agency.

(15)

Signs that obstruct, conceal, hide, or otherwise obscure from view any official traffic or government sign, signal or device.

(16)

Snipe signs.

(17)

Temporary window signs in single-family residential districts.

(18)

Vehicle signs, as defined in this section, and portable trailer signs.

(19)

Any sign that is not specifically described or enumerated as permitted by this section.

(e)

Computation of dimensions.

(1)

Computation of total permitted sign area.

a.

The permitted sign area for freestanding signs shall be based upon one square foot for each linear foot of zone lot frontage up to a maximum amount as established in subsection (f) of this section. A freestanding sign shall be allowed to have an additional eight square feet per sign face, provided that this allowance is used exclusively for the street address number, numbers or number range, depicted in Arabic numerals. The public purpose for the address is to assist the traveling public to locate specific places and to assist public safety and emergency service vehicles to rapidly locate addresses.

b.

The permitted sign area for attached signs shall be based upon 1¾ square feet for each linear foot of building frontage up to a maximum amount as established in subsection (f) of this section.

c.

Zone lots fronting two or more streets are allowed the permitted signage for each frontage, but signage cannot be accumulated and used on one street in excess of that allowed for the zone lot based on that one street frontage.

(2)

Computation of sign area.

a.

The area of a sign shall be computed on the basis of the smallest square, circle, rectangle, or other geometric figure, or combination thereof, that will encompass the extreme limits of the writing, representation, emblem, lighting or other display, together with any material, color or border trim forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed. The computation of a sign area does not include any framework, bracing, fence or wall that is reasonably necessary to support the sign.

b.

The area of a sign shall be computed on a per sign face basis and all requirements with respect to sign area reference the area of a single face of a sign. A double-faced sign shall be permitted to have the allowed area for a single-faced sign on each of the two faces of the double-faced sign.

(3)

Computation of sign height. The height of a freestanding sign shall be computed as the distance from the base of the sign at ground level to the top of any portion of the sign structure. In cases where the ground level, as defined in this section, cannot reasonably be determined, sign height shall be derived on the assumption that the elevation of the ground at the base of the sign is equal to the average elevation at the front property line of

the zone lot.

In the case where a freestanding sign is on a parcel contiguous to an overpass or elevated road (excluding service roads) from which the sign is designed to be viewed, the height of the sign shall be measured from the highest point of the overpass or elevated road at the crown of the roadway surface to the top of the sign, such highest point to be determined by the average elevation between the perpendicular extension of the contiguous zone lot lines on which the sign is to be located, as such lot lines intersect the overpass or elevated road (see illustration in appendix). Any sign erector who requests to use this calculation for height determination shall provide to the zoning staff sufficient information in the form of surveys, engineering drawings, official roadway elevation data, or other official documentation to allow accurate determination of roadway heights. No permit shall be issued where insufficient information is provided.

(4)

Computation of visual clearance and sight triangle. The visual clearance and sight triangle, to assure adequate sight distance at the intersection of two public roadways and at the intersection of a public roadway and an accessway or driveway, shall follow the criteria of the state department of transportation's Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, or criteria otherwise specified by the county traffic engineer.

(5)

Illustrations in appendix. The computation of sign dimensions shall be as set forth in this section and as depicted in the appropriate figure delineating such sign dimensions in the appendix to this section.

(f)

Permitted signs and standards by land use classifications.

(1)

Purpose and procedure. It is the intent of this section to regulate signs consistent with the zoning classification or general type of land usage which establishes the character of the area in which the signs are located.

(2)

Residential zoning districts. The following types of signs are permitted in any residential zoning district:

a.

Subdivision signs for single-family residential areas shall be permitted only as follows:

1.

Number. A maximum of one sign is permitted for each platted subdivision or property entrance. When incorporated into a fence, wall, or other decorative entry feature one such sign shall be permitted on either side of the road or entry way for a total of two signs.

2.

Area. The maximum area shall be 24 square feet per sign face. When incorporated into a fence, wall or similar decorative entry feature no portion of the fence or wall upon which the sign is mounted shall be counted towards the area of the sign.

3.

Height. The maximum height for a freestanding sign is six feet.

4.

Setbacks. No front setback is required and the side and rear setbacks of the zoning district shall apply, provided a safe sight distance clearance is maintained. Such safe sight distance shall be determined by the county traffic engineer pursuant to subsection (e)(4) of this section. Fences, walls and similar decorative entry features shall be set back in accordance with section 138-1336 of this chapter.

b.

Signs for multifamily residential areas shall be permitted only as follows:

1.

Number. A maximum of one sign is permitted for each platted subdivision or property entrance. When incorporated into a fence, wall, or other decorative entry feature one such sign shall be permitted on either side of the road or entry way for a total of two signs.

2.

Area. The maximum area is 24 square feet per sign face. When incorporated into a fence, wall or similar decorative entry feature no portion of the fence or wall upon which the sign is mounted shall be counted towards the area of the sign.

3.

Height. The maximum height for a freestanding sign is eight feet.

4.

Setbacks. No front setback is required and the side and rear setbacks of the zoning district shall apply, provided a safe site distance clearance is maintained. Such safe site distance shall be determined by the county traffic engineer pursuant to subsection (e)(4) of this section. Fences, walls and similar decorative entry features shall be set back in accordance with section 138-1336 of this chapter.

c.

Garage or yard sale signs shall be permitted only as follows:

Area: One such sign is permitted and the maximum area shall be four square feet per sign face. Such sign shall be located on the site of the garage sale and only for the duration of the sale.

d.

Home occupation signs in residential districts shall be permitted only as follows:

1.

Number. A maximum of one attached sign is permitted.

2.

Area. The maximum area of the sign shall be two square feet per sign face.

e.

Residential identification signs (nameplate) shall be permitted only as follows:

1.

Number. A maximum of one attached sign is permitted.

2.

Area. The maximum area of the sign shall be two square feet per sign face.

f.

Small, off-premises signs that are for public/semipublic purposes and are directional only, as per subsection (c)(13) of this section.

g.

Signs for public/semipublic land uses shall be in accordance with the provisions of subsection (f)(3) of this section.

(3)

Public/semipublic zoning district and signs utilized for public/semipublic uses. The following types of signs are permitted in the public/semipublic zoning district or on sites containing an authorized public/semipublic land use:

a.

Freestanding signs shall be permitted only as follows:

1.

Number. A maximum of one sign per zone lot is permitted. One additional sign may be permitted for each additional street frontage. For parcels with over 500 feet of street frontage on one right-of-way, one additional freestanding sign may be permitted; such additional sign shall be spaced at least 300 feet from the other. One additional sign which is used as a bulletin board for church or school use is permitted.

2.

Area. The total maximum area for any freestanding sign or signs shall be that area calculated according to

subsections (e)(1) and (e)(2) of this section, or 48 square feet per sign face, whichever is less. An additional 48 square feet may be provided for a bulletin board.

3.

Height. The maximum height for a freestanding sign shall be 12 feet.

4.

Setbacks. Setbacks shall be three feet from any public right-of-way. Side and rear yards shall be as required by the zoning district where the sign is located. Additional setbacks may be required when determined appropriate per subsection (e)(4) of this section.

b.

Attached signs shall be permitted only as follows:

1.

Area. The maximum total area for all attached signs shall be that area calculated according to subsections (e)(1) and (e)(2) of this section or 48 square feet, whichever is less. An additional 48 square feet may be provided for a bulletin board.

2.

Types of signs permitted. The following attached signs may be permitted, provided the cumulative area of the attached signs does not exceed the maximum area according to subsection (f)(3)b.1, above:

i.

Wall sign;

ii.

Canopy or awning sign;

iii.

Permanent window sign;

iv.

Projecting sign; and

v.

Integral roof sign.

(4)

P-1 and P-1A zones. Within the P-1 and P-1A zones, only the following signs shall be permitted:

a.

Freestanding signs shall be permitted only as follows:

1.

Number. A maximum of one sign per zone lot is permitted. One additional sign may be permitted for each additional street frontage. For parcels with over 500 feet of street frontage on one right-of-way, one additional freestanding sign may be permitted; such additional sign shall be spaced at least 300 feet from the other.

2.

Area. The total maximum area for any freestanding sign or signs shall be that area calculated according to subsections (e)(1) and (e)(2) of this section or 50 square feet per sign face, whichever is less.

3.

Height. The maximum height for a freestanding sign is 20 feet.

4.

Setbacks. Such signs shall be set back as follows:

i.

Three feet from any public right-of-way.

ii.

Fifteen feet from side and rear property lines in P-1 zones.

iii.

Twenty feet from side and rear property lines in the P-1A zone.

Additional setbacks may be required when determined appropriate per subsection (e)(4) of this section.

5.

Time and temperature signs. The maximum area for the time and temperature portion only shall be 20 square feet per sign face.

6.

Flags. Flags containing a corporate name, logo, or other message directing attention to the business on site including any commodity or service for sale on site shall be part of the computation of allowable area for freestanding signs.

b.

Attached signs shall be permitted only as follows:

1.

Area. The maximum total area for all attached signs shall be that area calculated according to subsections (e)(1) and (e)(2), or 100 square feet, whichever is less.

2.

Types of signs permitted. The following attached signs may be permitted, provided the cumulative area of the attached signs does not exceed the maximum area according to subsection (f)(4)b.1, above:

i.

Wall sign;

ii.

Canopy or awning sign;

iii.

Permanent window sign;

iv.

Projecting sign;

v.

Integral roof sign.

3.

Time and temperature signs. The maximum area for the time and temperature portion only shall be 20 square feet per sign face.

c.

Directory/information signs shall be permitted only as follows:

1.

Number. A maximum of one sign per street frontage is permitted.

2.

Area. The maximum area for a directory/information sign shall be 40 square feet per sign face for any one sign.

3.

Setback. The minimum setback distance for a directory/information sign is 100 feet from any property line.

d.

Off-premises directional signs for public/semipublic purposes are permitted in accordance with subsection (c)(13) of this section.

e.

Public/semipublic land uses shall follow the sign provisions of subsection (f)(3) of this section.

(5)

C-1 zone. Within the C-1 zone, only the following signs shall be permitted:

a.

Freestanding signs shall be permitted only as follows:

1.

Number. A maximum of one sign per zone lot is permitted. One additional sign may be permitted for each additional street frontage. For parcels with over 500 feet of street frontage on one right-of-way, one additional freestanding sign may be permitted; such additional sign shall be spaced at least 300 feet from the other.

2.

Area. The total maximum area for any freestanding sign or signs shall be that area calculated according to subsections (e)(1) and (e)(2) of this section, or 50 square feet per sign face, whichever is less.

3.

Height. The maximum height for a freestanding sign is 20 feet.

4.

Setbacks. Such freestanding signs shall be set back as follows:

i.

Three feet from any public right-of-way.

ii.

Side and rear yards, 20 percent of the width or depth of the lot up to 20 feet when abutting residential property. No side or rear setback is required when abutting nonresidential property.

Additional setbacks may be required when determined appropriate per subsection (e)(5) of this section.

5.

Time and temperature signs. The maximum area for the time and temperature portions only shall be 20 square feet per sign face.

6.

Flags. Flags containing a corporate name, logo, or other message directing attention to the business on site including any commodity or service for sale on site shall be part of the computation of allowable area for freestanding signs.

b.

Attached signs shall be permitted only as follows:

1.

Area. The maximum total area for all attached signs shall be that area calculated according to subsections (e)(1) and (e)(2) of this section or 100 square feet, whichever is less.

2.

Types of signs permitted. The following attached signs may be permitted provided the cumulative area of the attached signs does not exceed the maximum area according to subsection (f)(5)b.1, above:

i.

Wall sign;

ii.

Canopy or awning sign;

iii.

Permanent window sign;

iv.

Projecting sign; and

v.

Integral roof sign.

3.

Time and temperature signs. The maximum area for the time and temperature portion only shall be 20 square feet per sign face.

c.

Off-premises directional signs for public/semipublic purposes are permitted in accordance with subsection (c)(13) of this section.

d.

Public/semipublic land uses shall follow the sign provisions of subsection (f)(3) of this section.

(6)

C-2 and C-3 zones, except when located on arterial highways. When located within the C-2 or C-3 zone, except areas located on arterial highways, only the following signs may be permitted. For signs located in these zones on arterial highways, see subsection (f)(7), below:

a.

Freestanding signs shall be permitted only as follows:

1.

Number. A maximum of one sign per zone lot is permitted. One additional sign may be permitted for each additional street frontage. For parcels with over 500 feet of street frontage on one right-of-way, one additional freestanding sign may be permitted; such additional sign shall be spaced at least 300 feet from the other.

2.

Area. The total maximum area for any freestanding sign or signs shall be that area calculated according to subsections (e)(1) and (e)(2) of this section or 100 square feet per sign face whichever is less.

3.

Height. Maximum height for a freestanding sign is 25 feet.

4.

Setbacks. Such signs shall be set back as follows:

i.

Three feet from any public right-of-way for a sign up to 75 square feet in area; ten feet from any public right-of-way for any sign over 75 square feet in area.

ii.

Side and rear yards, 20 percent of the width or depth of the lot up to 20 feet when abutting residential property. No side or rear setback is required when abutting nonresidential property.

Additional setbacks may be required when determined appropriate per subsection (e)(4) of this section.

5.

Time and temperature signs. The maximum area for the time and temperature portion only shall be 20 square feet per sign face.

6.

Theater/movie announcement sign. An additional sign area of up to 50 square feet may be provided for this purpose.

7.

Flags. Flags containing a corporate name, logo, or other message directing attention to the business on site including any commodity or service for sale on site shall be part of the computation of allowable area for freestanding signs.

b.

Attached signs shall be permitted as follows:

1.

Area. The maximum total area for all attached signs shall be that area calculated according to subsections (e)(1) and (e)(2) or 150 square feet, whichever is less.

2.

Types of signs permitted. The following attached signs may be permitted, provided the cumulative area of the attached sign does not exceed the maximum area according to subsection (f)(6)b.1, above:

i.

Wall sign;

ii.

Canopy or awning sign;

iii.

Permanent window sign;

iv.

Projecting sign; and

v.

Integral roof sign.

3.

Time and temperature signs. The maximum area for the time and temperature portion only shall be 20 square feet per sign face.

4.

Theater/movie announcement signs. An additional 75 square feet of area shall be permitted for theater/movie announcement signs.

c.

Gasoline price display signs may be permitted in accordance with the following:

The maximum area for all display signs shall total no more than 24 square feet per sign face.

d.

Off-premises directional signs for public/semipublic purposes are permitted in accordance with subsection (c)(13) of this section.

e.

Public/semipublic land uses shall follow the sign provisions of subsection (f)(3) of this section.

(7)

C-2 and C-3 zones fronting on arterial highways; CP zones. When fronting on arterial highways in C-2 and C-3 zones and in all CP zones, only the following signs may be permitted:

a.

Freestanding signs shall be permitted only as follows:

1.

Number. A maximum of one sign per zone lot is permitted. One additional sign may be permitted for each additional street frontage. For parcels with over 500 feet of street frontage on one right-of-way, one additional freestanding sign may be permitted; such additional sign shall be spaced at least 300 feet from the other.

2.

Area. The maximum total area for any freestanding sign or signs shall be that area calculated according to subsections (e)(1) and (e)(2) of this section or 150 square feet per sign face, whichever is less.

3.

Height. The maximum height for a freestanding sign is 25 feet.

4.

Setbacks. Such signs shall be set back as follows:

i.

Three feet from any public right-of-way for any sign up to 75 square feet; ten feet from any public right-of-way for any sign over 75 square feet.

ii.

Side and rear setbacks shall be required by the zoning district in which the property is located.

5.

Time and temperature signs. The maximum area for the time and temperature portion only shall not exceed 20 square feet per sign face.

6.

Theater/movie announcement sign. An additional sign of up to 75 square feet may be provided for this purpose.

7.

Flags. Flags containing a corporate name, logo, or other message directing attention to the business on site including any commodity or service for sale on site shall be part of the computation of allowable area for freestanding signs.

b.

Attached signs shall be permitted only as follows:

1.

Area. The maximum total area for all attached signs shall be that area calculated according to subsections (e)(1) and (e)(2) of this section or 150 square feet, whichever is less.

2.

Types of signs permitted: The following attached signs may be permitted, provided the cumulative area of the attached sign does not exceed the maximum area according to subsection (f)(7)b.1, above:

i.

Wall sign;

ii.

Canopy or awning sign;

iii.

Permanent window sign;

iv.

Projecting sign; and

v.

Integral roof sign.

3.

Time and temperature signs. The maximum area for the time and temperature portion only shall not exceed 20 square feet per sign face.

4.

Theater/movie announcement sign. An additional 75 square feet of area may be provided for theater/movie announcement signs.

c.

Gasoline price display signs may be permitted in accordance with the following:

The maximum area for all display signs shall total no more than 24 square feet per sign face.

d.

Off-premises directional signs for public/semipublic purposes are permitted in accordance with subsection (c)(13) of this section.

e.

Public/semipublic land uses shall follow the sign provisions of subsection (f)(3) of this section.

(8)

M-1, M-2, and IPD zones. Within the M-1, M-2, and IPD zones, only the following signs shall be permitted:

a.

Freestanding signs shall be permitted only as follows:

1.

Number. A maximum of one sign per zone lot is permitted. One additional sign may be permitted for each additional street frontage. For parcels with over 500 feet of street frontage on one right-of-way, one additional freestanding sign may be permitted; such additional sign must be spaced at least 300 feet from the other.

2.

Area. The total maximum area for any freestanding sign or signs shall be that area calculated according to subsections (e)(1) and (e)(2) of this section or 75 square feet per sign face, whichever is less.

3.

Height. The maximum height for a freestanding sign is 25 feet.

4.

Setbacks. Such signs shall be set back as follows:

i.

Three feet from any public right-of-way.

ii.

Side and rear setbacks:

M-1 zone: Ten feet.

M-2 zone: Twenty feet.

IPD zone: Ten feet.

Additional setbacks may be required when determined appropriate per subsection (e)(5) of this section.

5.

Time and temperature signs. The maximum area for the time and temperature portion only shall be 20 square feet per sign face.

6.

Flags. Flags containing a corporate name, logo, or other message directing attention to the business on site, including any commodity or service for sale on site, shall be part of the computation of allowable area for freestanding signs.

b.

Attached signs shall be permitted only as follows:

1.

Area. The maximum total area for all attached signs shall be that area calculated according to subsections (e)(1) and (e)(2) of this section or 150 square feet per sign face, whichever is less.

2.

Types of signs permitted: The following attached signs may be permitted, provided the cumulative area of the attached signs does not exceed the maximum area according to subsection (f)(8)b.1, above:

i.

Wall sign;

ii.

Canopy or awning sign;

iii.

Permanent window sign;

iv.

Projecting sign; and

v.

Integral roof signs.

3.

Time and temperature signs. The maximum area for the time and temperature portion only shall be 20 square feet per sign face.

c.

Gasoline price display signs may be permitted in accordance with the following:

The maximum area for all display signs shall total no more than 24 square feet per sign face.

d.

Off-premises directional signs for public/semipublic purposes are permitted in accordance with subsections (c)(1) and (c)(2) of this section.

e.

Public/semipublic land uses shall follow the sign provisions of subsection (f)(3) of this section.

(g)

Off-premises signs. Off-premises signs, except as otherwise provided in this section, shall only be located on properties which abut federal-aid primary or interstate highways (FAP) and which are zoned C-2, C-3, CP, M-1, M-2 or IPD, and designated as industrial by the future land use map, and shall comply with the following:

(1)

Number. A maximum of one such sign per zone lot is permitted.

(2)

Lot area. The sign must be located on a zone lot, the minimum area of which shall be that lot area required in the zoning district in which the sign is to be located.

(3)

Sign area. The maximum area for an off-premises sign shall be 672 square feet per sign face. Two such sign faces may be mounted back to back on the same sign structure.

(4)

Height. The maximum height of such signs shall be 50 feet from ground level. In the case where the freestanding sign is on a parcel contiguous to an overpass or elevated road (excluding service roads) from which the sign is designed to be viewed, the maximum height of the sign shall be the greater of either 50 feet from the ground level or 25 feet measured from the highest point of the overpass or elevated road at the crown of the roadway surface to the top of the sign; such highest point to be determined by the average elevation between the perpendicular extension of the contiguous zone lot lines on which the sign is to be

located, as such lot lines intersect the overpass or elevated road.

(5)

Separation requirements.

a.

Off-premises signs shall not be located within a 1,500-foot radius of another such sign on interstate designated roadways (I-275), and shall not be located within a 1,000-foot radius of another such sign on all other federal-aid primary designated roadways. Provided, however, such radial spacing requirements shall be reduced to a 500-foot radius in connection with the conversion of a legally existing off-premises sign to an electronic changeable message sign in accordance with subsection 138-1334(g)7.

b.

On all FAP roadways, off-premises signs that are allowed to have electronic changeable message displays shall not be located within a 2,500 linear feet of another off-premises electronic changeable message sign that is facing the same direction on the same roadway. Such distance shall be measured along the centerline of the abutting roadway. Additionally, the separation requirement for an off-premises sign that has an electronic changeable message display from an off-premises sign that does not have electronic changeable message display shall meet the requirements of subsection (5)a., above.

c.

No off-premises sign shall be placed within 400 feet of residentially zoned property, and any such sign within 400 feet of property subsequently classified residential shall be classified nonconforming and be subject to the nonconforming provisions of this section. In addition, the distance between a digital off-premises sign face and residentially zoned property shall be at least 500 linear feet, which shall be measured perpendicularly from a point on the digital off-premises sign face in a forward direction. In connection with the conversion of an existing sign face to a digital off-premises sign face, such 400-foot distance shall be reduced to 300 feet if the digital sign face faces away from the residentially zoned property.

d.

Off-premises signs, erected after July 26, 2011, that are allowed to have an electronic changeable messages display, shall not be located within a 500-foot radius of an intersection or interchange, measured from the nearest roadway edge, that has signalized traffic-control devices at said intersection or interchange.

(6)

Setbacks. Off-premises signs shall be set back as follows:

a.

Fifteen feet from any public right-of-way.

b.

The side and rear setbacks of the applicable zoning district shall apply.

(7)

Off-premises signs with electronic changeable message displays prohibited with limited exceptions. Other than legally existing off-premises signs which already have an electronic changeable message display, an off-premises sign may not have an electronic message display except as follows:

a.

Conversion of existing off-premises signs to electronic changeable message display signs. Legally existing off-premises signs without electronic changeable message displays, located on an FAP roadway, may be converted to off-premises signs with electronic changeable message displays in accordance with the requirements of subsection 138-1334(g), except for the restriction that such legally existing off-premises signs be on properties with an industrial future land use designation.

b.

Erection of new off-premises signs with electronic changeable message display signs. New off-premises signs may be erected on an FAP roadway with electronic changeable message displays in accordance with the requirements of subsection 138-1334(g).

c.

Conversion to electronic changeable message display with a shortened display time, as defined in subsection 138-1334(g)(11). An electronic changeable message display sign, located on an FAP roadway, may be converted to operate with a shortened display time in accordance with the requirements of subsection 138-1334(g), except for the restriction that such legally existing off-premises signs be on properties with an industrial future land use designation.

(8)

Other requirements. Off-premises signs shall conform to the applicable requirements set forth in subsection 138-1334(b), general sign requirements.

(9)

Intergovernmental coordination. In those locations at, or in proximity to jurisdictional boundaries where inconsistent sign regulations would serve to undermine the purpose and intent of the countywide minimum sign standards, the board of county commissioners may enter into an interlocal agreement with the applicable local government to provide for the regulation of signs within such transitional areas.

(10)

Acceleration of removal of non-FAP off-premises signs located in unincorporated Pinellas County. As an initiative to accelerate the removal of off-premises signs along non-FAP roadways, (i) legally existing off-premises signs that are located on an FAP roadway and do not have electronic changeable message displays may be converted to off-premises signs with electronic changeable message displays, and (ii) new off-premises signs with electronic changeable message displays may be erected on an FAP roadway, but only under the following conditions and only upon approval of an application for such conversion or new construction.

a.

The applicant shall submit an application for administrative approval in the forms provided by Pinellas County to ensure compliance with applicable law, including the provisions of subsection 138-1334(g). In addition, as part of any application to utilize an electronic changeable

1.

Applicant waives all rights to challenge the validity, constitutionality, and enforceability of subsection 138-1334(g)(10);

2.

The removal by applicant of any non-FAP off-premises signs under this subsection (g)(10) in a given year shall not be counted toward satisfying a one-billboard structure per calendar year removal requirement established for such year under any existing settlement agreement to which applicant and Pinellas County are parties;

3.

Applicant agrees to furnish, with the application and within 30 days following the end of each calendar year, a written status to Pinellas County that identifies:

i.

Any information required to be included in any annual status report required to be provided by applicant to the county pursuant to the terms of any existing settlement agreement between applicant and Pinellas County, if any; and

ii.

Applicant's billboards that are then located within Pinellas County and the square footage of sign face area on each identified billboard.

4.

The applicant agrees to the provisions on luminance and illuminance standards in subsection 138-1334(g)(10)g.

b.

Except as provided in subsection (10) below, for each legally existing off-premises sign an applicant seeks to convert into an off-premises sign with one or more changeable electronic message displays, the applicant shall physically remove a minimum of two non-FAP off-premises sign structures for each single electronic changeable message sign face. In addition, the combined square footage of sign face area removed shall total at least four times the square footage of the electronic changeable message sign face for which the application is made. If the computation for the combined square footage of sign face area that is required to be removed exceeds the combined sign face area on the minimum two non-FAP off-premises sign structures that are required to be physically removed, then the applicant shall physically remove in their entirety such additional non-FAP off-premises sign structures that have display face area sufficient to meet or exceed the additional square footage required, i.e., that is sufficient to meet or exceed four times the square footage of the

electronic changeable message sign face for which the application is made. The non-FAP off-premises sign structures designated in the application for removal shall not have been specifically identified for removal before the date of July 26, 2011 in a settlement agreement between the applicant (or its predecessor in interest) and Pinellas County. It is further provided that off-premises signs located on property annexed into a municipality shall not be considered removed for purposes of this subsection (10)b. The removal by applicant of any non-FAP off-premises signs under this subsection in a given year shall not be counted toward satisfying a one-billboard structure per calendar year removal requirement for such year under any existing settlement agreement to which applicant and Pinellas County are parties.

c.

Except as provided in subsection (10) below, for each new off-premises sign with one or more changeable message displays an applicant seeks to erect, the applicant shall physically remove a minimum of two non-FAP off-premises sign structures for each single electronic changeable message sign face. In addition, the combined square footage of sign face area removed shall total at least four times the square footage of the electronic changeable message sign face for which the application is made. If the computation for the combined square footage of sign face area that is required to be removed exceeds the combined sign face area on the minimum two non-FAP off-premises sign structures that are required to be physically removed, then the applicant shall physically remove in their entirety such additional non-FAP off-premises sign structures that have display face area sufficient to meet or exceed the additional square footage required, i.e., that is sufficient to meet or exceed four times the square footage of the electronic changeable message sign face for which the application is made. The non-FAP off-premises sign structures designated in the application for removal shall not have been specifically identified for removal before the date of July 26, 2011 in a settlement agreement between the applicant (or its predecessor in interest) and Pinellas County. It is further provided that off-premises signs located on property annexed into a municipality shall not be considered removed for purposes of this subsection (10)c. The removal by applicant of any non-FAP off-premises signs under this subsection in a given year shall not be counted toward satisfying a one-billboard structure per calendar year removal requirement for such year under any existing settlement agreement to which applicant and Pinellas County are parties.

d.

Exceptions to non-FAP off-premises signs removal requirements:

1.

An applicant shall not be required to physically remove any off-premises sign structures in conjunction with the relocation of an electronic changeable message display from a legally existing off-premises sign with an electronic changeable message display to an off-premises sign located on an FAP roadway in a location that meets all other requirements of subsection 138-1334(g)(7). Upon removal of the electronic changeable message display from the existing sign, the applicant may replace the electronic changeable message display on the existing sign with a traditional billboard face.

2.

In the event that an applicant has identified a location on an FAP roadway that meets all requirements of subsection 138-1334(g)(7) for the conversion of a legally existing off-premises sign to an electronic changeable message sign other than the radial separation requirements established in subsection 138-1334 (g)(5)a., an applicant may, as an alternative to the removal of one of the two required non-FAP removals,

elect to physically remove one FAP structure in order to comply with the separation requirements. The applicant shall receive the same credit for the removal of such FAP structure as if a non-FAP structure was removed by applicant.

e.

The minimum dwell time for any off-premises sign with changeable electronic message displays that are converted or erected pursuant to subsections (10)b., (10)c., and (10)d. above, shall be 60 seconds, except as permitted pursuant to subsection (11) below.

f.

The right to operate an electronic changeable message off-premises sign shall be subject to the requirements of state law and any federal regulations that apply to FAP roadways. The applicant shall agree to abide by state law and applicable federal regulations in its application submitted pursuant to subsection (10)a. above.

g.

The applicant shall agree to abide by the luminance and/or illuminance standards, established at any time by Pinellas County, governing the brightness of an electronic changeable message off-premises sign, when such standard is predicated reasonably upon safety or aesthetics, and shall agree to waive or otherwise forbear the enforcement of any claim to a vested right as a result of any standard that has been or that may be established in the future as to the brightness of a sign, including an electronic changeable message sign, provided that any such standard maintains the visibility to the traveling public of the electronic sign message during day and nighttime hours. The agreement to abide by the foregoing shall be incorporated into the application for such conversion or erection.

(11)

Acceleration of removal of non-FAP off-premises signs located in unincorporated Pinellas County; shortened display time. As an added initiative to the acceleration of the removal of off-premises signs along non-FAP roadways, (i) a legally existing off-premises sign with an electronic changeable message display located on an FAP roadway, which is in place on July 26, 2011, (ii) a legally existing off-premises sign which has been converted to an electronic changeable message display in accordance with subsection (g)(10), or (iii) a new off-premises sign which has been constructed with an electronic changeable message display in accordance with subsection (g)(10), may be converted to an electronic changeable message display with a minimum 15-second dwell time (shortened display time) under the following conditions and upon the submission and approval of an application for a shortened display time.

a.

The applicant shall submit an application for administrative approval in the forms provided by Pinellas County to ensure compliance with applicable law, including the provisions of subsection 138-1334(g). In addition, as part of any application to utilize an electronic changeable message display under this subsection, an applicant shall specifically agree to the following:

1.

Applicant waives all rights to challenge the validity, constitutionality, and enforceability of subsection 138-1334(g)(11);

2.

The removal by applicant of any non-FAP off-premises signs under this subsection (g)(11) in a given year shall not be counted toward satisfying a one-billboard structure per calendar year removal requirement established for such year under any existing settlement agreement to which applicant and Pinellas County are parties;

3.

Applicant agrees to furnish, with the application and within 30 days following the end of each calendar year, a written status to Pinellas County that identifies:

i.

Any information required to be included in any annual status report required to be provided by applicant to the county pursuant to the terms of any existing settlement agreement between applicant and Pinellas County, if any;

ii.

Applicant's billboards that are then located within Pinellas County and the square footage of sign face area on each identified billboard; and

4.

The applicant agrees to the provisions on luminance and illuminance standards in subsection 138-1334(g)(11)d.

b.

For each digital off-premises sign face for which an applicant seeks the shortened display time, the applicant shall physically remove a minimum of two non-FAP off-premises sign structures. In addition, the combined square footage of sign face area removed shall total at least four times the square footage of the electronic changeable message sign face for which the application is made. If the computation for the combined square footage of sign face area that is required to be removed exceeds the combined sign face area on the minimum two non-FAP off-premises sign structures that are required to be physically removed, then the applicant shall physically remove in their entirety such additional non-FAP off-premises sign structures that have display face area sufficient to meet or exceed the additional square footage required, i.e., that is sufficient to meet or exceed four times the square footage of the electronic changeable message sign face for which the application is made. The non-FAP off-premises sign structures designated in the application for removal shall not have been specifically identified for removal before the date of July 26, 2011 in a settlement agreement between the applicant (or its predecessor in interest) and Pinellas County. The FAP off-premises signs, as well as any additional off-premises signs that may in the future be lawfully erected along the FAP roadways, shall be eligible for obtaining the shortened display time. Off-premises signs located on property annexed into a municipality shall not be considered removed for purposes of this subsection (11)b. The removal by applicant of any non-FAP off-premises signs under this subsection in a given year shall not be counted toward satisfying a one-billboard structure per calendar year removal requirement for such year under any existing settlement agreement to which applicant and Pinellas County are parties.

By way of example, an applicant who desires to install an off-premises electronic changeable message sign

face with shortened display time, would be required to remove a minimum of four eligible non-FAP off-premises sign structures - a minimum of two eligible non-FAP off-premises sign structures for the installation of a new off-premises electronic changeable message sign face and a minimum of two eligible non-FAP off-premises sign structures for the right to utilize shortened display time on the sign face.

c.

The right to operate an electronic changeable message off-premises sign for the shortened display time or for any period of time shall be subject to the requirements of state law and any federal regulations that apply to FAP roadways. The applicant shall agree to abide by state law and applicable federal regulations in its application submitted pursuant to subsection (11)a. above.

d.

The applicant shall agree to abide by the luminance and/or illuminance standards, established at any time by Pinellas County, governing the brightness of a digital off-premises sign, when such standard is predicated reasonably upon safety or aesthetics, and shall agree to waive or otherwise forbear the enforcement of any claim to a vested right as a result of any standard that has been or that may be established in the future as to the brightness of a sign, including a digital sign, provided that any such standard maintains the visibility to the traveling public of the electronic sign message during day and nighttime hours. The agreement to abide by the foregoing shall be incorporated into the application for the attainment of the shortened display time.

(12)

Other than as set forth in subsections 138-1334(g)(10) and (g)(11) herein, there shall be no new off-premises signs with electronic changeable message displays erected within unincorporated Pinellas County.

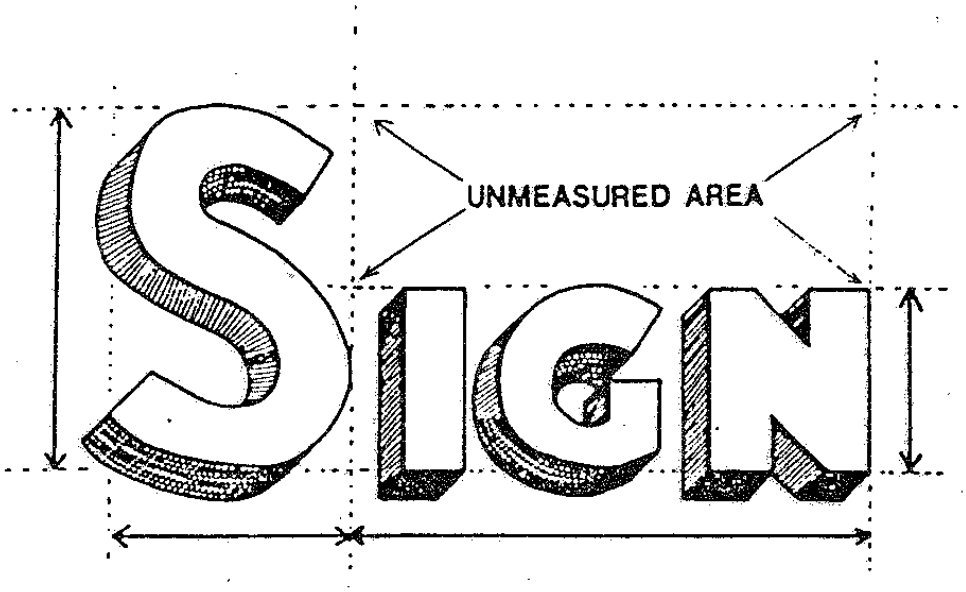
(13)

Any development order, including a building permit or a sign permit, that permits construction of an electronic changeable message display under either subsection 138-1334(g)(10) or subsection 138-1334(g)(11) shall be deemed a development order of the type described in F.S. § 70.20(12).

Appendix to section 138-1334

Except where otherwise provided, the illustrations in this appendix are for purposes of interpreting the application of provisions of this section. Where found to be in conflict with specific provisions of this section, the provisions of this section shall prevail.

Computation of Area of Individual Signs



Banners

Drawing—ms 7973

Drawing—ms 7974

Drawing—ms 7975

Drawing—ms 7976

Drawing—ms 7977

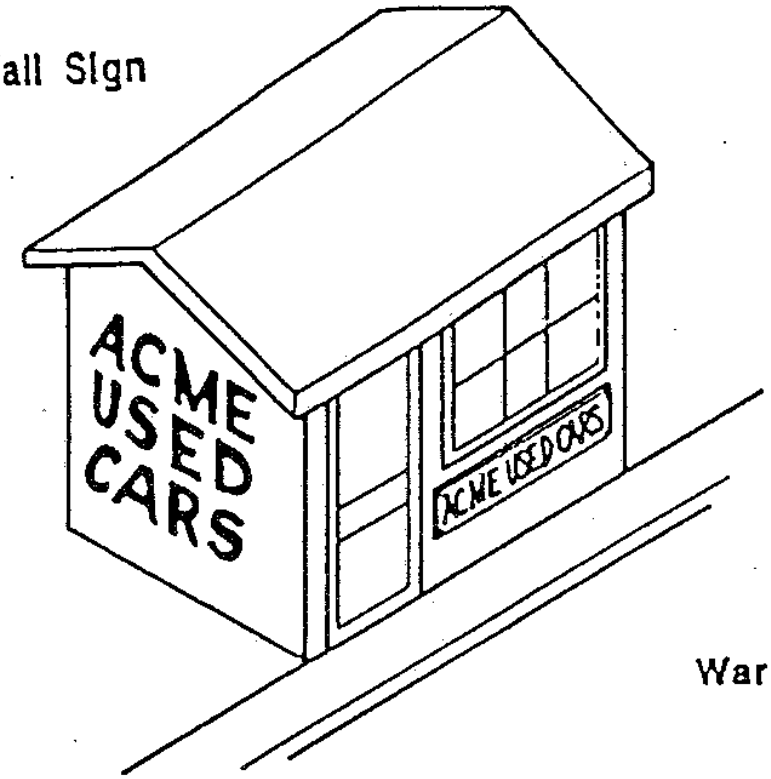
Drawing—ms 7978

Drawing—ms 7979

Drawing—ms 7980

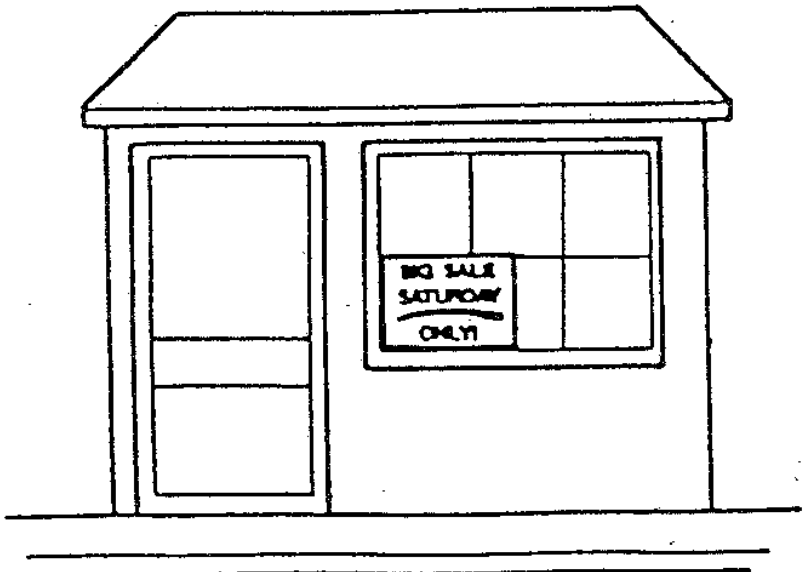
Drawing—ms 7981

Wall Sign



Warning Sign

Temporary Window Sign



(Ord. No. 90-1, § 1(506.4), 1-30-90; Ord. No. 92-5, 2-18-92; Ord. No. 92-8, 2-18-92; Ord. No. 93-88, § 1, 10-19-93; Ord. No. 94-36, § 1, 4-19-94; Ord. No. 95-28, §§ 22—24, 4-18-95; Ord. No. 96-41, § 1, 4-30-96; Ord. No. 11-25, §§ 1—4, 7-26-11)

Cross reference— Countywide sign regulations, ch. 162.

State Law reference— Provisions regulating signs required, F.S. § 163.3202(2)(f).

Sec. 138-1335. - Home occupations.

Home occupations, where allowed by the provisions of this chapter, shall conform to the following provisions:

(1)

The use must be conducted entirely within a dwelling and not be visible from the street or neighboring dwellings and may only be carried on by members of a family living therein except as provided below. The home occupation is to be clearly incidental and secondary to the use of the dwelling for dwelling purposes and is not to change the residential character thereof. A home occupation may include such uses, when

operated in strict accordance with the provisions of this section as follows: Phone sales, mailing service, accountant, engineer, architect, dressmaker, artist, handicrafts, consultant or similar profession. The precedent list is meant to be illustrative only and is not all inclusive. Home occupations specifically prohibited would include auto and/or equipment repair, or any similar type of use which is not compatible with the residential neighborhood.

(2)

Up to two persons may be engaged in a home occupation other than members of the family permanently residing on the premises providing parking is available on site in a driveway or other standard parking area. Customers may not conduct business on the premises except as otherwise provided in section 8 below.

(3)

No materials or stock in the trade are to be sold on the premises or stored outside the dwelling.

(4)

The use shall not create dangerous vapors or fumes, and no use shall be permitted where noise, light, dust, or vibration extends beyond the lot or parcel line of an abutting lot or parcel.

(5)

The rooms used for home occupations shall represent no more than 20 percent of the total area of the dwelling.

(6)

All activities associated with the home occupation shall be conducted entirely within a dwelling. There shall be no display or other visible evidence other than as provided in this section that would indicate that the dwelling is being utilized for any other use than a dwelling, unless such display or evidence is located inside of the dwelling in such fashion as not to be visible from the street.

(7)

There shall be no physical change or alteration to the exterior appearance of a structure that would not be appropriate to its use as a dwelling.

(8)

Traditional home based instruction such as but not limited to tutoring and music or swimming lessons where instruction is provided by only one instructor to only three student[s] per class with no more than ten classes per day between the hours of 9 a.m. and 9 p.m. shall be considered a home occupation. Other instruction or private school may be allowed as a special exception pursuant to section 138-240(16).

(Ord. No. 90-1, § 1(506.5), 1-30-90; Ord. No. 92-8, 2-18-92; Ord. No. 98-97, § 9, 11-17-98)

Sec. 138-1336. - Fences and walls.

(a)

Purpose and intent. Fences and walls should be used to define ownership, create privacy, ensure protection, and provide screening. Fences and walls should be designed and sited to ensure their intended purpose while recognizing and responding to the community character and ensuring public safety.

(b)

Definitions. As used in this section:

Decorative as applied to walls means that a wall is masonry with a stucco finish; has a finish of natural materials, such as brick, stone, or glass block; or has a finish which is accepted for use in the industry.

Decorative as applied to fences means that a fence is made of PVC fence material, wrought iron, or aluminum pickets, or is a painted or stained shadow-box or board-on-board type fence.

Hedge means a continuous arrangement of three or more shrubs for the purpose of screening or dividing spaces which are planted and maintained to create an open space less than two feet wide by six feet high between each shrub.

Semi-opaque means and includes fence and wall components which have opacity of 25 percent or less, excluding vertical support posts, for the purpose of maintaining some visibility.

(c)

General requirements.

(1)

Residential fences and walls. In residential districts, walls and fences are subject to the following height limits:

a.

Within the required side and rear setback area: six feet for a fence or wall of any style.

b.

Within the required front setback area:

1.

Three feet for a fence or wall of any style; additional height may be added for semi-opaque decorative toppers, the complete fence or wall shall not exceed a total height of five feet.

2.

Four feet for a decorative fence or wall; additional height may be added for semi-opaque decorative toppers, the complete fence or wall shall not exceed a total height of five feet.

3.

Six feet for a decorative fence or wall when one of the following conditions apply:

i.

The fence or wall encloses the perimeter of a development adjacent to roads classified as collector streets or arterial roads. In such case:

It must be located at least two feet from the right-of-way and shall be landscaped with two trees for each 100 lineal feet and hedge material planted, in keeping with the intent of chapter 166, article II. Trees should be planted as least five feet in distance from the wall to allow adequate room for growth. Hedges within sight triangles must be maintained at no more than three feet above pavement.

The fence or wall must be reviewed and approved as part of a site plan or as a modification to an approved site plan. This includes the requirement that plans submitted be signed and sealed by a registered professional engineer in the State of Florida, thereby certifying that the fence or wall as proposed will not cause a sight distance obstruction for vehicles maneuvering on the adjacent or any nearby street system. Minimum sight triangle requirements for maintaining adequate sight distance are detailed in the appendix to this section.

ii.

The subject property is a corner lot, double frontage lot, or other multiple frontage lot, and the fence will be located within a setback area from the adjacent right-of-way for which the property is not addressed. In such case, the applicant must obtain from the county traffic engineer a written statement of no objection that the fence as proposed will not cause a sight distance obstruction for vehicles maneuvering on the adjacent or any nearby street system. Such statement shall be in accordance with standard safe engineering practices as established by Pinellas County. The applicant for such permit shall provide to Pinellas County detailed information to show that these conditions are met.

(2)

Commercial/industrial fences and walls. In commercial and industrial districts, walls and fences are subject to the following height limits:

a.

Within the required side and rear setback area: six feet for a fence or wall of any style, except when required as part of a special exception or conditional use approval.

b.

Within the required front setback area:

1.

Three feet for a fence or wall of any style; additional height may be added for semi-opaque decorative toppers, the complete fence or wall shall not exceed a total height of five feet.

2.

Four feet for a decorative fence or wall; additional height may be added for semi-opaque decorative toppers, the complete fence or wall shall not exceed a total height of five feet.

3.

Six feet for a decorative fence or wall, provided the applicant satisfies the requirements of subsection 138-1336(c)(1)b.3.

(d)

Materials and conditions. Fences or walls may be constructed of any of the following standard fencing materials: wrought iron, brick, concrete block, plastic, vinyl, chain link, or wood products that are typically pre-fabricated and are commercially available. All fences and walls shall be maintained in good repair and all surfaces thereof shall be kept painted or have similar protective coating where customarily necessary. Any departure from the materials prescribed by this section shall require the approval of the county administrator or his/her designee.

(e)

Barbed wire or electrical strands. Barbed wire or electrical strands or similar type of fencing, when permitted, shall be no greater than six feet in height. The use of such type of fencing is permitted only as follows:

(1)

Barbed wire may be used on security fences in commercial or industrial districts.

(2)

Barbed wire may be used as part of agricultural activities.

(3)

Barbed wire or electrical strands or similar type of fencing may be used when specifically authorized in conjunction with a conditional use or special exception.

(f)

Measurement of height. The maximum height of fences or walls shall be measured as follows:

(1)

From normal grade to the uppermost horizontal member or members.

(2)

Wire strands (except certain permitted barbed wire strands described in subsection (e) of this section) may not exceed 18 inches above the minimum height requirement for such wire).

(3)

No post, pilaster, or light with a cross-sectional dimension of 18 inches or less shall be counted toward height except within a front yard setback area. Berms or other mounds above normal grade shall be considered part of the height measurement.

(g)

Visibility.

(1)

At intersections. No fence or wall shall be permitted at a corner within 15 feet of the intersection of the right-of-way lines.

(2)

Sidewalks. The placement and height of fences and walls shall be guided by the minimum sight triangle requirements for maintaining adequate sight distance as described in the "visibility triangle for sidewalk traffic" diagram in the appendix to this section.

(h)

Easements. No portion of any concrete, block, or brick wall or similar permanent construction shall be located within the area of recorded easement unless authorized by the easement owner, and/or county administrator or his/her designee.

(i)

Appendix to 138-1336(c). Except where otherwise provided, the illustrations in this appendix are for purpose of interpreting the applications of provisions of subsection (c) of this section. Where found to be in conflict with the specific provisions of the section, the provisions of this section shall prevail.

(j)

Minor administrative adjustments to height. The county administrator or his/her designee may administratively approve minor adjustments to fence or wall heights when they have determined that the shape of the property or elevation and slope disparities prohibit adequate screening and/or sufficient enclosure under the permitted height standards of this section. Such adjustment shall not result in a fence or wall exceeding a maximum height of eight feet, as measured in subsection 138-1336(f).

(Ord. No. 90-1, § 1(506.6), 1-30-90; Ord. No. 90-55, § 1, 7-24-90; Ord. No. 92-8, 2-18-92; Ord. No. 97-57, § 27, 7-28-97; Ord. No. 00-67, §§ 18, 19, 8-29-00; Ord. No. 02-60, § 6, 7-23-02; Ord. No. 15-32, § 13, 8-18-15)

Sec. 138-1337. - Accessory dwellings in nonresidential districts.

In nonresidential districts, a single-family dwelling for an owner or employee (i.e., a caretaker, night watchman, guard, manager, etc.) may be permitted as an accessory use to a commercial or industrial activity, provided that such residential use is limited to one dwelling unit per parcel of land. Such a dwelling unit shall not cause the maximum lot coverage to be exceeded.

(Ord. No. 90-1, § 1(506.7), 1-30-90; Ord. No. 92-8, 2-18-92)

Sec. 138-1338. - Temporary uses and structures.

Construction offices, construction storage buildings for land under development, real estate offices and model homes may be allowed in any district for the purpose of development and marketing the property or subdivision in which such uses are to be located. Authorization for a temporary use and structure shall only be granted after the filing of an acceptable preliminary site plan. A maximum of four model homes may be permitted on lots within subdivisions which have not been platted, but which have received final site plan and

construction plan approval. A metes and bounds legal description of each lot to be permitted will be required and such permit shall be reviewed for compliance with requirements of the final site plan. Any permit for a temporary use or structure shall expire at the end of two years or upon completion of the project for which the temporary use has been authorized, whichever is sooner, and shall be removed or converted to a permitted use upon such expiration. Extensions to the original permit may be granted for a period of one year by the board of adjustment as a special exception (see section 138-240(21)). Other temporary uses such as Christmas tree sales, pumpkin sales, rummage sales, temporary flea markets, carnivals, festivals, and promotional activities may be permitted under the following criteria:

(1)

May be permitted in commercial, industrial or agricultural zones; may be permitted in other zones if on the site of an existing civic organization (i.e., church, Boy Scouts, school, fraternal organization or similar activity).

(2)

No parcel shall be occupied by a temporary use for more than 90 days in any calendar year.

(3)

No zoning clearance or permit is required for a temporary use except as noted below. However, the operator of a temporary use must:

a.

Obtain written permission from the property owner and have such permission available on site during the operation of the temporary use.

b.

Provide safe and adequate off-street parking (no parking or sales area shall be within a public right-of-way).

c.

Insure safe and adequate ingress and egress to the property, including safe site [sight] distance for vehicles entering or leaving the property.

d.

Insure that all use areas (i.e. sales, activities) other than parking is [are] located at least 25 feet from a public right-of-way and residential properties.

(4)

The provisions of section 138-1339 shall be met for any tent.

(5)

The operator shall obtain permits for any structures to be located on the property or if such use requires electricity or plumbing permits the operator shall obtain such permits prior to operation.

(6)

The county administrator or his designee shall have authority to require immediate compliance with the provisions of this section. Failure of the operator to comply with such direction may result in penalties as provided in section 138-54(7), including fines and/or imprisonment.

(7)

Nothing herein shall relieve an operator of a temporary use from complying with other applicable codes, ordinances, and regulations.

(Ord. No. 90-1, § 1(506.8), 1-30-90; Ord. No. 92-8, 2-18-92; Ord. No. 99-66, § 19, 7-20-99)

Sec. 138-1339. - Tents.

Tents may be erected in any zoning district for a period not to exceed 30 days for the purpose of special sales, promotions, entertainment, educational, religious, evangelistic or similar special events, subject to the following:

(1)

The use of the tent shall be limited to an authorized use of the property in the zoning district where located.

(2)

The tent shall comply with all setback requirements.

(3)

Adequate off-street parking shall be provided as required by article VII, division 2 of this chapter.

(4)

The applicant shall submit a detailed plot plan showing the location of the tent, the floor area and maximum capacity (number of persons) of the tent, the number and location of off-street parking spaces, a traffic circulation plan showing all ingress/egress locations, and the location of any structures and/or trees existing on site. Such plan shall be examined by the zoning division, the environmental management department, and the engineering department to determine compliance with this chapter and other applicable codes, ordinances, or regulations. No clearance for a building permit shall be issued until such plan complies with these provisions.

(Ord. No. 90-1, § 1(506.9), 1-30-90; Ord. No. 92-8, 2-18-92)

Sec. 138-1340. - Livestock.

No livestock shall be maintained, raised or housed within any zoning district except where specifically authorized by this chapter.

(Ord. No. 90-1, § 1(506.10), 1-30-90; Ord. No. 92-8, 2-18-92)

Sec. 138-1341. - Land fills or excavation of less than 1,000 cubic yards.

(a)

A zoning clearance shall be required for any landfill or excavation which is more than five cubic yards but less than 1,000 cubic yards. Prior to issuance of such clearance, a plan shall be submitted to and approved by the zoning division, the water department, the engineering department and the department of environmental management. Such plan shall show the following:

(1)

Legal description and boundaries of the property.

(2)

Location of all trees of four inches diameter breast height (dbh) or larger on the site.

(3)

Location of proposed excavation or fill.

(4)

Existing and proposed topography, including surface water areas.

(5)

All plans shall be scale drawings.

(b)

No zoning clearance is required for fills or excavations of less than five cubic yards; however, no fill or excavation, regardless of size, shall detract from or interfere with the county's ultimate drainage plans or adversely affect drainage on adjacent properties. Where such interference or detraction appears possible, a zoning clearance pursuant to this subsection may be required. Tree removal permits are required for all fills and or excavations.

(Ord. No. 90-1, § 1(506.11), 1-30-90; Ord. No. 92-8, 2-18-92; Ord. No. 04-29, § 4, 4-13-04)

Sec. 138-1342. - Marinas and other water dependent uses.

Site plans for marinas shall not be approved unless such plans are in substantial compliance with policies 4.1.2, 4.1.3, 4.1.4, and 4.1.5 coastal management element of the county's adopted comprehensive plan. For the purpose of this section, marinas and other water dependent uses shall include any facility adjacent to and utilizing a body of water and providing any of the following: boat storage and launching, docking, building, repair, maintenance and outfitting of watercraft that requires access to water, or any similar water dependent use.

(Ord. No. 90-1, § 1(506.12), 1-30-90; Ord. No. 92-8, 2-18-92; Ord. No. 01-58, § 7, 8-7-01)

Sec. 138-1343. - Residential design manufactured homes.

(a)

Intent. It is the intent of this section to encourage the provision of affordable housing in a general residential environment by permitting the use of residential design manufactured housing ("RDMH"), as defined in this section, in residential districts in which similar dwellings constructed on the site are permitted, subject to the requirements and procedures set forth in this section to assure similarity in exterior appearance between such residential designed manufactured housing and dwellings which have been constructed under these and other lawful regulations on adjacent lots in the same district. Manufactured homes approved as RDMH, either individually or by specific model, shall be permitted in residential districts in which similar residential occupancy is permitted, subject to requirements and limitations applying generally to such residential use in the districts, including minimum lots, yard and building spacing, percentage of lot coverage, off-street parking requirements and approved foundations as described in this chapter.

(b)

Procedures for approval. Approval of residential design manufactured housing (RDMH) shall be authorized by the county administrator or his designee.

(1)

Applications for approval of manufactured homes as RDMH shall be submitted to the county administrator or his designee in such form as may reasonably be required to make determinations. In particular, in addition to such information as is generally required for permits and as is necessary for administrative purposes, such applications shall include all information necessary to make determinations as to conformity with the standards in this section, including photographs of all sides of the RDMH, exterior dimensions, roof pitch, roof materials, exterior finish, and other information necessary to make determinations.

(2)

Actions by the county administrator or his designee; time limitations on determinations. Within seven days of receipt of the application and all required supporting materials, the county administrator or his designee shall make the determination as to conformity with the standards in this section, and shall notify the applicant of the approval, conditional approval or denial of the application. Conditional approval shall be granted only where the conditions and reasons therefor are stated in writing and agreed to by the applicant, and such conditions shall be binding upon the applicant. In the case of disapproval, the reasons therefor shall be stated in writing.

(c)

Standards for determination of similarity in exterior appearance. The following standards shall be used in determinations of similarity in appearance between residential design manufactured homes (RDMH), with foundations approved as provided in this subsection, and compatible in appearance with site-built housing which has been constructed in adjacent or nearby locations.

(1)

Minimum dimension of main body. Minimum dimension of the main body of the RDMH shall not be less than 20 feet, as measured across the narrowest portion. This is not intended to prohibit the offsetting of portions of the home.

(2)

Minimum roof pitch; minimum roof overhang; roofing materials. Minimum pitch of the main roof shall be not less than three feet of rise for each 12 feet of horizontal run and minimum roof overhang shall be one foot. In cases where site-built housing generally has been constructed in adjacent or nearby locations with lesser roof pitches and/or roof overhangs of less than one foot, then the RDMH may have less roof pitch and overhang, similar to the site-built houses. In general, any roofing material other than a built-up composition roof may be used which is generally used for site-built houses in adjacent or nearby locations.

(3)

Exterior finish; light reflection. Only material for exterior finish which is generally acceptable for site-built housing which has been constructed in adjacent or nearby locations may be used, provided, however, that reflection for such exterior shall not be greater than from siding coated with clean white gloss exterior enamel.

(4)

Approved foundations required in residential districts. No RDMH shall be placed or occupied for residential use on a site in a residential district until such foundation plans have been submitted to and approved by the county administrator or his designee as to the appearance and durability of the proposed foundation and being acceptably similar or compatible in appearance to foundations of residences built on adjacent or nearby sites. All homes shall be placed on permanent foundations.

(5)

Site orientation of the manufactured home. RDMH's shall be placed on lots in such a manner as to be compatible with and reasonably similar in orientation to the site-built housing which has been constructed in adjacent or nearby locations.

(6)

Garages, carports in residential neighborhoods where adjacent to nearby site-built homes which include garages and/or carports. A RDMH shall be required to be provided with a garage and/or carport compatible with the RDMH and the site-built garages and/or carports constructed in adjacent or nearby locations.

(7)

Compatibility with nearby site-built housing. RDMH's shall be compared to site-built housing in the neighborhood within the same zoning district. Approval for a RDMH shall not be granted unless it is found that the RDMH is substantially similar in size, siding, material, roof pitch, roof material, foundation and general appearance to site-built housing which may be permitted by the zoning and/or building code in the neighborhood in the same zoning district.

(Ord. No. 90-1, § 1(506.13), 1-30-90; Ord. No. 90-55, § 1, 7-24-90; Ord. No. 92-8, 2-18-92; Ord. No. 97-80, § 1, 9-30-97)

Sec. 138-1344. - Public schools or educational facilities proposed by the school board.

Nothing within this chapter shall prohibit the board of county commissioners from entering into an agreement with the county school board pursuant to F.S. § 235.193(9) to establish a procedure for the review of site plans for compliance with the county's land development regulations and consistency with the comprehensive

plan. Such a procedure may include, but not be limited to, locational criteria (including the identification of zoning districts in which schools may be located), environmental requirements, safety requirements, health requirements, and the mitigation of off-site impacts and effects on adjacent property. The locational criteria of this chapter shall be superseded by the adoption of such an agreement.

(Ord. No. 90-1, § 1(506.14), 1-30-90; Ord. No. 92-8, 2-18-92)

Sec. 138-1345. - Adult uses.

Adult uses, as defined by county ordinance, shall be located pursuant to such ordinance adopted by the board of county commissioners to regulate such uses.

(Ord. No. 90-1, § 1(506.15), 1-30-90; Ord. No. 90-55, § 1, 7-24-90; Ord. No. 92-8, 2-18-92)

Sec. 138-1346. - Affordable housing.

(a)

Purpose and intent. The purpose and intent of this section is to provide a permitting procedure for the construction of affordable housing in keeping with the affordable housing incentive plan (Resolution 94-60) adopted by the board of county commissioners pursuant to the state housing initiatives partnership (SHIP) program pursuant to F.S. § 420.9072. This section will describe procedure and criteria for the certification of affordable housing developments (AHD's), describe the package of incentives which may be made available to developers of AHD's and provide a review process for the approval of AHD's. This section may also provide reference to other county ordinances and regulations effecting the development of AHD's.

(b)

Incentives. The following incentives may be made available to encourage the provision of affordable housing:

(1)

Expedited permit processing. The county administrator shall provide a review process which gives AHD's priority in the permit review process. A two-week turn-around time shall be the desired goal for the processing of a site plan for such development. To assist in achieving this goal a pre-application meeting will be required between the applicant and county site plan review staff. The development review administrator will serve as an ombudsman to assist the applicant in achieving an expeditious review.

(2)

Impact and other review fees may be waived or paid by the county. The county administrator is authorized to waive all fees for affordable housing units, except where "bond covenants" (i.e. on water, sewer connection fees) or other legal constrains prevent such waiving. Subsidies for payment of fees may be provided in the form of deferred payment or low interest loans. The department of community development shall administer a program to assist the applicant subject to available funds.

(3)

A density bonus of up to 50 percent above the normal density permitted by this chapter may be provided as a special exception pursuant to article II division 7 of this chapter. Such bonus shall be subject to compatibility

with the surrounding natural and physical environment, site constrains, concurrency management requirements and shall be in keeping with the purpose and intent of this chapter.

(4)

Parking requirements may be reduced where it can be shown that such reduction will be compatible with the surrounding neighborhood and not cause an adverse impact to the neighborhood. Such reduction shall be reviewed by the board of adjustment pursuant to section 138-240(23).

(5)

Setback requirements may be reduced up to 25 percent provided such reductions are not permitted for structures along the periphery of the AHD. Reductions along the periphery or in excess of the 25 percent limitation may be considered by the board of adjustment.

(6)

Zero lot line configuration will be permitted in all single-family residential districts as follows:

a.

Zero lot line configuration when not located on the periphery of the AHD may be permitted provided no setback is required on one side of the lot and the setback on the opposite side is double on one side of the lot and the setback on the opposite side is double the normal requirement of the district in which the AHD is located. All other requirements must be met including article 4 division 11 of this chapter shall be applicable.

b.

Zero lot line configuration proposed on the periphery of an AHD where located in a single-family residential district may be permitted as a special exception pursuant to article II division 7 of this chapter.

(7)

Street design. Modifications in street layout and design may be permitted subject to site constrains, type and intensity of development, and compatibility with surrounding development. The county public works director or his designee may recommend such modifications as deemed appropriate to achieve the intent of this section. However, such recommendation will be in keeping with standard, safe engineering practice and construction standards generally shall not be modified.

(8)

Donation of publicly owned land. County ordinance 88-47 currently permits donations of escheated property to nonprofit organization. Using state or federal housing funds, the county may also make deferred payment or low-interest loans to both nonprofits and for-profits for the purchase of property when the use meets the requirements of the funding source.

(9)

Accessory units will be permitted in all areas permitting single-family homes, as accessory uses, subject to size limits, design guidelines, parking, etc. (see section 138-1).

(10)

Identifying qualified buyers or renters. Existing sources will be identified and made available to AHD's to provide assistance in locating a qualified pool of home buyers and renters for the affordable units. The department of community development will make this information available.

(11)

Affordable housing development. Up to ten units per acre shall be permitted in commercial zoning districts provided all development standards of the zoning district are adhered to. Where residential development is provided as upper floors above commercial uses, the allowable floor area permitted for the commercial use shall not be reduced. (This provision shall not become effective until appropriate amendments to the county's comprehensive plan become effective.)

(c)

Procedure for obtaining approval of affordable housing developments.

(1)

The applicant's first step in obtaining approval for an affordable housing development will be to schedule a meeting with the department of community development to determine if the AHD proposal meets the definitional criteria of affordable housing. Such criteria shall be contained in a manual prepared by the department of community development and adopted by resolution of the board of county commissioners. If the department of community development determines that the AHD proposal meets these criteria and the applicant is not requesting a density bonus, reduced parking, setback reductions for structures along the perimeter of the AHD, or zero lot line configurations along the perimeter of the project, the department of community development will assist the applicant in seeking fee waiver, subsidies, expedited plan review and other incentives available to promote the construction of affordable housing.

(2)

Where the department of community development finds that the AHD proposal meets the definitional criteria and the applicant is seeking a density bonus, reductions, in parking, reductions in setbacks along the periphery, or zero lot line configurations along the periphery of the proposed AHD in a single-family residential district approval by the board of adjustment as a special exception pursuant to article II division 7 of this chapter is required prior to final site plan approval. The county administrator is directed to waive the fee for these applications and to insure that the request is scheduled for the first available public hearing provided required notice of public hearing can be given.

(Ord. No. 95-28, § 20, 4-18-95; Ord. No. 99-66, § 15, 7-20-99)

Sec. 138-1347. - Communication towers and antennas.

It shall be the intent of this chapter to allow for the reasonable expansion of technology in keeping with the 1996 Federal Telecommunications Act while providing reasonable regulation of communication towers and antennas to ensure that the county landscape is not adversely affected by the proliferation of tall towers. Toward this end the following provisions shall apply:

(1)

Communication towers may be erected in any commercial or industrial district as a permitted use subject to the height limitations established in section 138-1277 of this chapter.

(2)

Communication towers which are camouflaged to look like trees or palms which are common to the county may be erected in any zone subject to a height limitation of 75 feet.

(3)

Antennas and supporting mechanical equipment may be installed on or attached to buildings, light poles, other existing towers, water towers, or other existing structures in any zoning district. Such antennas shall add no more than 20 feet in height above the existing structure and shall be a neutral color similar to that of the supporting structure.

(4)

Supporting equipment buildings may be located on the site of camouflaged towers provided they do not exceed 500 sq. ft. in size. Such buildings shall be compatible with the architecture of the neighborhood in which located.

(5)

Towers and supporting structures shall be a neutral nonglare color or finish so as to reduce visual obtrusiveness (except as may otherwise be required by the Federal Aviation Authority).

(6)

Any tower or antenna which is not operated for a period of 90 days or more shall be considered abandoned. Upon written notification by the county, the owner shall remove same within 60 days. Failure to do so shall constitute a violation of this code. Upon such written notification any previously granted variance or special exception shall terminate. Abandonment shall not include towers or antennas damaged by forces beyond the control of the operator, where the operator is proceeding in good faith to restore the facility to operational status. A tower or antenna shall be considered operational so long as an antenna and corresponding electronics, in operational condition, are present, at the facility or undergoing repairs in accordance with the above.

(7)

All towers and supporting equipment including guys shall meet normal setback requirement except that towers shall be set back from residential property lines a distance equal to the height of the tower.

(8)

Towers shall be enclosed by security fencing a minimum of six feet in height.

(9)

Towers shall not be used for the placement of advertising or signs other than warning signs or devices.

(10)

Towers shall be set back from residential property lines a distance equal to the height of the tower.

(11)

Towers shall be equipped with warning lights in accordance with FAA standards regardless of height.

Construction of antennas and towers in accordance with the preceding provisions shall be the desired method in the county in order to minimize the visual impacts of towers on the landscape. Proposals to erect towers in another manner (except those specifically exempted from this Code) may be permitted by the board of adjustment as a special exception pursuant to article II, division 7 of this chapter.

(Ord. No. 95-28, § 21, 4-18-95; Ord. No. 97-57, § 28, 7-28-97)

Sec. 138-1348. - Chickens.

(a)

General conditions for the keeping of chickens in the R-1 through R-6 zoning districts.

(1)

For the purposes of this section of the Code, the term "chicken" refers to female chickens only (i.e., hens).

(2)

Up to four chickens may be kept within an occupied single-family property located in the R-1, R-2, R-3, R-4, and R-6 zoning districts. Chickens may be kept within manufactured home subdivisions, but not on duplex, triplex or multifamily properties, or within mobile home/manufactured home parks.

(3)

Chickens must be kept within the coop or enclosure at all times.

(4)

Ducks, geese, turkeys, peafowl, male chickens/roosters, or any other poultry or fowl are not allowed under the provisions of this section of the Code.

(5)

Chickens shall be kept for personal use only. Selling chickens, eggs, or chicken manure, or the breeding of chickens for commercial purposes is prohibited.

(6)

Chickens shall not be slaughtered on premises.

(7)

The coop and enclosure must be screened from the neighbor's view, using an opaque fence and/or a landscape screen.

(b)

Location and requirements for chicken coops and enclosures in the R-1 through R-6 zoning districts.

(1)

Any chicken coop and fenced enclosure must be located in the rear yard. No coop or enclosure shall be allowed in any front or side yard. (Corner lots shall be excluded from the side setback restriction).

(2)

The coop and enclosure must be a minimum of ten feet from the rear and side property line.

(3)

If the coop structure exceeds 100 square feet in size (ten-foot by ten-foot), a building permit is required under the Florida Building Code.

(4)

The coop shall be covered and ventilated, and a fenced enclosure/run is required. The coop and enclosure must be completely secured from predators, including all openings, ventilation holes, doors and gates (fencing or roofing is required over the enclosure in addition to the coop, in order to protect the chickens from predators).

(5)

All stored feed must be kept in a rodent and predator-proof container.

(6)

The coop shall provide a minimum of three square feet per chicken and be of sufficient size to permit free movement of the chickens. The coop may not be taller than six feet, measured from the natural grade, and must be easily accessible for cleaning and maintenance.

(c)

Health, sanitation and nuisance as applied to the keeping of chickens in the R-1 through R-6 zoning districts.

(1)

Chickens shall be kept within a coop and enclosure. No person shall release or set any chicken free from such coop or enclosure.

(2)

Chicken coops and enclosures shall be maintained in a clean and sanitary condition at all times. Chickens shall not be permitted to create a nuisance consisting of odor, noise or pests, or contribute to any other nuisance condition.

(d)

Enforcement.

(1)

Enforcement regarding the keeping of chickens within any zoning district is addressed within section 138-54 of this Code.

(2)

In a public health emergency declared by the Director of the Pinellas County Health Department, including but not limited to an outbreak of Avian Flu or West Nile virus, the county may require immediate corrective action in accordance with applicable public health regulations and procedures.

(3)

No person convicted as a repeat violator of subsections 138-1348(a) through (d) of this Code may be permitted to, or continue to, keep chickens on their premises. Repeat violators are as defined in section 138-1 of this Code.

(Ord. No. 11-56, § 3, 12-20-11)

Sec. 138-1349. - Dog friendly dining program.

(a)

Purpose and intent; program created; definitions.

(1)

The purpose and intent of this section is to implement the program established by F.S. § 509.233 by permitting public food service establishments within Pinellas County, Florida, subject to the terms contained herein, to become exempt from certain portions of the United States Food and Drug Administration Food Code, as amended from time to time, and as adopted by the State of Florida Division of Hotels and Restaurants of the Department of Business and Professional Regulation, in order to allow patrons' dogs within certain designated outdoor portions of their respective establishments.

(2)

Pursuant to F.S. § 509.233, there is hereby created in the County of Pinellas, Florida, a local exemption procedure to certain provisions of the United States Food and Drug Administration Food Code, as amended from time to time, and as adopted by the State of Florida Division of Hotels and Restaurants of the Department of Business and Professional Regulation, in order to allow patrons' dogs within certain designated outdoor portions of public food service establishments, which exemption procedure may be known as the Pinellas County Dog Friendly Dining Program.

(3)

As used in this section, hereof:

a.

"County administrator" means the Pinellas County Administrator or his or her designee.

b.

"Division" means the Division of Hotels and Restaurants of the State of Florida Department of Business and Professional Regulation.

c.

"Dog" means the domestic dog, canis familiaris.

d.

"Outdoor area" means a defined area adjacent to a public food service establishment.

e.

"Patron" has the meaning given to "guest" by F.S. § 509.013, as amended.

f.

"Public food service establishment" has the meaning given it by F.S. § 509.013, as amended.

(b)

Permit required; submittals.

(1)

In order to protect the health, safety, and general welfare of the public, a public food service establishment is prohibited from having any dog on its premises unless the public food service establishment possesses a valid permit issued in accordance with this section.

(2)

Applications for a permit under this section shall be made to the county administrator, on a form provided for such purpose by the county administrator, and shall include, along with any other such information deemed reasonably necessary by the county administrator in order to implement and enforce the provisions of this section, the following:

a.

The name, location, and mailing address of the subject public food service establishment.

b.

The name, mailing location, and telephone contact information of the permit applicant.

c.

A diagram and description of the outdoor area to be designated as available to patrons' dogs, including dimensions of the designated area; a depiction of the number and placement of tables, chairs, and restaurant

equipment, if any; the entryways and exits to the designated outdoor area; the boundaries of the designated area and of any other areas of outdoor dining not available for patrons' dogs; any fences or other barriers; surrounding property lines and public rights-of-way, including sidewalks and common pathways; and such other information reasonably required by the county administrator. The diagram or plan shall be accurate and to scale but need not be prepared by a licensed design professional.

d.

A description of the days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor area.

e.

Written authorization to obtain the permit from the owner of the property on which the public food service establishment is located if the applicant is not the owner.

f.

All application materials shall contain the appropriate division issued license number for the subject public food service establishment. Any permit issued to a public food service establishment under this section shall include the appropriate division issued license number of that establishment.

(c)

General regulations; cooperation; enforcement.

(1)

In order to protect the health, safety, and general welfare of the public, and pursuant to F.S. § 509.233, all permits issued pursuant to this section are subject to the following requirements:

a.

All public food service establishment employees shall wash their hands promptly after touching, petting, or otherwise handling any dog. Employees shall be prohibited from touching, petting, or otherwise handling any dog while serving food or beverages or handling tableware or before entering other parts of the public food service establishment.

b.

Patrons in a designated outdoor area shall be advised that they should wash their hands before eating. Waterless hand sanitizer shall be provided at all tables in the designated outdoor area.

c.

Employees and patrons shall be instructed that they shall not allow dogs to come into contact with serving dishes, utensils, tableware, linens, paper products, or any other items involved in food service operations.

d.

Patrons shall keep their dogs on a leash at all times and shall keep their dogs under reasonable control.

e.

Dogs shall not be allowed on chairs, tables, or other furnishings.

f.

All table and chair surfaces shall be cleaned and sanitized between seating of patrons. Spilled food and drink shall be removed from the floor or ground between seating of patrons.

g.

Accidents involving dog waste shall be cleaned immediately and the area sanitized. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor area.

h.

At least one sign reminding employees of the applicable rules, including those contained in this section, and those additional rules and regulations, if any, included as further conditions of the permit by the county administrator, shall be posted in a conspicuous location frequented by employees within the public food service establishment. The mandatory sign shall be not less than eight and one-half inches in width and 11 inches in height (8½ x 11) and printed in easily legible typeface of not less than 20-point font size.

i.

At least one sign reminding patrons of the applicable rules, including those contained in this section, and those additional rules and regulations, if any, included as further conditions of the permit by the county administrator, shall be posted in a conspicuous location within the designated outdoor portion of the public food service establishment. The mandatory sign shall be not less than eight and one-half inches in width and 11 inches in height (8½ x 11) and printed in easily legible typeface of not less than 20-point font size.

j.

At all times while the designated outdoor portion of the public food service establishment is available to patrons and their dogs, at least one sign shall be posted in a conspicuous and public location near the entrance to the designated outdoor portion of the public food service establishment, the purpose of which shall be to place patrons on notice that the designated outdoor portion of the public food service establishment is currently available to patrons accompanied by their dog or dogs. The mandatory sign shall be not less than eight and one-half inches in width and 11 inches in height (8½ x 11) and printed in easily legible typeface of not less than 20-point font size.

k.

Dogs shall not be permitted to travel through indoor or undesignated outdoor portions of the public food service establishment, and ingress and egress to the designated outdoor portions of the public food service establishment shall not require entrance into or passage through any indoor or undesignated outdoor portion of the public food service establishment.

(2)

A permit issued pursuant to this section shall not be transferred to a subsequent owner upon the sale or transfer of a public food service establishment, but shall expire automatically upon such sale or transfer. The

subsequent owner shall be required to reapply for a permit pursuant to this section if such owner wishes to continue to accommodate patrons' dogs.

(3)

Permits shall expire on September 30 of each year. A public food service establishment must obtain a new permit for each fiscal year beginning on October 1 to operate a dog friendly dining program.

(4)

A permit may be revoked if, after notice, the public food service establishment fails to comply with any condition of approval, fails to comply with the approved diagram, fails to maintain any required state or local license, or is found to be in violation of any provision of this section under subsection (6). A revocation determination may be appealed to the county administrator within 30 days of the date of the determination.

(5)

In accordance with F.S. § 509.233, the county administrator shall accept, document, and respond to complaints related to the dog friendly dining program within Pinellas County, and shall timely report to the division all such complaints and the county's enforcement response to such complaint. The county administrator shall also timely provide the division with a copy of all approved applications and permits issued pursuant to this section.

(6)

Any public food service establishment that fails to comply with the requirements of this section shall be in violation of this section of the Pinellas County Code and shall be subject to any and all enforcement proceedings pursuant to section 134-8 of the Pinellas County Code and general law.

(Ord. No. 13-08, § 1, 4-9-13)

Secs. 138-1350—138-1375. - Reserved.

DIVISION 4. - PERFORMANCE STANDARDS

Sec. 138-1376. - General requirements.

All uses in districts where reference is made to this division shall conform to the standards of performance described herein. It is the intent of this division to provide restrictions on properties so as to protect adjacent and nearby properties from noise, pollution, visual and other aesthetic distractions, and other similar undesirable effects.

(Ord. No. 90-1, § 1(507.1), 1-30-90)

Sec. 138-1377. - Specific requirements.

(a)

Noise. Every use shall be operated so as to comply with chapter 58, article XII of the Pinellas County Code.

(b)

Screening. When located within 300 feet of a residential district, all industrial processes (welding, spray painting, fabrication or manufacture of products, equipment repair and similar processes) shall be within completely enclosed buildings (see section 138-1). When located within 300 feet of a residential district, all storage areas, except storage of passenger vehicles, shall be effectively screened from view by a solid fence or wall a minimum of six feet in height. When directly abutting a residential district, all nonresidential uses of land shall be screened along such abutting property line by a solid fence or wall a minimum of six feet high in accordance with the provisions of section 138-1336; and no storage, except storage of passenger vehicles, shall be permitted within 20 feet of any residentially zoned property.

(c)

Pollution, visible emissions, dust, dirt, odors and fumes. Every use shall be operated so as to prevent the emission of smoke, dust, fumes or any other pollutant as defined by the state department of environmental protection and chapter 58, article IV of the Pinellas County Code, from any source whatsoever in quantity or at a level which is or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property; or unreasonably interfere with the enjoyment of life or property, including outdoor recreation; or in excess of that specified or allowed by any state or county permit. Any operation which emits or can reasonably be expected to emit any pollutant shall obtain an appropriate permit from the department of environmental protection and/or the county.

(d)

Industrial sewage and waste. Every use shall be so operated as to prevent the discharge into any stream, lake, or the ground of waste or other matter in amounts which will exceed the maximum standards established by local, federal or state law.

(e)

Fire and safety hazard. Each use shall be so operated as to minimize the danger from fire and explosion.

(1)

All uses which are determined to be of a hazardous nature, using the standards set forth by NFPA (National Fire Protection Association), shall be provided with additional setbacks as determined by the above-mentioned NFPA standards.

(2)

Such additional setbacks, if any, shall be determined by the county fire administrator during review of plans.

(Ord. No. 90-1, § 1(507.2), 1-30-90; Ord. No. 90-55, § 1, 7-24-90; Ord. No. 02-60, § 7, 7-23-02; Ord. No. 05-9, § 2, 2-22-05)

Chapter 142 - AIRPORT ZONING[1]

Footnotes:
--- (**1**) ---

Cross reference— Airports, § 18-26 et seq.; buildings and building regulations, ch. 22; zoning, ch. 138.

State Law reference— Airport zoning, F.S. ch. 333; airport zoning required, F.S. § 333.03.

ARTICLE I. - IN GENERAL

Secs. 142-1—142-35. - Reserved.

ARTICLE II. - ST. PETERSBURG-CLEARWATER INTERNATIONAL AIRPORT[2]

Footnotes:
--- (**2**) ---

Cross reference— St. Petersburg-Clearwater International Airport, § 18-46 et seq.

Sec. 142-36. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Airport means the St. Petersburg-Clearwater International Airport.

Airport elevation means the established elevation of the highest point on the usable landing area.

Airport hazard means any structure or tree or use of land which would exceed the federal obstruction standards as contained in FAR Part 77, 14 C.F.R. §§ 77.21, 77.23, 77.25, 77.28 and 77.29 and which obstructs the airspace required for flight of aircraft in landing, maneuvering, or taking off or is otherwise hazardous to such landing, maneuvering, or taking off of aircraft and for which no person has previously obtained a permit or variance.

Airport reference point means the point established as the approximate geographic center of the airport landing area and so designated.

Avigation easement means a covenant running with the land in which the property owner grants to the county the right to use the airspace above the owner's property and to create noise normally associated with aircraft operation without liability.

Board of adjustment means a board consisting of five members of the zoning board of adjustment appointed in accordance with the terms of chapter 138.

Clearance determination is a determination based upon the standards herein, made by the airport director or designee in conjunction with development review services prior to the issuance of any development or use authorization, that the proposed development or use would not intrude into any airport zone as defined within this regulation.

CFR is the Code of Federal Regulations.

Day-night average sound level (DNL) is the cumulative average sound levels in decibels (db) over a 24-hour period, and symbolized L(dn), as measured in accordance with FAR Part 150 and FAA Orders #1050.ID and #5050.4A.

FAA is the Federal Aviation Administration, a division of the U.S. Department of Transportation.

FAR is the Federal Aviation Regulations, Title 14, Code of Federal Regulations. FAR Part 77 is entitled "Objects Affecting Navigable Airspace." FAR Part 150 is entitled "Airport Noise Compatibility Planning."

Height. For the purpose of determining the height limits in all zones set forth in this article and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

Landing area means the area of the airport used for the landing, takeoff or taxiing of aircraft.

Nonconforming use means any structure, tree, or use of land which is lawfully in existence at the time the regulation is prescribed or an amendment thereto becomes effective and does not then meet the requirements of such regulation.

Nonprecision instrument runway means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document.

Obstruction means any existing or proposed manmade object or object of natural growth or terrain that violates the standards contained in FAR Part 77, 14 CFR §§ 77.21, 77.23, 77.25, 77.28 and 77.29.

Person means any individual, firm, copartnership, corporation, company, association, joint-stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

Precision instrument runway means a runway having an existing instrument approach procedure utilizing an instrument landing system (ILS), or a precision approach radar (PAR). It also means a runway for which a precision approach system is planned and so indicated by an FAA approved airport layout plan or any other FAA planning document.

Runway means the paved surface of an airport landing strip.

Structure means any object, constructed or installed by man, including, but without limitation thereof, buildings, towers, smokestacks, utility poles and overhead transmission lines.

Tree includes any plant of the vegetable kingdom.

Visual runway means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA approved airport layout, or by any planning document submitted to the FAA by competent authority.

(Ord. No. 86-75, § 1, 10-28-86; Ord. No. 97-58, § 1, 7-15-97)

Cross reference— Definitions generally, § 134-2.

Sec. 142-37. - Zones established.

In order to carry out the provisions of this article, there are hereby created and established certain zones which include all of the land lying within the precision instrument approach zone, nonprecision instrument approach zone, transition zone, horizontal zone, conical zone and terminal obstruction clearance zone. Such areas and zones are shown on the St. Petersburg-Clearwater International Airport conical surfaces maps consisting of four sheets, prepared by the county engineering department and dated 1992, which are attached to this article and made part hereof. The various zones are hereby established as follows:

(1)

Precision instrument approach zone. A precision instrument approach zone is established at the end of any runway which has been designated or planned as a precision instrument runway. This zone shall have a width of 1,000 feet at a distance of 200 feet beyond the end of the runway, widening thereafter uniformly to a width of 16,000 feet at a distance of 50,200 feet beyond the end of the runway, its centerline being the continuation of the centerline of the runway.

(2)

Nonprecision instrument approach zone. A nonprecision instrument approach zone is established at the end of any runway which has been designated or planned as a nonprecision instrument runway. This zone shall have a width of 1,000 feet at a distance of 200 feet beyond the end of the runway, widening thereafter uniformly to a width of 4,000 feet at a distance of 10,200 feet beyond the end of the runway, its centerline being the continuation of the centerline of the runway.

(3)

Transition zones. These zones extend outward at right angles to the runway centerline and its extension for a distance of 1,300 feet for all visual runways and a distance of 1,550 feet for all precision instrument runways and nonprecision instrument runways. Transition zones also extend outward from the edge of all approach zones and at right angles to the centerline extension of the runway for a distance of 5,000 feet.

(4)

Horizontal zone. A horizontal zone is hereby established as the area within the arcs and tangents of the arcs with the radius of the arcs being 5,000 feet from the end of the centerline of the primary surface of each visual runway and 10,000 feet from the end of the centerline of the primary surface of all precision instrument and nonprecision instrument runways. The arcs shall be the same for both ends of the runway based upon the highest value for either end of the runway. The horizontal zone does not include the approach zones and the transition zones.

(5)

Conical zone. A conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a distance of 4,000 feet. The conical zone does not include the approach zones and the transition zones.

(6)

Terminal obstruction clearance zone. A terminal obstruction clearance zone is hereby established as the area within a ten-nautical-mile radius of the airport reference point at St. Petersburg-Clearwater International Airport, including initial approach segments, departure area, and circling approach areas for which the

Federal Aviation Administration (FAA) has established minimum instrument flight altitudes within the aforesaid areas.

(Ord. No. 86-75, § 1, 10-28-86; Ord. No. 97-58, § 2, 7-15-97)

Sec. 142-38. - Height limitations.

(a)

Except as otherwise provided in this article, no structure or tree shall be erected, altered, allowed to grow, or maintained in any zone created by this article to a height in excess of the height limit established in this section for such zone. Such height limitations are hereby established for each of the zones in question as follows:

(1)

Precision instrument approach zone: One foot in height for each 50 feet in horizontal distance beginning at a point 200 feet from and at the elevation of the end of the instrument runway and extending to a distance of 10,200 feet from the end of the runway; thence one foot in height for each 40 feet in horizontal distance to a point 50,200 feet from the end of the runway.

(2)

Nonprecision instrument approach zone: One foot in height for each 34 feet in horizontal distance beginning at a point 200 feet from and at the elevation of the end of the nonprecision instrument runway and extending to a point 10,200 feet from the end of the runway.

(3)

Transition zones: One foot in height for each seven feet in horizontal distance beginning at any point 250 feet normal to and at the elevation of the centerline of noninstrument runways extending 200 feet beyond each end thereof, and 500 feet normal to and at the elevation of the centerline of the instrument runway, extending 200 feet beyond each end thereof, extending to a height of 150 feet above the airport elevation which is ten feet above mean sea level. In addition to the foregoing, there are established height limits of one foot vertical height for each seven feet horizontal distance measured from the edges of all approach zones for the entire length of the approach zones and extending upward and outward to the points where they intersect the horizontal or conical surfaces. Further, where the instrument approach zone projects through and beyond the conical zone, a height limit of one foot for each seven feet of horizontal distance shall be maintained beginning at the edge of the instrument approach zone and extending a distance of 5,000 feet from the edge of the instrument approach zone measured normal to the centerline of the runway extended.

(4)

Horizontal zone: One hundred sixty feet above sea level, which is 150 feet above the airport elevation, which has a height of ten feet above mean sea level.

(5)

Conical zone: One foot in height for each 200 feet of horizontal distance beginning at the periphery of the horizontal zone extending to a height of 210 feet above sea level, which is 200 feet above the airport

elevation.

(6)

Terminal obstacle clearance zone: Any height exceeding the minimum instrument flight altitude or resulting in a vertical distance from the established minimum instrument flight altitude of less than the required obstacle clearance, pursuant to an FAA aeronautical study under Federal Aviation Regulation 77.23 and a resultant finding of a hazard to air navigation.

(b)

Where an area is covered by more than one height limitation under this section, the more restrictive limitation shall prevail.

(c)

Nothing in this article shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to 25 feet above the surface of the land.

(Ord. No. 86-75, § 1, 10-28-86; Ord. No. 97-58, § 3, 7-15-97)

Sec. 142-39. - Use restrictions.

(a)

Generally. Notwithstanding any other provisions of this article, no use may be made of land within any zone established by this article in such a manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport, or otherwise endanger the landing, taking off, or maneuvering of aircraft.

(b)

In addition, all uses, when located in the airport DNL noise contour areas identified on the St. Petersburg-Clearwater International Airport Noise Exposure Contours Map, April 1996 by Greiner, Inc., shall conform to the following noise compatibility provisions:

Noise Exposure
Contour
L(dn) Values

(1)

L(dn) 65 to 70 db. Activities where uninterrupted communication is essential shall incorporate noise level reduction features in design. These activities and residential development, auditoriums, schools, churches, hospitals, theaters and like activities, are not considered a suitable use, unless noise level reduction features have been incorporated in building design and an avigation easement has been established. Open-air activities and outdoor living will be affected by aircraft sound.

(2)

Greater than L(dn) 70 db. Land within this contour shall be reserved for activities that can tolerate a high level of sound exposure such as some agricultural, industrial, and commercial uses. No residential developments of any type are permitted. Sound-sensitive activities such as schools, offices, hospitals, churches, and like activities shall not be constructed within this contour unless no alternative location is possible and noise level reduction features have been incorporated in building design and an avigation easement has been established. All regularly occupied structures shall consider noise level reduction features in design.

(3)

All uses identified in (1) and (2) above, requiring noise level reduction in decibels, achieved through incorporation of noise attenuation (between indoor and outdoor levels) in the design and construction of a structure, shall attain a noise level reduction of 15 db over standard construction.

(4)

Less than L(dn) 65 db. Local needs may warrant consideration of noise level reduction and an avigation easement for locations in close proximity to established airport flight tracks.

(c)

No educational facility of a public or private school, with the exception of aviation school facilities, shall be permitted within an area extending along the centerline of any runway and measured from the end of the runway and extending for a distance of five miles and having a width equal to one-half of the runway length. Exceptions approving construction of an educational facility within the delineated area shall only be granted when the board of county commissioners makes specific findings detailing how the public policy reasons for allowing the construction outweigh health and safety concerns prohibiting such a location.

(Ord. No. 86-75, § 1, 10-28-86; Ord. No. 97-58, § 4, 7-15-97)

Sec. 142-40. - Nonconforming uses.

(a)

Regulations not retroactive. The regulations prescribed by this article shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of November 7, 1986, or otherwise interfere with the continuance of any nonconforming use, except as provided in section 142-41. Nothing contained in this article shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to November 7, 1986, and has not been abandoned.

(b)

Marking and lighting. Notwithstanding the provision of subsection (a) of this section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereof of such markers and lights as shall be deemed necessary by the development review services department to indicate to the operators of aircraft in the vicinity of the airport the presence of airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of the county.

(Ord. No. 86-75, § 1, 10-28-86; Ord. No. 97-58, § 5, 7-15-97)

Sec. 142-41. - Clearance determination.

(a)

Future uses. Except as specifically provided in subsections (a)(1)—(6) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted or otherwise established in any zone created by this article unless a clearance determination has been made by the airport director or designee that the proposed construction or usage would not allow the establishment or creation of an airport hazard or permit a nonconforming use, structure or tree to be made or become higher, or become a greater hazard to air navigation, than it was on November 7, 1986, or on the effective date of any amendments of this chapter. Each application for clearance determination shall indicate the purpose for which the clearance determination is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations prescribed in this article.

(1)

In the area lying within the limits of Sections 27, 34 and 35, Township 29 S, Range 16 E, the southeast ¼ of the southeast ¼ of Section 33, Township 29 S, Range 16E, the north ¾ of Section 3, Township 30 S, Range 16 E, and the northeast ¼ of the northeast ¼ of Section 4, Township 30 S, Range 16 E, no permit shall be issued for any tree or structure until a clearance determination has been issued.

(2)

In the area lying within the limits of the south ¼ of Section 3, Township 30 S, Range 16 E, no clearance determination shall be required for any tree or structure less than 25 feet of vertical height above the ground, except when because of terrain, land contour or topographic features such tree or structure would extend above the height limits prescribed in other parts of this regulation.

(3)

In the area lying within the limits of south ¼ of Section 33, Township 29 S, Range 16 E, the north ¼ of Section 4, Township 30 S, Range 16 E, and the north ½ of Section 10, Township 30 S, Range 16 E, no clearance determination shall be required for any tree or structure less than 50 feet of vertical height above the ground, except when because of terrain, land contour or topographic features such tree or structure would extend above the height limits prescribed in other parts of this regulation.

(4)

In the area lying within the limits of the southwest ¼ of Section 36, Township 29 S Range 16 E, the north ¼ of Section 2, Township 30 S, Range 16 E, the southeast ¼ of section 4, Township 30 S, Range 16 E, and the northeast ¼ of Section 9, Township 30 S, Range 16 E, and the southeast ¼ of Section 10, Township 30 S, Range 16 E, no clearance determination shall be required for any tree or structure less than 100 feet of vertical height above the ground, except when because of terrain, land contour or topographic features such tree or structure would extend above the height limits prescribed in other parts of this regulation.

(5)

In the area lying within the limits of Sections 20, 21, 22, 23, 25, 26, 27, 28, 29, 32, 33, and 36 in Township 29 S, Range 16 E, and Sections 1, 2, 4, 5, 8, 9, 10, 11, 12, and the north ½ of Sections 14, 15, and 16 in Township 30 S, Range 16 E, no clearance determination shall be required for any tree or structure less than

150 feet of vertical height above the ground, except when because of terrain, land contour or topographic features such tree or structure would extend above the height limits prescribed in other parts of this regulation.

(6)

In the area lying within the remainder of the county, no clearance determination shall be required unless any tree or structure is to exceed 200 feet of vertical height above the ground and has been determined by the Federal Aviation Administration pursuant to subsection (7) below to be a hazard to air navigation.

(7)

All proposed uses or structures which would exceed 200 feet of vertical height above ground shall submit the required notice of construction or alteration to the Federal Aviation Administration pursuant to 14 CFR Part 77 Subpart B.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits established by this article, except as set forth elsewhere in this article.

(b)

Existing uses. No permits shall be granted within any airport zone until a clearance determination, as specified in (a)(1)—(6) above, has been made that the proposed construction or usage would not allow the establishment or creation of an airport hazard or permit a nonconforming use, structure or tree to be made or become higher, or become a greater hazard to air navigation, than it was on November 7, 1986, or on the effective date of any amendments to this chapter or than it is when the application for a permit is made.

(c)

Nonconforming uses abandoned or destroyed. Whenever the development review services department determines that a nonconforming structure or tree has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

(d)

Hazard marking and lighting. Any new permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this article and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate and maintain thereon, at his own expense, such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

(e)

Exemption. Maintenance or construction work on existing public utility facilities shall not require a clearance determination unless such activities would increase or extend the height of that facility above the height requirements of section 142-38 of this chapter or permit it to become a greater hazard to air navigation.

(Ord. No. 86-75, § 1, 10-28-86; Ord. No. 97-58, § 6, 7-15-97)

State Law reference— Permits and variances, F.S. § 333.07; nonconforming uses, F.S. § 333.06(3).

Sec. 142-42. - Enforcement of article.

It shall be the duty of the development review services department in conjunction with the airport director or designee to administer and enforce the regulations prescribed in this article. Applications for clearance determinations, permits and variances shall be required to be made to the development review services department upon a form furnished by it. Applications required by this article to be submitted to the development review services department shall be promptly considered and granted or denied. Applications for action by the board of adjustment shall be forthwith transmitted by the development review services department.

(Ord. No. 86-75, § 1, 10-28-86; Ord. No. 97-58, § 7, 7-15-97)

Sec. 142-43. - Board of adjustment.

(a)

The board of adjustment established under chapter 138, article II, division 3 shall have and exercise the following powers:

(1)

To hear and decide appeals from any order, requirement, decision or determination made by the development review services department or the airport director or designee in the enforcement of this article;

(2)

To hear and decide specific variances.

(b)

The board of adjustment shall consist of the members of the board of adjustment appointed in accordance with the terms of chapter 138.

(c)

Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this article, may apply to the board of adjustment for a variance from such regulations. Such variances may only be allowed where it is duly found that a literal application or enforcement of this article would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this article. In determining whether to issue or deny a variance, the board of adjustment shall consider:

(1)

The nature of the terrain and height of existing structures.

(2)

Public and private interests and investments.

(3)

The character of flying operations and planned developments of airports.

(4)

Federal airways as designated by the Federal Aviation Administration.

(5)

Whether the construction of the proposed structure would cause an increase in the minimum descent altitude or the descent height at the affected airport.

(6)

Technological advances.

(7)

The safety of persons on the ground and in the air.

(8)

Land use density.

(9)

The safe and efficient use of navigable airspace.

(10)

The cumulative effects on navigable airspace of all existing structures, proposed structures identified in the applicable jurisdictions' comprehensive plans, and all other known proposed structures in the area.

(11)

The need for the establishment of an avigation easement.

(Ord. No. 86-75, § 1, 10-28-86; Ord. No. 97-58, § 8, 7-15-97)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

State Law reference— Board of adjustment, F.S. § 333.10.

Sec. 142-44. - Appeals.

(a)

Any person aggrieved, or any taxpayer affected, by any decision of the development review services department or the airport director or designee made in its administration of this article, if of the opinion that a decision of the development review services department, or the airport director or designee is an improper application of these regulations, may appeal to the board of adjustment.

(b)

All appeals must be taken within a reasonable time as provided by the rules of the board of adjustment, by filing with the agency from which the appeal is taken and the board of adjustment a notice of appeal specifying the grounds thereof. The agency from which the appeal is taken shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the action appealed from was taken or properly certified copies thereof in lieu of originals as the agency involved may elect.

(c)

An appeal shall stay all proceedings in furtherance of the action appealed from unless the agency from which the appeal is taken certifies to the board of adjustment, after notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril of life or property. In such cases, proceedings shall not be stayed otherwise than by an order of the board of adjustment on notice to the agency from which the appeal is taken and on due cause shown.

(d)

The board of adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the appeal within a reasonable time. At the appeal hearing any party may appear in person or by agent or attorney.

(e)

The board of adjustment may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or modify, the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the administrative agency from which the appeal is taken.

(Ord. No. 86-75, § 1, 10-28-86; Ord. No. 97-58, § 9, 7-15-97)

Sec. 142-45. - Judicial review.

Any person aggrieved, or any taxpayer affected, by any decision of the board of adjustment may appeal to the circuit court as provided in F.S. § 333.11.

(Ord. No. 86-75, § 1, 10-28-86)

State Law reference— Judicial review, F.S. § 333.11.

Sec. 142-46. - Penalty for violation of article.

Each violation of this article or any regulation, order or ruling made pursuant to this article shall constitute a misdemeanor and be punishable by a fine of not more than $500.00 or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment, and each day a violation of this article continues to exist shall constitute a separate offense.

(Ord. No. 86-75, § 1, 10-28-86)

State Law reference— Penalties for violation of airport zoning ordinances, F.S. § 333.13(1).

Sec. 142-47. - Conflicting regulations.

(a)

Incorporation. In the event that a political subdivision has adopted, or hereafter adopts, a comprehensive zoning ordinance regulating, among other things, the height of buildings, structures and natural objects, and uses of property, any airport zoning regulations applicable to the same area or portion thereof may be incorporated in and made a part of such comprehensive zoning regulations for that political subdivision, and be administered and enforced in connection therewith.

(b)

Conflict. In the event of any conflict between the airport zoning regulations adopted under this article and any other regulations applicable to the same area, whether the conflict is with respect to the height of structures or trees, the use of land, or any other matter, and whether such regulations were adopted by the political subdivision which adopted the airport zoning regulations or by some other political subdivision, the more stringent limitation or requirement shall govern and prevail.

(Ord. No. 86-75, § 1, 10-28-86; Ord. No. 97-58, § 10, 7-15-97)

State Law reference— Similar provisions, F.S. § 333.04.

Sec. 142-48. - Territory embraced.

All territory within the legal boundaries of Pinellas County, Florida, including all incorporated and unincorporated areas, shall be embraced by the provisions of this division.

(Ord. No. 97-58, § 11, 7-15-97)

Chapter 146 - HISTORICAL PRESERVATION[1]

Footnotes:
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Editor's note—Ord. No. 12-33, §§ 1—10, adopted July 24, 2012, amended Chapter 146 in its entirety to read as herein set out. Former Chapter 146, §§ 146-1—146-11, pertained to similar subject matter. See the Code Comparative Table for full derivation.

Charter reference— General powers of county, § 2.01.

Cross reference— Buildings and building regulations, ch. 22; zoning, ch. 138.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g).

Sec. 146-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aggrieved party means anyone who has a legally recognizable interest which is or may be adversely affected

by an action taken by fulfilling the requirements of this chapter.

Archaeological site means an individual historic resource recognized for its prehistoric or historic artifacts and features. This also includes archaeological sites recorded in the state site file records and identified in the county historic resource database.

Architect or preservation architect means a person who is licensed by the state department of professional regulation and is certified to practice in the state.

Balcony means an elevated platform projecting from the wall of a building and enclosed by a railing or parapet.

Building means any structure, either temporary or permanent, having a roof intended to be impervious to weather, and used or built for the shelter or enclosure of persons, animals, or property of any kind.

Building code means "Florida State Building Code".

Building official means the county building department officer, or his designee, designated as the person responsible for administering and enforcing the provisions of the Florida State Building Code.

Certificate of appropriateness means a written authorization by the Pinellas County Historic Preservation Board or the county administrator to the owner(s) of a designated property, or any building, structure or site within a designated historic district, landmark, or landmark site allowing a proposed alteration, relocation, or the demolition of a building, structure or site. A certificate of appropriateness is required for any proposed work that will result in the alteration, demolition, relocation, reconstruction, new construction or excavation of a designated landmark, landmark site or a property in a designated historic district.

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

Compatibility means, when applied to structures, sensitivity of a building design to the existing character of a neighborhood, surrounding blocks, or historic or special area. This is measured by how the design of a building or project relates to the design elements of the surrounding natural/physical and manmade environment. Compatibility measures include but are not limited to the following: building relationship to the street (such as height, facade details, landscaping, activities); the rhythm of spacing between buildings; the use of building materials which match in dimension, color, pattern and finish/texture; and building scale and mass.

Contributing property means and includes any building, structure or site which contributes to the overall historic significance of a designated historic district and was present during the period of historic significance and possesses historic integrity reflecting the character of that time or is capable of yielding important information about the historically significant period or independently meets the criteria for designation as a landmark and landmark site.

County administrator means the county administrator for Pinellas County, or his designee.

County planning department or planning department means Pinellas County Planning Department.

County staff means the Director of the Pinellas County Planning Department or designated staff to review,

monitor and administer the provisions of this chapter.

Demolition means the complete removal of a building, structure, or portions thereof from a site.

Demolition by neglect means the willful abandonment of a building or structure by the owner, resulting in such a state of deterioration that its self-destruction is inevitable, or where demolition of the building or structure to remove a health and safety hazard is a likely result.

Design element means the features of a building that include architectural style and facade details, the rhythm and proportion of windows, porches, doors, and vertical and horizontal features, and building form, scale, color, and materials and finish.

Designation means action by the board of county commissioners to approve a historic preservation overlay district, landmark and landmark site for a parcel or parcels of land or district containing historic resources.

Designation report means a written document indicating the basis for the findings of the Pinellas County Historic Preservation Board and the Pinellas County Local Planning Agency, as applicable, concerning the proposed designation of a historic resource with a historic preservation overlay district, landmark and landmark site pursuant to this chapter.

Exterior means all outside surfaces of a building or structure visible from a public right-of-way or the street easement of the building or structure.

Facade means the face or elevation of a building.

Florida Master Site File means an inventory of surveyed historical and archaeological resources compiled by the State of Florida, Division of Historical Resources for Pinellas County.

Historian means a person with a master's degree in history or American history or museum studies and two years of experience in conducting historical studies, or graduation from an accredited college or university with a major in American history or museum studies and four years of experience in conducting historical studies, or an equivalent combination of training, education and experience.

Historic district means a geographically definable area designated pursuant to this chapter possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also be comprised of individual elements separated geographically but linked by association or history. To qualify as an historic district, an area may contain both contributing and noncontributing properties.

Historic preservation overlay district is a zoning district contained in chapter 138 that will be used to designate a historic district in unincorporated areas of the county.

Historic resource database means the compilation of Florida Master Site File data gathered on historic and archaeological sites in Pinellas County, Florida, based on the findings of An Archaeological and Historical Survey of the Unincorporated Areas of Pinellas County, Florida (1991), A Historic Resources Survey of Unincorporated Pinellas County, Florida (1993), the Countywide Cultural Resources Study (2008), and any subsequent historic or archaeological survey deemed acceptable by the county administrator.

Historic resources means any prehistoric or historic district, site, building, structure, object, or other real or personal property of historical, architectural, or archaeological value that has been surveyed by a historian

and submitted to the Florida Master Site File Section of the State of Florida, Division of Historical Resources. Historic resources may include, but are not limited to, monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, or other objects with intrinsic historic or archaeological value, or any part thereof, relating to the history, government, or culture of the county, the state, or the United States.

Landmark means an archaeological or historical site or a structure designated pursuant to the requirements of this chapter. A "landmark" may include the location of significant archaeological features or of a historical event.

Landmark site means the land designated pursuant to the requirement of this chapter on which a landmark and related structures, or archaeological features and artifacts are located and the land that provides the grounds, the premises or the setting for the landmark.

National Register of Historic Places is a federal listing maintained by the U.S. Department of the Interior of buildings, sites, structures, and districts that have attained a quality of significance as determined by the Historic Preservation Act of 1966 as amended, 16 U.S.C. 470, or as may be amended, renumbered or replaced, and its implementing regulation, 36 CFR 60, National Register of Historic Places, or as may be amended, renumbered or replaced. Areas listed on the National Register are identified in the county historic resource database.

Noncontributing property means and includes any building, structure or site which does not contribute to the overall historic significance of a designated historic district due to alterations, disturbances or other changes and, therefore, no longer possesses historic integrity or was not present during the period of historic significance or is incapable of yielding important information about that period.

Ordinary maintenance and repairs means work done to prevent deterioration, decay, or damage or to repair damages to a designated landmark, landmark site, or a building or structure within a designated historic district, or any part thereof, by restoring the landmark site, building or structure as nearly as practicable to its condition prior to such deterioration, decay or damage. Ordinary maintenance and repair does not include chemical or physical treatments, such as sandblasting, that cause damage to historic materials.

Outside professional opinion means an opinion of an individual who practices and/or operates a business in the field of history, architecture, or archaeology, and who is licensed by the state, where appropriate.

Owner or owners means those individuals, partnerships, corporations or public agencies holding fee simple title to real property as listed by the county property appraiser's office. "Owner" does not include individuals, partnerships, corporations, or public agencies holding easements or less than a fee simple interest (including leaseholds) in real property.

Porch means a structure that extends along the outside of a building consisting of a floor that is typically raised above the finished horizontal elevation of the lot. The porch is unenclosed except for a balustrade and the flooring and may be roofed or open to the sky. Porches may be located within any yard, however, when located within the front or side yard, the porch typically provides a primary access into the structure. When providing primary access, the design elements of the porch are typically consistent with those of the attached structure and include the finish materials of any exterior surface, stem wall materials and/or foundation skirting.

State master site file means a compilation of archaeological and historic resources surveyed in the county and

recorded with the state bureau of historic preservation, division of historical resources.

Structure means that which is built or constructed. The term "structure" shall be construed as if followed by the words "or part thereof."

Undue economic hardship means an onerous and excessive financial burden that would be placed upon a property owner by the failure to issue a certificate of appropriateness for demolition, thereby amounting to the taking of the owner's property without just compensation.

Zoning ordinance means chapter 138. Such chapter may be referred to in this chapter as the "zoning ordinance."

(Ord. No. 12-33, § 1, 7-24-12)

Sec. 146-2. - Purpose and intent.

The purpose of this chapter is to implement goals, objectives and policies in the comprehensive plan by identifying, evaluating, preserving and protecting historic buildings and structures, and historic and archaeological sites and districts, and to promote the health and the cultural, moral, economic, educational, aesthetic and general welfare of the public by:

(1)

Giving the authority, power and duty to the Pinellas County Historic Preservation Board and county administrator to review historic sites, areas, structures and buildings for possible designation as landmarks, landmark sites or historic district(s);

(2)

Establishing procedures whereby the board of county commissioners can designate significant historic resources;

(3)

Protecting designated landmarks, landmark sites or historic district(s) by requiring the issuance of certificates of appropriateness before allowing alterations to those designated historic resources;

(4)

Encouraging historic preservation by creating programs of technical assistance and financial incentives for preservation practices;

(5)

Stabilizing and revitalizing unique older residential and commercial neighborhoods;

(6)

Enhancing the county's attraction to visitors and the ensuing positive impact on the economy as a result of historic preservation activities;

(7)

Creating and promoting cultural and educational programs aimed at fostering a better understanding of the community's heritage;

(8)

Promoting the sensitive use of historic and archaeological sites, resources and districts for the education, pleasure and welfare of the people of the county; and

(9)

Implementing components of the Countywide Historic Preservation Program, as specified in sections 38-141 through 38-146 of the Pinellas County Code.

(Ord. No. 12-33, § 2, 7-24-12)

Sec. 146-3. - Scope of chapter.

(a)

This chapter shall govern and be applicable to all property located in the unincorporated areas of the county.

(b)

Nothing contained in this chapter shall be deemed to supersede or conflict with applicable building, zoning, or any other county codes, except as specifically provided in this chapter.

(Ord. No. 12-33, 7-24-12)

Sec. 146-4. - Pinellas County Historic Preservation Board.

(a)

Establishment; composition; terms; quorum.

(1)

Establishment. The Pinellas County Historic Preservation Advisory Board established in Pinellas County Code section 38-146 hereby is renamed to the historic preservation board and shall serve as the board responsible for matters pertaining to historic and archaeological preservation. It is the Pinellas County Board of County Commissioner's intent that this board shall meet the requirements of the state and federal Certified Local Government program.

(2)

Composition. The historic preservation board shall be composed of nine members. Each member of the board of county commissioners shall nominate one member of the historic preservation board, and the board of county commissioners shall jointly nominate two at large members, with the board of county commissioners appointing the entire nine members. Each person appointed by the board of county commissioners shall be considered a voting member of the historic preservation board. The board of county commissioners shall

appoint two alternates to the historic preservation board to serve during the absence of any regular member. The board of county commissioners shall appoint one of its members to the historic preservation board to serve as its chairman. The chairman shall be an ex-officio, non-voting member of the historic preservation board. The historic preservation board shall be composed of community advocates; municipal representatives; and historic preservation professionals with expertise and/or knowledge in the historic preservation field and shall, to the extent possible, include representation from the following fields: archaeology, preservation architecture, history, architectural history, historical museum studies and preservation planning. The historic preservation board shall include at least two individuals who are not required to have expertise or knowledge in the historic preservation field, and at least four members of the board must have expertise or knowledge in historic preservation. When a new member is appointed by the Pinellas County Board of County Commissioners, the local residency and the professional education and qualifications of the new member should be considered to insure that the requirements of the certified local government program are met. When necessary, persons serving on the historic preservation board shall attend educational meetings to develop a special interest, experience or knowledge in history, architecture, or related disciplines.

(3)

Terms. The term of appointment for the historic preservation board members shall be three years as stated in the Pinellas County Code section 38-146. Each person appointed by the Pinellas County Board of County Commissioners shall be considered a voting member of the historic preservation board. Any vacancy in the membership of the historic preservation board shall be filled for the unexpired portion of the term in the same manner as an appointment for a full term.

(4)

Quorum. The presence of at least five voting members of the historic preservation board shall constitute a quorum.

(Ord. No. 12-33, § 4, 7-24-12)

Sec. 146-5. - Powers and duties of the historic preservation board.

(a)

In addition to the powers and duties stated in Pinellas County Code section 38-146(c), the historic preservation board shall take action necessary and appropriate to accomplish the purposes of this chapter. These actions may include, but are not limited to:

(1)

Continuing to survey and inventory historic buildings and areas and archaeological sites and to plan for their preservation;

(2)

Recommending the designation of historic districts, individual landmarks and landmark sites to the Pinellas County Board of County Commissioners;

(3)

Nominating and reviewing historic resources for listing on the National Register;

(4)

Reviewing and acting on certificate of appropriateness applications for alterations, demolitions, relocations, and new construction to designated properties in a historic district, landmark and landmark site;

(5)

Recommending specific design review criteria for designated properties and districts;

(6)

Working with and advising the federal, state and municipal governments and other departments or commissions of municipal government;

(7)

Advising and assisting property owners and other persons and groups including neighborhood organizations who are interested in historic preservation;

(8)

Initiating plans for the preservation and rehabilitation of individual historic buildings; and

(9)

Undertaking educational programs including the preparation of publications and placing of historic markers and perform any other functions, duties, and responsibilities assigned to it by the Pinellas County Board of County Commissioners or by general or special law.

(b)

The historic preservation board shall conduct at least four public meetings a year to consider historic preservation issues. The historic preservation board shall provide recording minutes of each meeting. The historic preservation board shall prepare and keep on file available for public inspection a written annual report of its historic preservation activities, cases, decisions, qualifications of members and other historic preservation work.

(c)

The county planning department is designated by the Pinellas County Board of County Commissioners as the staff to the historic preservation board, as specified in section 146-2, and as the department with the general responsibility for the conduct of the countywide historic preservation program. Other county staff members may be asked to assist the historic preservation board by providing technical advice or helping in the administration of this section.

(d)

The historic preservation board shall review all nominations to the National Register of Historic Places located in the unincorporated area and all nominations involving county-owned property located in a

municipality, following the regulations of the state historic preservation office. The historic preservation board shall conduct a public meeting to consider a nomination and shall publish and mail notice of the public meeting to interested individuals or organizations. When determined necessary by the historic preservation board, the board shall seek outside professional opinion before evaluating the nomination. The historic preservation board shall forward its recommendation by letter to the state historic preservation officer. When a property owner objects to having their property nominated to the National Register, a notarized written statement must be submitted to the historic preservation board before the nomination is considered. The historic preservation board may then continue its review, forwarding its recommendation to the state historic preservation officer noting owner's objection or it may cease any further review and notify the state historic preservation officer of the property owner's objection to the proposed listing.

(Ord. No. 12-33, § 5, 7-24-12)

Sec. 146-6. - Local designation of historic resources.

(a)

Designation of landmark and landmark site.

(1)

Initiation of designation process. The designation process may be initiated by the owner(s), or their appointed agent(s), or the county planning director with consent of the owner(s) by filing an application for designation in a form provided by the county planning department. The historic resource database shall be used as the initial database when considering the designation of historic resources as a landmark and landmark site. Each request for designating a landmark shall include a request for the designation of a landmark site.

(2)

Designation review process.

a.

Pinellas County Historic Preservation Board's review and recommendation. The historic preservation board shall conduct a public hearing on the proposed designation within 60 days of the submission of a completed application. Notice of the public hearing and notice to the owners shall state clearly the boundaries for the proposed landmark or landmark site. After evaluating the testimony, survey information and other material presented at the public hearing, the historic preservation board shall make a recommendation on the proposed designation. The historic preservation board may vote to defer its decision if adequate information is not available to make a decision but shall reconsider the application at the earliest opportunity after adequate information is made available. County staff shall notify the applicant and the property owner of the historic preservation board's recommendation.

b.

Pinellas County Board of County Commissioners' review and action. Upon receipt of the findings and recommendation of the historic preservation board, the Pinellas County Board of County Commissioners shall hold a public hearing to consider the designation of an individual landmark and landmark site. At the board of county commissioners' public hearing, a representative of the historic preservation board may present the board's recommendation. The Pinellas County Board of County Commissioners shall approve,

approve with modifications, defer or deny the proposed designation. The Pinellas County Board of County Commissioners may vote to defer its decision if adequate information is not available to make a decision but shall reconsider the application after adequate information is made available. County staff shall notify each applicant and property owner of the decision relating to his/her property and shall arrange that the designation of a property as a landmark and landmark site be recorded in the official zoning map.

(b)

Designation of historic district.

(1)

Development of an application to designate a historic district shall involve owners of property within the proposed historic district and any interested citizens.

(2)

Initiation of designation process. The historic preservation overlay district shall be used to designate historic districts in unincorporated areas of the county. The zoning designation process may be initiated by the owners of the property within the proposed district, their appointed agents, or the planning director. Initiation of the zoning designation process shall require the consent of the property owners of at least two-thirds of the parcels located within the proposed district. The historic resource database shall be consulted when considering the designation of a historic district.

(3)

The procedures for using the historic preservation overlay district shall be those utilized in implementing chapter 138 (zoning), except as they may be modified by provisions within this chapter. In cases where the provisions of chapter 138 and this chapter conflict, the provisions of this chapter shall govern.

(4)

The historic preservation board shall review and make a recommendation on a proposal to apply the historic preservation overlay district using the process in subsection 146-6(a)(2). The historic preservation board recommendation shall be provided to both the local planning agency and the board of county commissioners for their consideration when making decisions on the proposed historic district designation.

(c)

Application requirements for designation. The application form provided by the county planning department shall require that the applicant provide the following information:

(1)

A written description of the architectural, historical, or archaeological significance of the proposed landmark and landmark site, or structures in the proposed historic district and specifically addressing and documenting those related points contained in the criteria for designation listed in this chapter;

(2)

A copy of the Florida Master Site File for the subject property;

(3)

Date of construction of the structures on the property;

(4)

Photographs of the property; and

(5)

Legal description and map of the property to be designated as a landmark, landmark site, or historic district.

On applications for the designation of historic districts, the applicant shall also submit:

(6)

A written description of the boundaries of the district; and

(7)

A list of contributing resources.

The county staff shall determine when an application is complete and may request additional information when such application is determined to be incomplete.

(d)

Designation report. Prior to the designation of a landmark and landmark site or a historic district pursuant to this chapter, a designation report shall be prepared by county staff and provided to the historic preservation board, the local planning agency (proposed historic district designation only) and to the Pinellas County Board of County Commissioners with any request for landmark and landmark site or historic district designation. The designation report shall contain the following information:

(1)

Landmark and landmark sites:

a.

A physical description of the building, structure or site and its character-defining features, accompanied by photographs.

b.

A statement of the historic, cultural, architectural, archaeological or other significance of the building, structure or site as defined by the criteria for designation established by this chapter.

c.

A description of the existing condition of the building, structure or site including any potential threats or other circumstances that may affect the integrity of the building, structure or site.

d.

A statement of rehabilitative or adaptive use proposals.

e.

A location map, showing relevant zoning and land use information.

f.

Recommendations concerning the eligibility of the building, structure or site for designation pursuant to this chapter and a listing of those features of the building, structure or site which require specific historic preservation treatments.

(2)

Historic districts:

a.

A physical description of the district, accompanied by photographs of buildings, structures or sites within the district indicating examples of contributing and noncontributing properties within the district. Also, a list of all contributing properties outside the proposed boundaries of the district.

b.

A description of typical architectural styles, character-defining features, and types of buildings, structures or sites within the district.

c.

An identification of all buildings, structures and sites within the district and the proposed classification of each as contributing, contributing with modifications, or noncontributing, with an explanation of the criteria utilized for the proposed classification.

d.

A statement of the historic, cultural, architectural, archaeological, or other significance of the district as defined by the criteria for designation established by this chapter.

e.

A statement of recommended boundaries for the district and a justification for those boundaries, along with a map showing the recommended boundaries.

f.

A statement of incentives requested, if any, and the specific guidelines which should be used in authorizing any alteration, demolition, relocation, excavation or new construction within the boundaries of the district.

(e)

Criteria for designation of a landmark and landmark site, or historic district.

(1)

The board of county commissioners shall have the authority to designate historic resources as a landmark, landmark site or historic district based upon their significance in the county's history, architecture, archaeology or culture and/or for their integrity of location, design, setting, materials, workmanship or association, and because they:

a.

Are associated with distinctive elements of the cultural, social, political, economic, scientific, religious, prehistoric, or architectural history that have contributed to the pattern of history in the community, the county, southwestern Florida, the state or nation;

b.

Are associated with the lives of persons significant in the county's past;

c.

Embody the distinctive characteristics of a type, period, style or method of construction or are the work of a master; or that possess high artistic value; or that represent a distinguishable entity whose components may lack individual distinction;

d.

Have yielded, or are likely to yield, information on history or prehistory; or

e.

Are listed or have been determined eligible for listing in the National Register of Historic Places.

(2)

A historic resource shall be deemed to have historic or cultural significance if it fulfills one or more of the following criteria:

a.

Is associated with the life or activities of a person of importance in local, state, or national history;

b.

Is the site of a historic event with a significant effect upon the county, state or nation;

c.

Is associated in a significant way with a major historic event;

d.

Is exemplary of the historical, political, cultural, economic, or social trends of the community in history; or

e.

Is associated in a significant way with a past or continuing institution which has contributed substantially to the life of the community.

(3)

A historic resource shall be deemed to have architectural or aesthetic significance if it fulfills one or more of the following criteria:

a.

It portrays the environment in an era of history characterized by one or more distinctive design element or architectural styles;

b.

It embodies the characteristics of an architectural style, period or method of construction;

c.

It is a historic or outstanding work of a prominent architect, designer, or landscape architect; or

d.

It contains elements of design, detail, material, or craftsmanship which are of outstanding quality or which represented, in its time, a significant innovation, adaptation or response to the southwest Florida environment.

(f)

Suspension of activities. Upon the filing of a designation request, no permits may be issued authorizing building, demolition, relocation or excavation on the subject property until such time as final action by the board of county commissioners has occurred. Any permits issued prior to filing of the designation request may be suspended.

(Ord. No. 12-33, § 5, 7-24-12; Ord. No. 14-25, § 1, 5-20-14)

Sec. 146-7. - Certificates of appropriateness.

(a)

General requirements.

(1)

Prerequisite to issuance of building permit. No building, moving, demolition, or other development permit shall be issued for a designated landmark, a designated landmark site, or a property in a designated historic district until a certificate of appropriateness has been issued.

(2)

Work not requiring a certificate of appropriateness. A certificate of appropriateness shall not be required for work requiring a building permit and classified as "ordinary maintenance and repair" by this chapter, or for any work that will result, to the satisfaction of the county administrator, in the close resemblance in appearance of the building, architectural feature or landscape feature to its appearance when it was built or was likely to have been built, or to its appearance as it presently exists so long as the present appearance is appropriate to the style and materials. County staff may develop specific criteria to determine the type of work that does not require a certificate of appropriateness, provided the criteria are consistent with the foregoing description.

(3)

Work requiring a certificate of appropriateness. A certificate of appropriateness shall be required by the county prior to initiation of any work involving the alteration, demolition, relocation, reconstruction, excavation or new construction which will result in a change to the original appearance or integrity of the surface or subsurface materials of a designated landmark, designated landmark site, or a property in a designated historic district.

(4)

Application procedures.

a.

An applicant for a certificate of appropriateness shall submit an application to the county planning department. An application for a certificate of appropriateness for a designated landmark, a designated landmark site, or a property in a historic district is reviewed by the historic preservation board or county staff. An application for a certificate of appropriateness shall be accompanied by:

1.

Full plans and specifications, including pictures;

2.

If required, site plan, elevation drawing and specifications to support the project; and

3.

In the case of sites involving buildings or structures, samples of materials as deemed appropriate by county staff or the historic preservation board to fully describe the proposed appearance, color, texture, materials, or design of the building(s) or structure(s) and any outbuilding, wall, courtyard, porch, façade, balcony, fence, landscape feature, paving, signage or exterior lighting.

b.

The applicant shall provide adequate information as determined by the county staff or the historic preservation board to enable the reviewing county staff or the historic preservation board to visualize the effect of the proposed action on the historic resources and on adjacent buildings and streetscapes within a historic district.

(5)

Review of certificates of appropriateness for exterior alterations and new construction.

a.

Review of certificate of appropriateness applications for a landmark, landmark site, or properties in a historic district shall be the responsibility of either the historic preservation board or county staff as shown in the following certificate of appropriateness reference table. The following certificate of appropriateness reference table shows what type of construction activity requires a review by either the historic preservation board or by county staff.

Certificate of Appropriateness (COA) Reference Table

COA Issued by Historic Preservation Board or County Staff: Residential & Commercial		
Type of Construction Activity	Contributing Properties/Landmark /Landmark Site	Non-Contributing Properties and Vacant lots
New Addition or Accessory Structure, New Building	HPB	HPB
Carport or Porch Enclosure, New	HPB	HPB
Deck, New Above Ground	HPB	Staff
Demolition/Moving	HPB	Staff
Fence/Wall, Repair Existing Consistent w/Design Guidelines	Staff	Staff
Fence/Wall, New	Staff	Staff
Hurricane Shutters	HPB (if permanent)	Staff
Move Structure onto Site	HPB	HPB
Porch Supports/Ornamentation Repair (same materials/style only)	Staff	Staff
Porch Replace & Repair With same materials/style	Staff	Staff
Primary Structure, including Dormers, New	HPB	HPB
Roof, Replace/Repair With same materials/style	Staff	Staff
With other materials	HPB	Staff
Satellite Dish, Antenna, Solar Collectors	Staff	Staff
Signs, Awnings, Canopies Repair/replace fabric	Staff	Staff

New	Staff	Staff
Stucco/siding/brick/stone/soffit /fascia, Repair With same materials/style	Staff	Staff
Stucco/siding/brick/stone/soffit /fascia, Replace/New	HPB	Staff
Window/Door Replacement With same materials/style	Staff	Staff
With other materials	HPB	Staff

KEY:

HPB: Pinellas County Historic Preservation Board is responsible for reviewing and issuing Certificates of Appropriateness

Staff: County staff is responsible for reviewing and issuing Certificates of Appropriateness, however staff has the right to refer the item to the HPB.

b.

The historic preservation board or county staff shall act upon an application for a certificate of appropriateness within 60 days of receipt of the application and materials adequately describing the proposed action. The historic preservation board or county staff may request outside professional opinions in the review of specific applications. The historic preservation board or county staff shall approve, deny or approve the certificate of appropriateness with conditions (subject to the acceptance of the conditions by the applicant), or suspend action on the application for a period not to exceed 30 days from the date the application is made in order to seek technical advice from outside sources, or to meet further with the applicant to revise or modify the application.

c.

Failure of the historic preservation board or county staff to act upon an application within 60 days (if no additional information is required) or 90 days (if additional information is required) from the date the application was received, shall result in the immediate issuance of the certificate of appropriateness applied for, without further action by the historic preservation board or county staff. The applicant may seek in writing a continuance for good cause shown and any continuance shall toll the running of the 60- or 90-day time period until the applicant advises the county, by written notice, to proceed with review of the application. The time remaining upon receipt of the notice to proceed shall be the time otherwise remaining for review, or 30 days, whichever is greater.

d.

The historic preservation board shall hold a public meeting within 60 days (if no additional information is required) or 90 days (if additional information is required) from the date the application was received to review and consider applications for a certificate of appropriateness. A notice of the meeting will be posted on the Pinellas County website and a copy of the certificate of appropriateness application will be posted in

front of the applicant's property. A notice of the meeting will be mailed to all owners of property located within 200 feet of the applicant's property.

e.

When an application for a certificate of appropriateness within the Downtown Palm Harbor Historic District or the Old Palm Harbor-Downtown Zoning District requires review and action by the historic preservation board, the Old Palm Harbor Main Street Board will be provided a notice of the public meeting and a copy of the application.

(6)

General criteria for evaluating certificates of appropriateness. The criteria for issuance of a certificate of appropriateness shall be as follows:

a.

A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

b.

The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

c.

Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

d.

Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

e.

Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

f.

Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

g.

Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be

used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

h.

New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

i.

New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

j.

Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

(7)

Design criteria for Downtown Palm Harbor Historic District. The following design criteria apply to the Downtown Palm Harbor Historic District as sited and depicted in the zoning ordinance and zoning atlas. Downtown Palm Harbor Historic District is a unique example of the county's past. There are several contributing buildings within the district. The historical "contributing" buildings located in the district do not fall into any specific architectural style but are instead considered a part of the "folk" architectural tradition. For this reason, design criteria cannot be based upon specific, stylistic elements but instead must be based upon the connecting elements and characteristics that are present in the district. These characteristics include: the relationship between the shape, size and height of the buildings; the front-facing orientation of the buildings and the lack of setbacks from the main street; the major roof types; window/door design and placement; and minimal ornamentation and architectural detailing. Minor connecting elements in the district include shutters, porches, and fences.

a.

General design criteria.

1.

The scale (height/width ratio) of new construction, or of alterations/additions to existing structures, shall be similar to that of the contributing structures in the district.

2.

New buildings or alterations/additions to existing structures shall not be built higher than the existing buildings in the district as of the time of designation. The height of new construction, or of alterations/additions to existing structures, shall not exceed 30 feet in height when measured at the eave of the structure.

3.

The historical setback patterns and street-facing orientation shall be maintained for new and reconstructed buildings. New buildings shall be built flush with the public right-of-way except in cases where the presence of mature trees requires that the building be located back from the street. The orientation of new buildings, and of alterations/additions to existing buildings, shall maintain front-facing facades with the main entrance on the street side of the building.

4.

The size, slope, and type of roofs for new construction, or for alterations/additions to contributing structures, shall be similar to those of the contributing structures.

5.

Shutters shall be in character with the style and period of the building. Replacement shutters shall be similar to the original in size, configuration, and style, and shall fit the window openings, not to overlap on the surface of the wall.

6.

Porch additions shall have a roof type that is either similar to the existing roof or that is in character with the style and period of the building.

7.

Fences within the Downtown Palm Harbor Historic District shall be limited to the following styles and materials:

(a)

All fences and walls shall be constructed of materials appropriate to their purpose and location and shall be compatible with the streetscape materials.

(1)

Fences and walls on all street frontages shall be constructed only of decorative open pickets, decorative metal, brick, or stamped concrete which are compatible with the streetscape design materials.

(2)

No fence or wall shall be constructed of corrugated sheet metal, barbed wire, chicken wire, or similar materials.

(3)

Chain link fences concealed by landscaping may be allowed along the side of property that has no street or alley frontage.

(b)

On all street frontages (except for frontage on an alley), walls and fences shall not exceed three feet in height, except in those instances where a higher fence is required by section 138-1286 for screening dumpsters.

(c)

No fence or wall shall be constructed within a public right-of-way, right-of-way easement or utility easement, unless authorized by the county.

(d)

No fence or wall shall enclose a water meter box or manhole, unless authorized by the county.

(e)

Where not specifically changed in this section, fences and walls shall otherwise comply with section 138-1336.

8.

Historically, building, trim, and roof colors have not been a major defining component of the district. Choice of colors should complement and enhance the character of the district. For new construction and noncontributing structures, specific color choice is left to the discretion of the property owner. For contributing structures, the general criteria for evaluating certificate of appropriateness as cited in subsection (a)(6) of this section shall be followed.

9.

On-street or alley parking should be maintained. Historical parking patterns should be followed in site-plan requirements for new construction.

b.

Contributing structures.

1.

If windows and doors in contributing structures are determined to be unrepairable, they shall be replaced with new windows and/or doors matching the size, spacing, and where possible, materials of the originals. The use of materials other than the original materials shall be considered by the historic preservation board or county staff on a case-by-case basis.

2.

Porches and porch features that are in good condition or repairable, and which are in character with the style and period of the building, shall be retained. Porches and porch features shall be repaired so they match the existing in materials, size and configuration.

c.

Noncontributing structures.

1.

Where possible and appropriate, alterations and additions to noncontributing structures shall be similar to the

major features, details and materials found in the contributing structures. Alterations and additions shall not introduce false historical architectural features not found in the district.

2.

Where possible and appropriate, when renovating an existing noncontributing structure, new or replacement windows and/or doors shall be similar to the size, spacing, materials and general rhythm of the windows and/or doors found in the contributing structures.

d.

New construction.

1.

The roof types of new buildings shall conform to the roof types of the contributing structures in the district. Gable, pyramidal (hip), and flat roofs with parapets are found in the contributing structures. Use of a roof type that is not present in the contributing structures, and which can be seen from the street is prohibited. Alternative roof styles can be used if they are concealed by a parapet and are not visible from the street.

2.

Proportions, configurations, and placement of windows and/or doors in new buildings shall be similar to the size, spacing, materials and general rhythm of the window/door fenestration found in the contributing structures.

3.

Use of double-hung sash windows with two—four lites is encouraged. Jalousie windows are prohibited. Recessed entrances are encouraged.

4.

Major architectural features, detailing and materials used in new construction shall be similar to those of the contributing structures found in the district.

5.

Modern equipment such as solar collectors, air conditioners, etc. shall be concealed from public view.

(b)

Special requirements.

(1)

Demolition.

a.

Demolition of a designated landmark, landmark site or a contributing property within a designated historic district may only occur pursuant to an order of a governmental body, the historic preservation board, or an

order of a court of competent jurisdiction and pursuant to approval of an application by the owner for a certificate of appropriateness for demolition.

b.

No permit for voluntary demolition of a designated landmark, landmark site or contributing site within a historic district shall be issued to the owner(s) thereof until an application for a certificate of appropriateness has been submitted to the county planning department, and approved pursuant to the procedures in this section.

1.

The historic preservation board shall approve, deny, or approve with conditions the application for a certificate of appropriateness for demolition.

2.

Refusal by the historic preservation board to grant a certificate of appropriateness for demolition shall be evidenced by a written order detailing the public interest which is sought to be preserved.

3.

The historic preservation board may grant a certificate of appropriateness for demolition which may provide for a delayed effective date of six months to allow the historic preservation board to seek possible alternatives to demolition. During the demolition delay period, the historic preservation board may take such steps as deemed necessary to preserve the structure concerned, in accordance with the purpose of this chapter. Such steps may include, but shall not be limited to:

i.

Consultation with civic groups, public agencies and interested citizens;

ii.

Recommendations for acquisition of property by public or private bodies or agencies; and

iii.

Exploration of the possibility of moving the building or other feature.

c.

In addition to the general criteria of subsection (a)(6) of this section, the historic preservation board shall consider the following criteria in evaluating applications for certificates of appropriateness for demolition of designated landmark, landmark site or contributing properties within a designated historic district:

1.

Is the building or structure of such interest or quality that it would reasonably meet national, state or local criteria for additional designation as an historic or architectural landmark.

2.

Is the building or structure of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense.

3.

Is the building or structure one of the last remaining examples of its kind in the neighborhood, the county or the region.

4.

Does the building or structure contribute significantly to the historic character of a designated historic district.

5.

Would retention of the building or structure promote the general welfare of the county by providing an opportunity for the study of local history or prehistory, architecture and design or by developing an understanding of the importance and value of a particular culture and heritage.

6.

Are there definite plans for reuse of the property if the proposed demolition is carried out, and what will be the effect of those plans on the character of the surrounding area.

7.

Has demolition of the designated building or structure been ordered by the appropriate public agency due to unsafe conditions.

8.

Is the cause of demolition due to self-imposed negligence of the property owner.

d.

Unless demolition has been ordered by a court of competent jurisdiction or another governmental body, a certificate of appropriateness for demolition of a designated landmark, landmark site or a contributing property in a historic district shall not be issued until there are definite plans for reuse of the property and a building permit or development order for the new construction has been applied for.

e.

In the event that an undue economic hardship, as defined in this chapter, is claimed by the property owner as a result of the denial of a certificate of appropriateness for demolition, the property owner may file a takings' claim consistent with the provisions of chapter 134, article IV.

(2)

Moving permits. The historic preservation board shall use the general criteria of subsection (a)(6) of this section along with the following criteria when evaluating applications for a certificate of appropriateness for

the moving of a landmark or a contributing property located within a designated historic district:

a.

The historic character and aesthetic interest the building or structure contributes to its present setting.

b.

The reasons for the proposed move.

c.

The proposed new setting and the general environment of the proposed new setting.

d.

Whether the building or structure can be moved without significant damage to its physical integrity.

e.

Whether the proposed relocation site is compatible with the historical and architectural character of the building or structure.

f.

When applicable, the effect of the move on the distinctive historical and visual character of a designated historic district.

g.

The effect of the move on the eligibility of the sites that are listed or may be determined eligible for listing in the National Register of Historic Places.

(3)

Archaeological sites designated as landmark and landmark site.

a.

A certificate of appropriateness shall be required prior to the issuance of a building permit for activity within a designated landmark and landmark site containing an archaeological site pursuant to section 146-6(f). An application for a certificate of appropriateness shall be accompanied by full plans and specifications indicating areas of work that might affect the surface and subsurface of the archaeological site or sites. The requirements outlined in subsection (a)(4) of this section shall apply to all applications and the issuance of all certificates of appropriateness for landmark and landmark site containing archaeological sites designated pursuant to this chapter.

b.

In reviewing an application for a certificate of appropriateness for a designated landmark and landmark site containing an archaeological site the county administrator may also require any or all of the following:

1.

Scientific excavation and evaluation of the site by an archaeologist at the owner's expense.

2.

An archaeological survey, conducted by an archaeologist as defined in this chapter, containing an analysis of the impact of the proposed activity on the archaeological site.

3.

Proposed mitigation measures pursuant to subsection (b)(4) of this section.

(4)

Guidelines for protection, mitigation and curation of archaeological resources.

a.

Protection. Measures taken to protect an archaeological site may be either temporary or permanent. When a site is to be protected, it is to be shielded from deterioration, damage, and from artifact collection by other than archaeologists designated by the property owner to assess the significance of the site. Site protection is designed to sustain the existing form and integrity of the site. Protective measures are site specific, but may include (but are not limited to) the following steps and considerations where appropriate:

1.

Designing the development site plan to avoid known designated archaeological sites and/or to include them in green-space preservation areas. This design action can often result in the establishment of protective covenants or preservation easements between the county and the property owner, those proposing to develop the property, or any other authorized entities.

2.

Satisfactory protection may also be achieved, under appropriate circumstances, by means of fencing, on-site public notices, covering with fill or paving over buried archaeological resources, stabilization, or a combination of these.

3.

Even though basic protective measures have been agreed upon at a development site, care must be taken to avoid indirect impact to the an archaeological site as a result of development site preparation and construction activities. Examples of indirect impact are disturbance by the maneuvering of heavy equipment, delivery of construction materials and digging of utility line trenches. Temporary buffers, fencing or other means of site protection may therefore be required during construction and site preparation activities.

b.

Mitigation. The term "mitigation" refers to archaeological excavation of that portion of a designated archaeological site which is threatened by an adverse impact and which cannot be preserved. If feasible, an archaeological site that has been designated as a landmark or landmark site should be preserved and protected

from adverse impact. Excavation of significant sites will occur only as a last resort if the development impacts are unavoidable. If it is infeasible to preserve the site, then the owner or applicant shall hire an archaeologist to excavate that portion to be impacted in order to recover and interpret the information which the site contains.

The excavation shall be conducted in accordance with section 4.6 of the guidelines contained in the historic preservation compliance review program of the state division of historical resources. As is the case with test excavations for purposes of site assessment, adhering to these guidelines will provide a consistent level of effort for affected sites in the county and will also be sufficient for state compliance in the event the site is located within a DRI area.

c.

Curation of artifacts and related materials. Artifacts (objects made or used by humans) and associated materials (e.g., soil samples, samples for radiocarbon dating, faunal remains, botanical specimens) recovered from archaeological excavation belong to the owner of the property from which they were recovered and should be properly curated.

1.

Materials recovered from county properties. The county may either store or display archaeological materials recovered from county properties. In either case, care is to be taken not to lose the information concerning individual artifact provenance and the associated documentation, such as artifact catalogs. Assemblages from a single site should be stored as a unit and should be accessible to qualified researchers.

The materials should not be sold, but they may be donated or loaned to appropriate institutions which have suitable curatorial facilities, such as the Heritage Village Museum, other museums, colleges or universities. Whether stored or displayed, the materials should be in a physical environment that prevents deterioration. Special conservation measures may be required in some cases, especially for materials recovered from submerged sites.

2.

Materials recovered from privately owned properties. Objects and other materials recovered from privately owned property will remain in the care of the designated archaeologists for the duration of the appropriate analysis. A copy of the archaeological report and findings shall be given to the county planning department. Once analysis has been completed and a report of the investigation has been submitted, the artifacts will be turned over to the property owner. Thus, the private property owner makes disposition of the archaeological materials from his property.

The private property owner may elect to keep the materials. In that event, the owner should take care to maintain the provenance records of the individual objects and any associated materials, to protect the collections and to store/display them in a physical environment which will prevent deterioration.

If artifacts are displayed, they should not be grouped in a manner that renders it impossible to redetermine their relative location within the archaeological site. Special conservation measures may be necessary in some cases, especially for materials recovered from submerged sites. A private property owner may choose to donate the artifacts to the county, a museum, an educational institution with suitable curatorial facilities, or other appropriate institution. It is also possible to loan the artifacts to a suitable institution for purposes of interpretive display.

(Ord. No. 12-33, § 6, 7-24-12)

Sec. 146-8. - Maintenance and minor repair provisions.

(a)

Exemption for work not requiring a building permit. Nothing in this chapter shall be construed to prevent or discourage the ordinary maintenance and repair of the exterior elements of any landmark, landmark site or any property within a designated historic district when such maintenance and repair does not involve a change of design, appearance (other than color), or material, and which does not require a building permit.

(b)

Enforcement of maintenance and repair provisions. When the county administrator determines that the exterior of a designated landmark, landmark site or a contributing property within a designated historic district is endangered by lack of ordinary maintenance and repair, or that other improvements in visual proximity of a designated landmark, landmark site or historic district are endangered by lack of ordinary maintenance, or are in danger of deterioration to such an extent that it detracts from the desirable character of the designated landmark, landmark site or historic district, the county administrator may require correction of such deficiencies under the authority and procedures of applicable ordinances, laws and regulations.

(c)

Unsafe structures. If the building official determines that any designated landmark, landmark site or contributing property in a historic district is unsafe pursuant to the provisions of the applicable county ordinances, the appropriate official will immediately notify the county administrator by submitting copies of such findings. Where appropriate and in accordance with applicable ordinances, the county shall encourage repair of the building or structure rather than demolition.

(d)

Emergency conditions.

(1)

For the purpose of remedying an emergency condition determined to be imminently dangerous to life, health, or property, nothing contained in this chapter will prevent the temporary construction, reconstruction, demolition, or other repairs to a designated landmark, landmark site or a contributing or noncontributing property in a historic district, structural improvement, landscape feature, or archaeological site within a designated historic district.

(2)

Such temporary construction, reconstruction or demolition must take place pursuant to permission granted by the building official and only such work as is reasonably necessary to correct the emergency conditions may be carried out.

(3)

The owner of a designated landmark, landmark site or a contributing property in a historic district damaged by fire or natural calamity will be permitted to immediately stabilize the building or structure and to later

rehabilitate it under the procedures required by this chapter. The owner may request a special meeting of the county administrator to consider an application for a certificate of appropriateness to provide for permanent repairs.

(e)

Demolition by neglect. If the county administrator finds that a landmark, landmark site or a contributing property in a historic district, is subject to demolition by neglect, the county administrator may recommend that the owner(s) be issued a citation by the building department for code violations and that penalties be instituted pursuant to this chapter or other ordinances.

(Ord. No. 12-33, § 6, 7-24-12)

Sec. 146-9. - Incentives.

(a)

Tax credit. The county staff shall encourage and assist in the nomination of eligible income-producing properties to the National Register of Historic Places in order to make available to those property owners the investment tax credits for certified rehabilitations pursuant to the Tax Reform Act of 1986 and any other programs offered through the National Register.

(b)

Variance from building code. Designate landmark, landmark site and contributing properties to a designated historic district may be eligible for administrative variances or other forms of relief from applicable building codes as follows:

(1)

Repairs, alterations and additions necessary for the preservation, restoration, rehabilitation or continued use of a building or structure may be made without conformance to the technical requirements of the building codes when the proposed work has been approved by a certificate of appropriateness and also by the building official pursuant to the authority granted to such officials by other ordinances or statutes, and further provided that:

a.

The restored building will be no more hazardous based on considerations of life, fire and sanitation safety than it was in its original condition;

b.

Plans and specifications are sealed by a state registered architect or engineer, if required by the building official; and

c.

The building official has required the minimum necessary corrections to be made before use and occupancy which will be in the public interest of health, safety and welfare.

(2)

Designated landmarks, landmark sites or properties within a designated historic district may be eligible for fee exemption from the building official.

(c)

Relief, special exceptions to zoning ordinance. Designated landmarks, landmark sites or properties within a designated historic district may be eligible for zoning relief pursuant to the zoning ordinance. Landmarks, landmark sites and properties within a designated historic district may also be eligible for special exception from the board of adjustment pursuant to the zoning ordinance.

(Ord. No. 12-33, § 7, 7-24-12)

Sec. 146-10. - Stop work orders.

Any work conducted contrary to the provisions of this chapter shall be immediately stopped upon notice from the building official or county administrator that the work does not conform to the terms of this chapter. Notice shall be in writing and shall be given to the property owner, his agent, or to the person doing the work. If none of these persons are immediately available on the construction site to receive the required notice, it shall be posted on the property. The notice shall state all conditions under which work may be resumed. In emergencies, the building official shall not be required to furnish written notice of the stop work order.

(Ord. No. 12-33, § 8, 7-24-12)

Sec. 146-11. - Penalty for violation of chapter.

Violations of this chapter are punishable as provided in section 134-8. In addition, any violation of this chapter may subject work done either with or without permits issued pursuant to this chapter to review for purposes of stop work orders issued pursuant to section 146-10.

(Ord. No. 12-33, § 9, 7-24-12)

Sec. 146-12. - Review of decisions.

(a)

Appeals.

(1)

County staff. Any aggrieved party may file an appeal before the historic preservation board of a final decision made by county staff under this chapter.

(2)

Historic preservation board. Any aggrieved party may file an appeal before the board of county commissioners of a final decision made by the historic preservation board under this chapter.

(3)

Board of county commissioners. Any challenge to a decision by the board of county commissioners under this chapter is to a court of competent jurisdiction.

(b)

Timing. An appeal filed pursuant to subsections (a)(1) and (2) above shall not be required to be in any particular form, but shall be filed with the county administrator's office within ten days after receipt of notice of the final decision of the county staff or the historic preservation board. Each such appeal filing, at a minimum, shall be accompanied by a payment in sufficient amount to cover the cost of publishing notice of the required public hearing. The board of county commissioners or the historic preservation board shall schedule and conduct a public hearing on the appeal as soon as practicable, at a convenient place and time.

(Ord. No. 12-33, § 10, 7-24-12)

Sec. 146-13. - Conflicting provisions.

If any provision in this chapter is found to be contrary to any other existing county ordinance, code, rule or regulation covering the same subject matter, this chapter shall supersede all other such ordinances, codes, rules or regulations to the extent that this chapter is in conflict therewith. Further, nothing in this chapter is intended to relieve the applicant or the owner from obtaining all other permits otherwise required by law or regulation.

(Ord. No. 12-33, § 11, 7-24-12)

Chapter 150 - IMPACT FEES[1]
Footnotes:
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Charter reference— General powers of county, § 2.01.

Cross reference— Finance, § 2-141 et seq.; buildings and building regulations, ch. 22; impact fees in Indian Rocks fire district, § 114-54; impact fee in Palm Harbor special fire control district, § 114-93.

State Law reference— Impact fees encouraged, F.S. § 163.3202(3).

ARTICLE I. - IN GENERAL

Secs. 150-1—150-35. - Reserved.
ARTICLE II. - TRANSPORTATION IMPACT FEE

Sec. 150-36. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City manager means the chief administrative officer of the involved jurisdiction and/or his designee.

County administrator means the county administrator and/or his designee.

Credits means the impact fee deductions allowed a feepayer for eligible off-site transportation improvements funded by the feepayer.

Expansion of the capacity of a road applies to all road and intersection capacity enhancements and includes but is not limited to extensions, widening, intersection improvements, drainage improvements and upgrading signalization.

External trip means any trip which has either its origin or destination at the development site and which impacts the major road network system.

Fair share fee means the fee required to be paid in accordance with this article.

Feepayer means a person commencing a land development activity which generates traffic and which requires the issuance of a certificate of occupancy, land use permit or occupational license.

Independent fee calculation study means the traffic engineering and/or economic documentation prepared by a feepayer to allow the determination of the impact fee other than by the use of the table in subsection 150-40(c) of this article.

Land development activity generating traffic means any construction or expansion of building(s) or structure(s), or any changes in the use of any structure(s) that attracts or produces additional vehicular trips.

Level of service is a qualitative measure that represents the collective factors of speed, travel, time, traffic interruption, freedom to maneuver, safety, driving comfort and convenience, and operating costs provided by a highway facility under a particular volume condition. Levels of service vary from A to F as described in the transportation elements of the local comprehensive plans, the Transportation Research Board's Highway Capacity Manual, and similar documents.

Off-site improvements means road improvements, other than those referenced in the definition of site-related improvements, located outside of the boundaries of the parcel proposed for development, which are required to serve the development's external trips.

Road means any public way for purposes of vehicular traffic, including the entire area within the right-of-way.

Site-related improvements means capital improvements necessary for direct access/egress to the development in question. Direct access/egress site-related improvements include but are not limited to the following:

(1)

Site driveways and roads;

(2)

Right and left turn lanes leading to those driveways;

(3)

Traffic control measure for those driveways;

(4)

Acceleration/deceleration lanes;

(5)

Median openings/closing;

(6)

Frontage roads; and

(7)

Roads necessary to provide direct access to the development.

Transportation impact fee district means areas from which impact fee monies are collected and expended. These districts are defined in exhibit A.

Transportation improvement means and includes construction projects and transportation demand and system management initiatives including but not limited to:

(1)

Construction of new through lanes;

(2)

Construction of new turn lanes;

(3)

Construction of new bridges or grade separations;

(4)

Construction of new or upgrading of existing drainage facilities in conjunction with new roadway construction;

(5)

Purchase and installation of traffic signalization, including new and upgraded signalization;

(6)

Construction of curbs, medians and shoulders;

(7)

Relocating utilities to accommodate new roadway construction;

(8)

Construction of intersection improvements;

(9)

Construction of sidewalks;

(10)

Installation of on-street bicycle lanes and construction of bicycle/pedestrian trials;

(11)

Construction of transit facilities such as shelters and pullout bays;

(12)

Construction of park and ride lots;

(13)

Intelligent transportation system (ITS) projects; and

(14)

Commuter assistance programs.

(Ord. No. 86-43, §§ 3(b)(8), (9), 4, 6-10-86; Ord. No. 98-78, § 1, 9-15-98; Ord. No. 02-98, § 1, 12-3-02; Ord. No. 05-26, § 1, 4-19-05)

Cross reference— Definitions generally, § 134-2.

Sec. 150-37. - Rules of construction.

(a)

The provisions of this article shall be liberally construed so as to effectively carry out its purpose in the interest of the public health, safety and welfare.

(b)

For the purpose of administration and enforcement of this article, unless otherwise stated in this article, the following rules of construction shall apply to the text of this article;

(1)

Any road right-of-way used to define transportation impact fee district boundaries, as identified in Exhibit A [following section 150-49], shall be considered to be within each district it bounds for purposes of using these funds.

(2)

The land use types listed in section 150-40 shall have the same meaning as under the land use element(s) of the local comprehensive plans.

(Ord. No. 86-43, § 3(a), (b)(10), (11), 6-10-86; Ord. No. 02-98, § 2, 12-3-02)

Sec. 150-38. - Intent and purpose.

(a)

This article is intended to implement and be consistent with the county comprehensive plan and the plans of the municipalities in the county adopted pursuant to F.S. ch. 163.

(b)

The purpose of this article is to assure that new development does not degrade existing levels of service and that new development bears a proportionate share of the cost of capital expenditures necessary to meet transportation needs as established by the county comprehensive plan, the metropolitan planning organization's long range transportation plan, and the comprehensive plans of the municipalities in the county.

(Ord. No. 86-43, § 2, 6-10-86; Ord. No. 02-98, § 3, 12-3-02)

Sec. 150-39. - Fee required.

(a)

Any person who, seeks a certificate of occupancy for land development activity or seeks to change a use by applying for issuance of an occupational license, land use permit, or municipal equivalent thereof which will generate additional traffic shall be required to pay a transportation impact fee in the manner and amount set forth in this article.

(b)

No certificate of occupancy, use permit or occupational license for any activity requiring payment of an impact fee pursuant to section 150-40 shall be issued unless and until the transportation impact fee hereby required has been paid.

(c)

Any person who has submitted a site plan or building permit application in accordance with local land development codes prior to the effective date of this amendatory ordinance will be subject to the terms of the ordinance that was in effect at the time the site plan or building permit application was submitted.

(Ord. No. 86-43, § 5, 6-10-86; Ord. No. 88-50, § 7, 11-8-88, Ord. No. 01-57, § 1, 8-7-01; Ord. No. 02-98, § 4, 12-3-02; Ord. No. 05-26, § 2, 4-19-05)

Sec. 150-40. - Computation of amount.

(a)

The amount of the transportation impact fees imposed under this article will depend on a number of factors, including the type of land development activity, and several fixed elements, such as the average cost to construct one lane-mile of roadway ($2,216,466.00) and the average capacity of one lane-mile of roadway (6,900 vehicles per day).

(b)

The following formula shall be used by the county administrator, city manager or functional equivalent to determine the impact fee per unit of development:

TGR x %NT x TL x CST (RF) / CAP x 2

WHERE:

TGR	=	Trip generation rate, as per fee schedule
%NT	=	Percent new trips
TL	=	Average trip length, varies by land use
CST	=	The cost to construct one-lane mile of roadway ($2,216,466.00)
CAP	=	The capacity of one-lane mile of roadway (6,900 vehicles per lane, per day)
2	=	Allocation of one-half the impact to the origin and one-half to the destination
RF	=	Reduction factor (.268)

(c)

At the option of the feepayer, the amount of the transportation impact fee may be determined by the following fee schedules (schedule A contains the impact fee rates for uses outside of designated downtown/redevelopment areas; schedule B contains rates for downtown/redevelopment areas):

Schedule A. General Fee Schedule

Land Use Type	Unit	Trip Rate	Avg. Trip Length	Percent New Trips	Fee Per Unit
Residential:					
Single-family	du	9.6	5.0	1.00	$2,066
Multi-family	du	6.6	5.0	1.00	$1,420
Condominium/Townhome	du	5.8	5.0	1.00	$1,248
Efficiency apt./hotel	room	5.0	3.3	0.59	$419
Mobile home	du	5.0	5.0	1.00	$1,076
Licensed ACLF	bed	2.7	2.8	.74	$250
General Office:					
0—49,999 sq. ft.	1000 sf	16.3	5.1	0.92	$3,292
50,000—149,999 sq. ft.	1000 sf	13.7	5.1	0.92	$2,767
150,000—299,999 sq. ft.	1000 sf	11.5	5.1	0.92	$2.323

300,000—599,999 sq. ft.	1000 sf	10.4	5.1	0.92	$2,100
600,000—799,999 sq. ft.	1000 sf	8.4	5.1	0.92	$1,697
Over 800,000 sq. ft.	1000 sf	8.2	5.1	0.92	$1,656
Research Center:					
Research center	1000 sf	6.1	5.1	0.92	$1,232
Industrial:					
General industrial	1000 sf	7.0	5.1	0.92	$1,414
Industrial park	1000 sf	7.0	5.1	0.92	$1,414
Manufacturing	1000 sf	3.8	5.1	0.92	$767
Warehousing	1000 sf	3.6	5.1	0.92	$727
Mini-warehousing	1000 sf	2.5	3.1	0.92	$307
Medical:					
Hospital	bed	11.8	6.4	0.77	$2,503
Nursing home	bed	2.4	2.8	0.75	$217
Clinic/Medical office	1000 sf	35.2	4.9	0.85	$6,311
Veterinary clinic	1000 sf	32.8	1.9	0.70	$1,878
Lodging:					
Hotel	room	8.2	6.4	0.71	$1,604
Motel (budget style)	room	5.6	6.4	0.59	$910
Resort hotel	room	18.4	5.4	0.75	$3,208
Recreation:					
General recreation	pkg sp	3.4	6.4	0.90	$843
Marina	boat berth	3.0	7.0	0.90	$814
Dry dock marina	boat slip	2.1	3.6	0.90	$293
Racquet club	1000 sf	14	3.0	0.75	$1,356

Golf course	acre	5.0	7.1	0.90	$1,375
Fitness center	1000 sf	27.0	4.0	0.84	$3,905
Retail:					
Quality restaurant	1000 sf	90.0	2.5	0.82	$7,942
Sit-down restaurant	1000 sf	127.0	1.9	0.79	$8,205
Drive-in restaurant	1000 sf	496.0	1.7	0.54	$19,599
Quality drive-in restaurant	1000 sf	279.7	1.7	0.75	$15,350
Discount store (ind.)	1000 sf	56.0	1.8	0.61	$2,647
Building materials store	1000 sf	45.2	1.7	0.61	$2,018
Home Improvement Superstore	1000 sf	29.8	2.2	0.83	$2,342
New and used car sales	1000 sf	33.3	2.4	0.79	$2,718
Service station w/ conven. Market <800 sf	pump	162.8	1.9	0.23	$3,062
Car wash	1000 sf	151.2	1.6	0.67	$6,977
Supermarket	1000 sf	102.0	1.7	0.53	$3,956
Convenience market (under 3,000 sf)	store	1762.9	1.5	0.25	$28,456
Convenience market (3,000 sf or over)	1000 sf	887.1	1.5	0.25	$14,319
Movie theater w/ matinee	screen	132.0	2.3	0.85	$11,108
Auto repair/detailing	1000 sf	28.4	2.2	0.83	$2,232
Furniture store	1000 sf	5.1	2.4	0.79	$351
Retail nursery (garden ctr.)	1000 sf	36.0	1.8	0.61	$1,701
Discount club store	1000 sf	41.8	4.0	0.89	$6,405
Discount superstore	1000 sf	65.3	2.2	0.83	$5,133

Video rental store (free standing)	1000 sf	13.6	2.3	0.85	$1,144
General Commercial:					
Under 100,000 sq. ft.	1000 sf gla	94.7	1.7	0.49	$3,396
100,000—199,999 sq. ft.	1000 sf gla	74.3	1.8	0.63	$3,627
200,000—299,999 sq. ft.	1000 sf gla	58.9	2.0	0.75	$3,803
300,000—399,999 sq. ft.	1000 sf gla	48.3	2.3	0.79	$3,778
400,000—499,999 sq. ft.	1000 sf gla	43.0	2.5	0.80	$3,702
500,000—999,999 sq. ft.	1000 sf gla	37.7	3.0	0.81	$3,943
Over 1,000,000 sq. ft.	1000 sf gla	33.4	3.6	0.81	$4,192
Services:					
Bank	1000 sf	144.0	1.6	0.30	$2,975
Institutional:					
Church	1000 sf	9.1	3.9	0.90	$1,375
Library (private)	1000 sf	56.0	3.9	0.90	$8,461
Day care center	1000 sf	79.0	2.0	0.74	$5,033
Elementary school	student	1.3	4.3	0.80	$192
High school	student	1.7	4.3	0.90	$283
Junior/community college	student	1.2	7.3	0.90	$339
University	student	2.4	7.3	0.90	$679
Airport	flights	2.0	6.0	0.90	$465
Park	acres	36.5	6.4	0.90	$9,050

Schedule B. Downtown Redevelopment Fee Schedule

Land Use Type	Unit	Trip Rate	Avg. Trip Length	Percent New Trips	Fee Per Unit

Residential:					
Single-family	du	9.6	5.0	0.74	$1,529
Multi-family	du	6.6	5.0	0.74	$972
Condominium/Townhome	du	5.8	5.0	0.74	$924
Efficiency apt./hotel	room	5.0	3.3	0.59	
Mobile home	du	5.0	5.0	0.74	$796
Licensed ACLF	bed	2.7	2.8	0.74	$250
General Office:					
0—49,999 sq. ft.	1000 sf	16.3	5.1	0.74	$2,648
50,000—149,999 sq. ft.	1000 sf	13.7	5.1	0.74	$2,226
150,000—299,999 sq. ft.	1000 sf	11.5	5.1	0.74	$1,868
300,000—599,999 sq. ft.	1000 sf	10.4	5.1	0.74	$1,689
600,000—799,999 sq. ft.	1000 sf	8.4	5.1	0.74	$1,365
Over 800,000 sq. ft.	1000 sf	8.2	5.1	0.74	$1,332
Research Center:					
Research center	1000 sf	6.1	5.1	0.74	$991
Industrial:					
General industrial	1000 sf	7.0	5.1	0.74	$1,137
Industrial park	1000 sf	7.0	5.1	0.74	$1,137
Manufacturing	1000 sf	3.8	5.1	0.74	$617
Warehousing	1000 sf	3.6	5.1	0.74	$585
Mini-warehousing	1000 sf	2.5	3.1	0.74	$247
Medical:					
Hospital	bed	11.8	6.4	0.62	$2,015
Nursing home	bed	2.4	2.8	0.60	$174

Clinic/Medical office	1000 sf	35.2	4.9	0.70	$5,197
Veterinary clinic	1000 sf	32.8	1.9	0.70	$1,878
Lodging:					
Hotel	room	8.2	6.4	0.61	$1,378
Motel (budget style)	room	5.6	4.0	0.61	$588
Resort hotel	room	18.4	5.4	0.61	$2,609
Recreation:					
General recreation	pkg sp	3.4	6.4	0.32	$300
Marina	boat berth	3.0	7.0	0.32	$289
Dry dock marina	boat slip	2.1	3.6	0.32	$104
Racquet club	1000 sf	14	3.0	0.32	$579
Fitness center	1000 sf	27.0	4.0	0.36	$1,674
Retail:					
Quality restaurant	1000 sf	90.0	2.5	0.21	$2,034
Sit-down restaurant	1000 sf	127.0	1.9	0.21	$2,181
Drive-in restaurant	1000 sf	496.0	1.7	0.21	$7,622
Quality drive-in restaurant	1000 sf	279.7	1.7	0.21	$4,298
Discount store (ind.)	1000 sf	56.0	1.8	0.34	$1,475
Building materials store	1000 sf	45.2	1.7	0.34	$1,125
Home Improvement Superstore	1000 sf	29.8	2.2	0.34	$959
New and used car sales	1000 sf	33.3	2.4	0.52	$1,789
Service station w/ conven. market <800 sf	pump	162.8	1.9	0.23	$3,062
Car wash	1000 sf	151.2	1.6	0.40	$4,165

Supermarket	1000 sf	102.0	1.7	0.53	$3,956
Convenience market (under 3,000 sf)	store	1762.9	1.5	0.25	$28,456
Convenience market (3,000 sf or over)	1000 sf	887.1	1.5	0.25	$14,319
Movie theater w/ matinee	screen	132.0	2.3	0.58	$7,580
Auto repair/detailing	1000 sf	28.4	2.2	0.56	$1,506
Furniture store	1000 sf	5.1	2.4	0.52	$231
Retail nursery (garden ctr.)	1000 sf	36.0	1.8	0.34	$948
Discount club store	1000 sf	41.8	4.0	0.30	$2,159
Discount superstore	1000 sf	65.3	2.2	0.30	$1,855
Video rental store (free standing)	1000 sf	13.6	2.3	0.32	$431
General Commercial:					
Under 100,000 sq. ft.	1000 sf gla	94.7	1.7	0.30	$2,079
100,000—199,999 sq. ft.	1000 sf gla	74.3	1.8	0.35	$2,015
200,000—299,999 sq. ft.	1000 sf gla	58.9	2.0	0.47	$2,383
300,000—399,999 sq. ft.	1000 sf gla	48.3	2.3	0.51	$2,439
400,000—499,999 sq. ft.	1000 sf gla	43.0	2.5	0.53	$2,452
500,000—999,999 sq. ft.	1000 sf gla	37.7	3.0	0.54	$2,629
Over 1,000,000 sq. ft.	1000 sf gla	33.4	3.6	0.54	$2,795
Services:					
Bank	1000 sf	144.0	1.6	0.30	$2,975
Institutional:					
Church	1000 sf	9.1	3.9	0.35	$535

Library (private)	1000 sf	56.0	3.9	0.63	$5,923
Day care center	1000 sf	79.0	2.0	0.47	$3,196
Elementary school	student	1.3	4.3	0.53	$128
High school	student	1.7	4.3	0.63	$198
Junior/community college	student	1.2	7.3	0.63	$238
University	student	2.4	7.3	0.63	$475
Park	acre	36.5	6.4	0.63	$6,335

The downtown area fee schedule applies to existing downtown areas geographically depicted in the attached maps including exhibit A, Impact Fee Districts; exhibit B, St. Petersburg Downtown Area District 11A, exhibit C, Safety Harbor Downtown Area District 5A, exhibit D, Pinellas Park Downtown Area District 10A, exhibit E, Clearwater Downtown Area District 6A; exhibit F, Dunedin Downtown Area District 4A; exhibit G, Largo Downtown Area District 7A; exhibit H, Oldsmar Downtown Area District 2A; and exhibit I, Old Palm Harbor District 3A. The 1990 MPO Pinellas County Transportation Impact Fee Study contains technical data indicating there are significantly fewer new vehicle trips generated for each unit of development in these areas as compared to similar land uses outside them. These areas are delineated in locally adopted redevelopment or comprehensive plans with supporting policies designed to encourage infill and redevelopment activity. New areas with similar trip generation characteristics, as described in the 1990 MPO Pinellas County Transportation Impact Fee Study, may be added to the attached exhibits through the amendment of the ordinance pursuant to the submittal of a detailed map and documentation that such areas meet the criteria in the 1990 Pinellas County MPO Transportation Impact Fee Study.

In the case of a change of use, redevelopment, or modification of an existing use, the impact fee shall be based upon the net increase in the impact fee for the new use as compared to the impact fee for the highest previous use in existence on or after the effective date of the ordinance from which this section derives. The county administrator or city manager shall be guided in this determination by the county's transportation impact fee study (February 1990), independent study trip generation data or the Institute of Transportation Engineers' Trip Generation, sixth (or successor) edition.

(d)

If a feepayer shall opt not to have the impact fee determined according to subsections (b) and (c) of this section, then the feepayer shall prepare and submit to the county administrator, city manager or functional equivalent for approval of an independent fee calculation study for the land development activity for which a certificate of occupancy, land use permit or occupational license is sought. The traffic engineering and/or economic documentation submitted, which will require a pre-application meeting with the county administrator, city manager or functional equivalent, shall show the basis upon which the independent fee calculation was made, including but not limited to the following:

(1)

Trip generation studies:

a.

Documentation of trip generation rates appropriate for the proposed land development activity.

b.

Documentation of trip length appropriate for the proposed land development activity.

c.

Documentation of trip data appropriate for the proposed land development activity.

(2)

Economic documentation studies:

a.

Documentation of the cost per lane per mile for roadway construction for the proposed land development activity.

b.

Documentation of credits attributable to the proposed land development activity which the feepayer will make available to replace the portion of the service volume used by the traffic generated by the proposed land development activity.

(e)

Trip generation data. Trip generation documentation other than traffic engineering or economic documentation described in subsection 150-40(d)(1) and (2) may be submitted by the applicant in consideration of an independent fee calculation.

(Ord. No. 86-43, § 6, 6-10-86; Ord. No. 88-50, §§ 1—3, 5, 11-8-88; Ord. No. 90-88, § I, 12-4-90; Ord. No. 98-78, § 2, 9-15-98; Ord. No. 02-98, § 5, 12-3-02; Ord. No. 03-80, § 1, 10-21-03; Ord. No. 04-88, § 1, 12-21-04; Ord. No. 05-26, § 3, 4-19-05; Ord. No. 07-29, § 1, 7-10-07; Ord. No. 09-23, § I, 4-21-09; Ord. No. 11-04, § I, 2-22-11)

Sec. 150-41. - Payment of fee and credits.

(a)

The person applying for the issuance of a certificate of occupancy, land use permit or occupational license shall pay the transportation impact fee to the county administrator, the city manager, their functional equivalent or their respective designees prior to the issuance of such permit. Fees for mobile homes shall be payable prior to the issuance of the permits which allow the mobile home to move on to a lot. The county administrator, city manager, their functional equivalent or their respective designees will have full collection authority as well as full discretion for approval of alternative methods for calculation of impact fees on a case-by-case basis. Fees shall be collected as part of the normal permitting process of each local jurisdiction.

(b)

All funds collected under this article shall be properly identified by the transportation impact fee district, as identified in Exhibit A, and promptly transferred for deposit into the appropriate transportation impact fee trust account to be held in separate accounts as determined in section 150-42 and used solely for the purposes specified in this article.

(c)

In lieu of all or part of the transportation impact fee imposed under this article, the county administrator, city manager or functional equivalent may accept the offer by a feepayer to implement all or part of a transportation improvement project consistent with the local government comprehensive plan or plans, or the metropolitan planning organization's long range transportation plan. The project(s) may be for any mode of transportation, including rail, transit, pedestrian or bicycle travel, providing that it serves to add to the capacity of the surrounding transportation circulation system or to increase mobility and reduce the dependence on automobile travel. This offer shall not include site-related improvements. These transportation improvements must be in accordance with city, county and state requirements, whichever are applicable. The feepayer shall submit an offer to make improvements in lieu of a fee payment. The offer shall include a letter detailing the improvements to be made, improvement plans and a construction cost estimate in sufficient detail to allow the county administrator, city manager or functional equivalent to determine consistency with local requirements. If the county administrator, city manager, functional equivalent or their respective designees accept such an offer, the cost of the improvement project, except for the improvements identified in subsections 150-41(h), (i) and (j), shall be credited against the transportation impact fee assessed on the proposed development. Upon satisfactory completion and construction approval of the transportation improvement made in lieu of all or a portion of the impact fee due, the improvement shall be accepted by the appropriate jurisdiction for future maintenance. If the certificate of occupancy is requested prior to the completion of the approved project, then a performance bond shall be provided to the county administrator, city manager or functional equivalent to cover the balance of all work required following issuance of the certificate of occupancy.

(d)

Construction of on-site trail, pedestrian or bicycle facility if part of trail, bicycle or pedestrian network identified in MPO Long Range Transportation Plan or local comprehensive plan is eligible for credit against impact fee assessment. No credit shall be given for other site-related improvements or land dedicated for related right-of-way.

(e)

All transportation improvements required under a county or city approved development order issued for a new development of regional impact approved prior to the effective date of this ordinance, except for those improvements deemed as site-related or on-site, shall be credited against transportation impact fees up to the total amount of the impact fee.

(f)

Mixed-use developments consisting of complementary land uses that are designed with connectivity to allow for a reduction in trip lengths and/or percent new trips are eligible for an impact fee rate adjustment based on trip generation data for similar uses.

(g)

Commuter assistance programs with long-term contract facilitating ride sharing activity are eligible for an impact fee rate reduction based on the reduction in the number of single-occupant vehicle trips that would otherwise be associated with the project.

(h)

Bus stop shelters, including pads, are eligible for a credit against the impact fee assessment in an amount equal to the cost of the improvement or one percent of the fee, whichever is greater.

(i)

Construction of shared driveway(s) between adjacent properties is eligible for a credit against the impact fee assessment in an amount that is 50 percent of the construction cost for the portion of the driveway that is located off-site.

(j)

Construction of shared inter-connecting parking lots is eligible for a credit against the impact fee assessment in an amount that is 50 percent of the construction cost for the portion of the parking area located off-site.

(k)

Sidewalks constructed for credit against impact fee assessment must provide connection between the site and surrounding sidewalk network and/or major destination point such as a park, shopping center, school, community center, etc.

(l)

Pedestrian and bicycle facilities connecting neighboring properties may be eligible for credit against impact fees for the portion of the construction that is off-site.

(m)

Construction of service roads for vehicular traffic connecting adjacent developments are eligible for credit against impact fee assessment.

(n)

Off-site crosswalk enhancements, including curb bulb-out at intersection, pavement marking, raised crossing are eligible for credit against impact fee assessment.

(Ord. No. 86-43, § 7, 6-10-86; Ord. No. 01-57, § 2, 8-7-01; Ord. No. 02-98, § 6, 12-3-02; Ord. No. 05-26, § 4, 4-19-05)

Sec. 150-42. - Trust accounts established.

(a)

Each municipality which collects and administers transportation impact fee funds shall establish a trust account which shall be used exclusively for funds collected under the terms of this article. Monies collected by or forwarded to the county shall be maintained in 12 separate impact fee trust accounts consistent with the

districts shown in Exhibit A.

(b)

Funds deposited to the trust accounts established under this section must be used in accordance with the provisions of section 150-43.

(Ord. No. 86-43, § 8, 6-10-86; Ord. No. 02-98, § 7, 12-3-02)

Sec. 150-43. - Disposition of funds.

(a)

Funds collected from transportation impact fees shall be used exclusively for the purpose of projects that improve the capacity of the surrounding traffic circulation system. These projects may involve improvements to transportation modes such as transit, pedestrian and bicycle travel as well as roadway expansion. Such improvements shall be of the type as are made necessary by the new development. Specific projects to receive funds from impact fees collected shall be determined by the elected officials of the jurisdiction from where the funds were collected in accordance with subsection 150-43(e). Priorities for impact fee funded transportation improvements shall be established by the administering jurisdictions' elected officials in compliance with the adopted plans and transportation improvement program of the metropolitan planning organization or local jurisdictions.

(b)

No funds collected under this article shall be used for periodic maintenance, as defined in F.S. ch. 334, as amended.

(c)

Except as provided in subsection (e) of this section, funds shall be used exclusively for transportation improvements or expansions within the transportation impact fee district from which funds were collected. Funds may also be used for projects located outside the district where they were collected provided the county has notified and received concurrence from all jurisdictions located within the transportation impact fee district where the funds were collected. Funds shall be deemed expended in the order in which they are collected.

(d)

Fees, both county and municipal share, collected within a community redevelopment or tax increment financing district shall be expended within such district. Parking garages for general public purposes shall be considered eligible transportation improvements within such districts. With the concurrence of the county administrator, appropriate city manager or functional equivalent, the funds collected within a community redevelopment or tax increment financing district may be spent within the primary district.

(e)

Transportation impact fees collected at the local level shall be held by the collecting jurisdiction until the end of the fiscal year in which collected. At the beginning of each new fiscal year (October 1), one-half of all fees collected, and the accrued interest thereon, less the four percent retained from the total fee collected for

administrative costs, shall be forwarded to the board of county commissioners for placement in the appropriate trust account. The remaining one-half shall be deposited in the municipality's transportation impact fee trust account. All fees must be disbursed, encumbered or refunded by each jurisdiction receiving the fees in a manner consistent with this article.

(f)

Transportation impact fees collected within each district may be made available for construction of improvements on the state road network in the district.

(g)

Transportation impact fee funds shall be administered as an independent component of the capital improvement element of the comprehensive plan, as required by F.S. ch. 163. Each fiscal year, the county administrator, respective city managers or functional equivalents shall present to their governing boards the district improvement programs for transportation expenditures. These programs shall assign transportation improvements costs and related expenses to the trust account for specific transportation improvement projects. Monies, including any accrued interest not assigned in any fiscal year, shall be retained in the same transportation impact fee trust accounts until the next fiscal year, except as provided by the refund provisions of this article. The collecting jurisdiction (either a municipality or the county) shall retain four percent of the fees collected for administrative costs.

(Ord. No. 86-43, § 9, 6-10-86; Ord. No. 88-50, § 6, 11-8-88; Ord. No. 90-88, § II, 12-4-90; Ord. No. 02-98, § 8, 12-3-02; Ord. No. 05-26, § 5, 4-19-05)

Sec. 150-44. - Refund of fee paid.

Any funds not expended or encumbered by the end of the calendar quarter immediately following ten years from the date the transportation impact fee was paid shall, upon application of the feepayer within 180 days of that date, be returned to the feepayer with interest at a yearly rate to be determined by the Consumer Price Index effective January 1, which is to be applied to the preceding year for each year the deposit is held.

(Ord. No. 86-43, § 10, 6-10-86; Ord. No. 98-78, § 3, 9-15-98)

Sec. 150-45. - Exemptions.

(a)

The following shall be exempted from payment of the transportation impact fee:

(1)

Alteration or expansion of an existing building where no additional units or floor area are created, use is not changed, and where no additional vehicular trips will be produced over and above that produced by the existing use.

(2)

The construction of accessory buildings or structures which will not produce additional vehicular trips over and above that produced by the principal building or use of the land.

(3)

The replacement of a building or structure with a new building or structure of the same use provided that no additional trips will be produced over and above those produced by the original building or structure.

(4)

The construction of publicly-owned facilities used primarily for traditional government uses.

(Ord. No. 86-43, § 11, 6-10-86; Ord. No. 98-78, § 4, 9-15-98; Ord. No. 99-5, § 1, 1-19-99; Ord. No. 99-41, § 1, 4-20-99; Ord. No. 99-93, § 1, 10-26-99; Ord. No. 02-98, § 9, 12-3-02; Ord. No. 03-80, § 2, 10-21-03; Ord. No. 04-28, § 1, 4-13-04; Ord. No. 04-74, § 1, 10-26-04; Ord. No. 05-26, § 6, 4-19-05)

Sec. 150-46. - Review committee.

It is the intention of the board of county commissioners to ensure consistency in administration of the transportation impact fee ordinance. Therefore, a review committee composed of locally designated administrative officials is created to review matters which may be subject to differing interpretations arising from the administration of the article, and which are not clearly addressed by the provisions of this article. The Metropolitan Planning Organization Technical Coordinating Committee (TCC) shall serve as the review committee. The TCC shall make advisory recommendations to the administering jurisdiction on issues brought before the committee. The county metropolitan planning organization shall maintain the records of the committee and a listing of its membership. The metropolitan planning organization shall also provide staff services to the committee.

(Ord. No. 86-43, § 12, 6-10-86; Ord. No. 90-88, § III, 12-4-90; Ord. No. 02-98, § 10, 12-3-02)

Cross reference— Boards, commissions, councils and authorities, § 2-226 et seq.

Sec. 150-47. - Review of fee structure.

The transportation impact fee schedule shall be reviewed every two years by the board of county commissioners and the metropolitan planning organization. The review shall consider trip generation rates and the actual construction costs for work contracted by the county and the state department of transportation within the county. The purpose of this review is to analyze the effects of inflation on the actual costs of transportation improvement projects and to ensure the fee charged new land development activity generating traffic will not exceed its fair share.

(Ord. No. 86-43, § 13, 6-10-86; Ord. No. 90-88, § IV, 12-4-90; Ord. No. 02-98, § 11, 12-3-02)

Sec. 150-48. - Territory embraced.

This article shall apply to the unincorporated area of the county and to the incorporated areas of the county to the extent permitted by article VIII, section 1(g) of the State Constitution and the County Charter.

(Ord. No. 86-43, § 16, 6-10-86; Ord. No. 90-88, § IV, 12-4-90)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

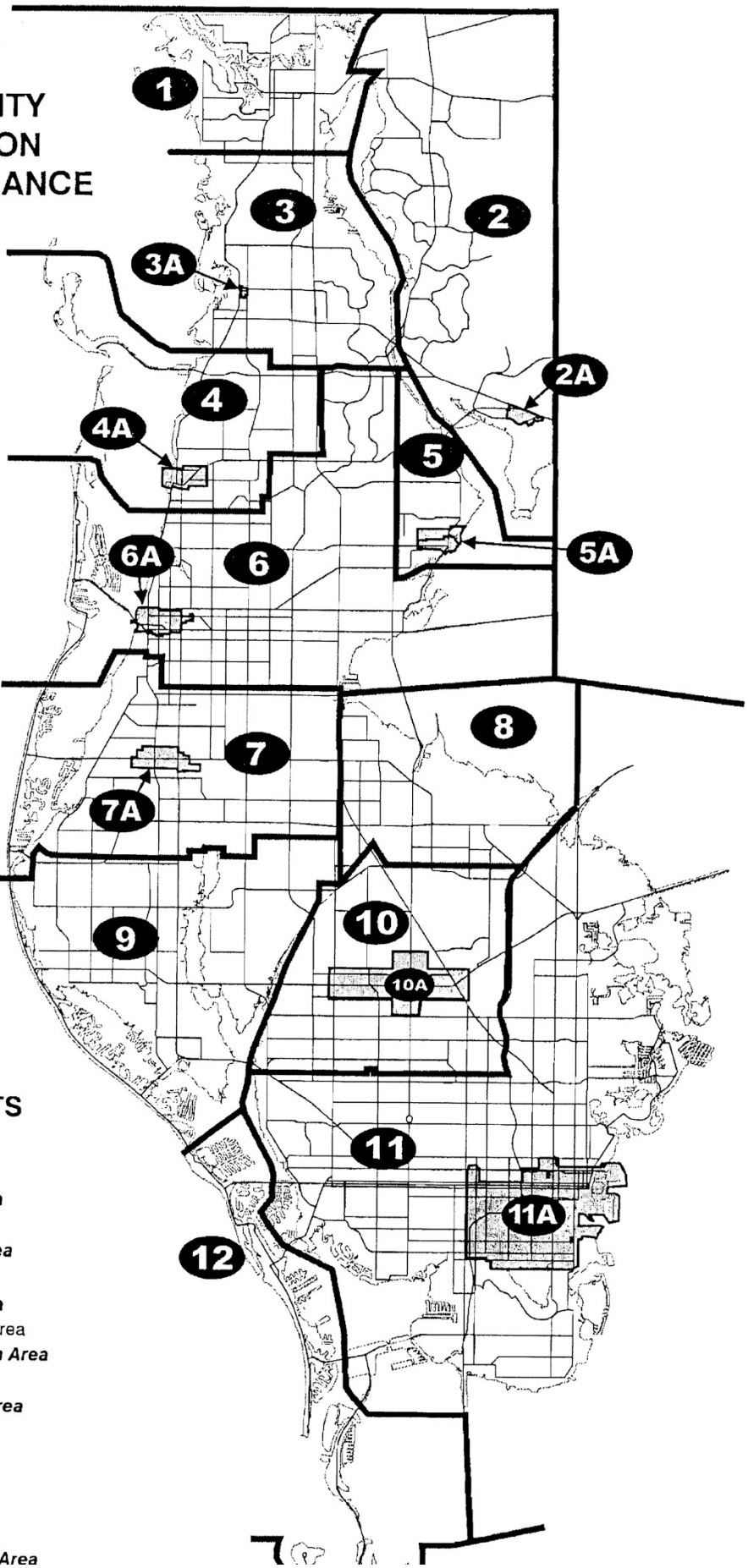
Sec. 150-49. - Repeal of article.

After final adoption of this article by the board of county commissioners, this article shall be transmitted to all municipalities within the county. In the event any one municipality or group of municipalities representing ten percent or more of the total countywide population, based upon the latest population figures published by the county planning department, shall elect to exempt itself or themselves from this article, this article shall be deemed automatically repealed.

(Ord. No. 86-43, § 17, 6-10-86; Ord. No. 90-88, § IV, 12-4-90; Ord. No. 02-98, § 12, 12-3-02)

Exhibit A

PINELLAS COUNTY TRANSPORTATION IMPACT FEE ORDINANCE



IMPACT FEE DISTRICTS

1. Greater Tarpon Springs
2. East Lake Tarpon Area
2A. City of Oldsmar Downtown Area
3. Palm Harbor Area
3A. Old Palm Harbor Downtown Area
4. Greater Dunedin
4A. City of Dunedin Downtown Area
5. Greater Safety Harbor/Oldsmar Area
5A. City of Safety Harbor Downtown Area
6. Greater Clearwater Area
6A. City of Clearwater Downtown Area
7. Greater Largo Area
7A. City of Largo Downtown Area
8. Highpoint Area
9. Greater Seminole Area
10. Greater Pinellas Park Area
10A. City of Pinellas Park Downtown Area

Exhibit A Impact Fee Districts

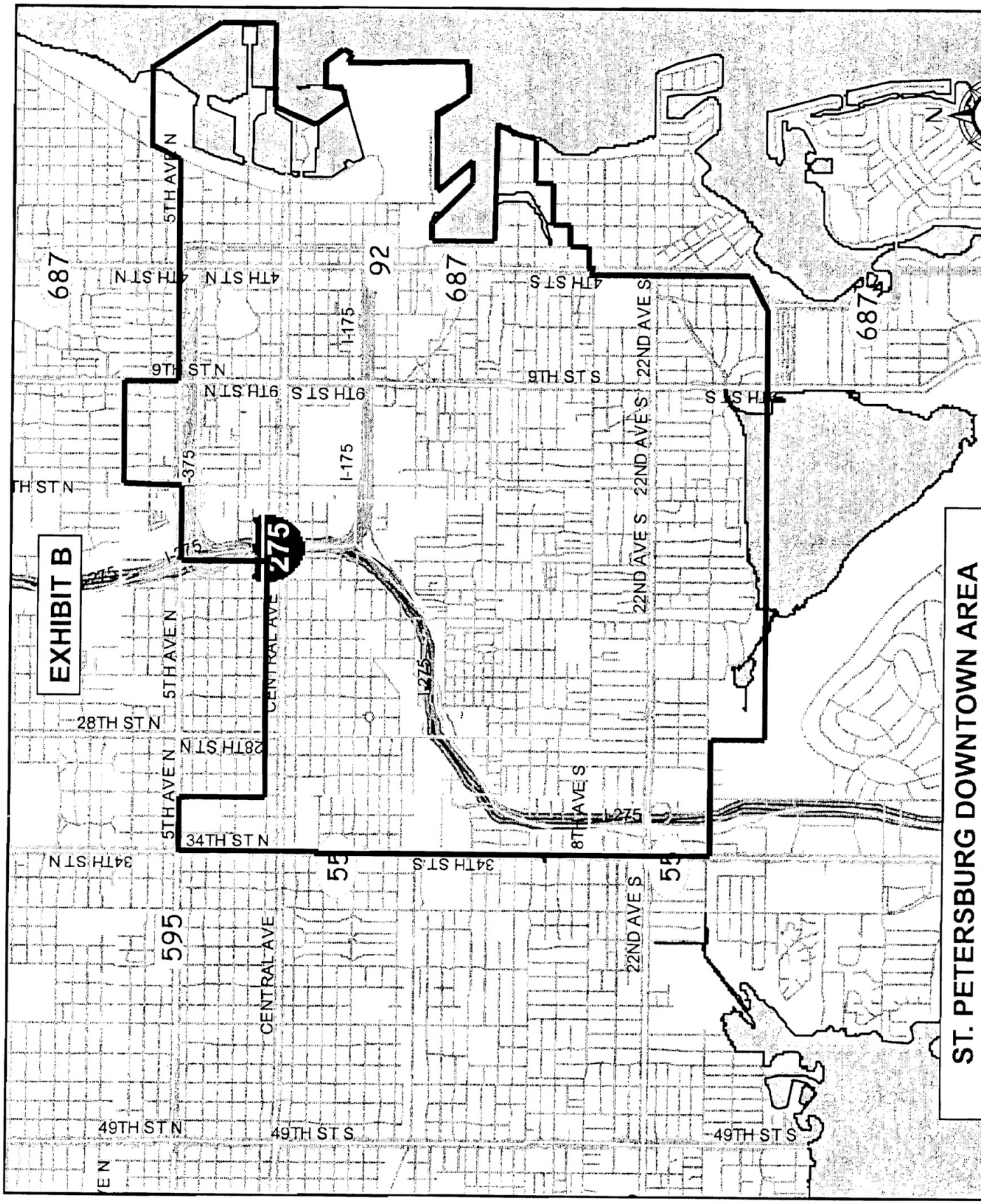


Exhibit B No-Fee Transportation Zone 11A

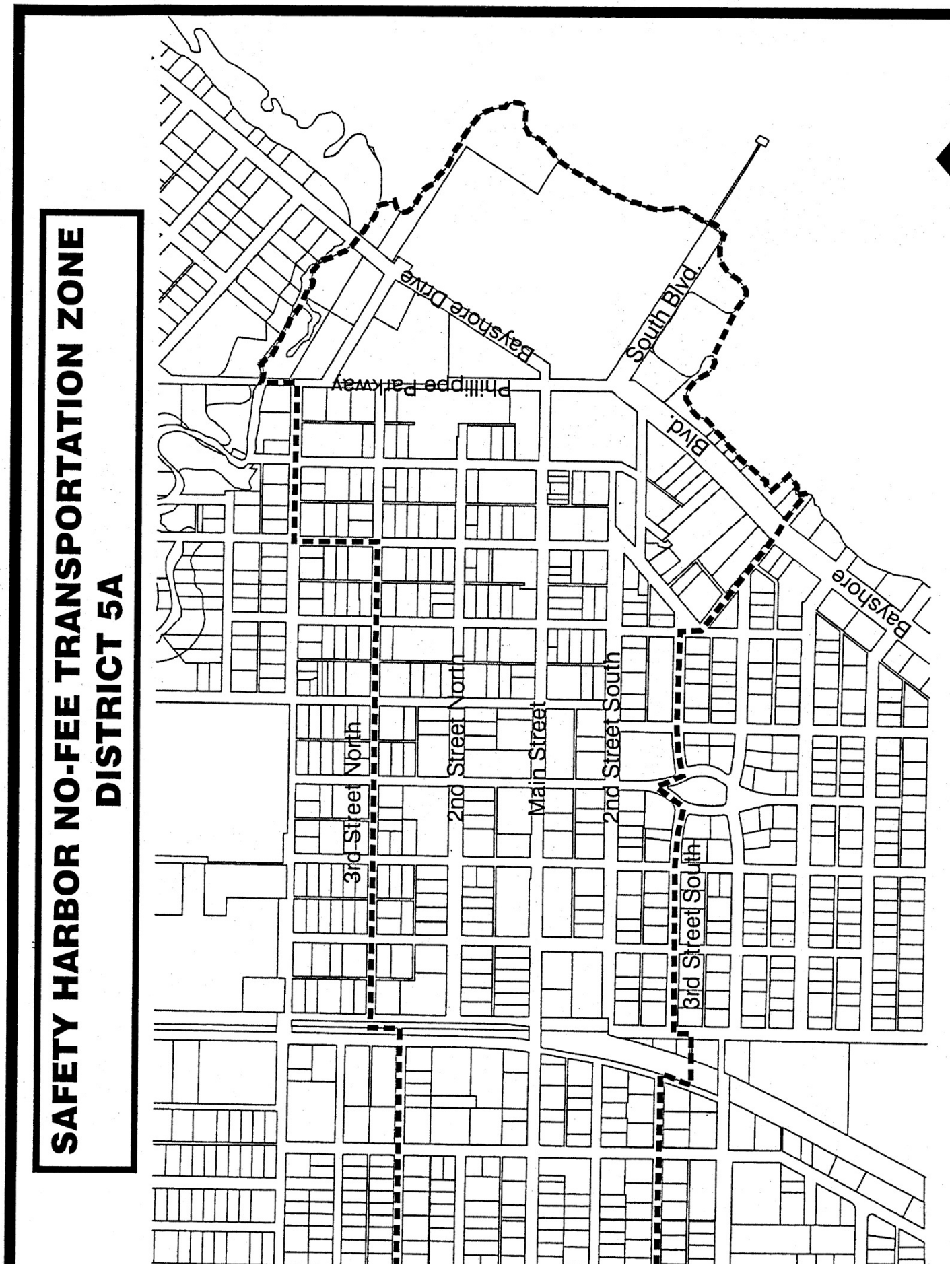

SAFETY HARBOR NO-FEE TRANSPORTATION ZONE
DISTRICT 5A
Bayshore Drive
Philippe Parkway
South Blvd.
Bayshore
Blvd.
3rd Street North
2nd Street North
Main Street
2nd Street South
3rd Street South

Exhibit C No-Fee Transportation Zone 5A

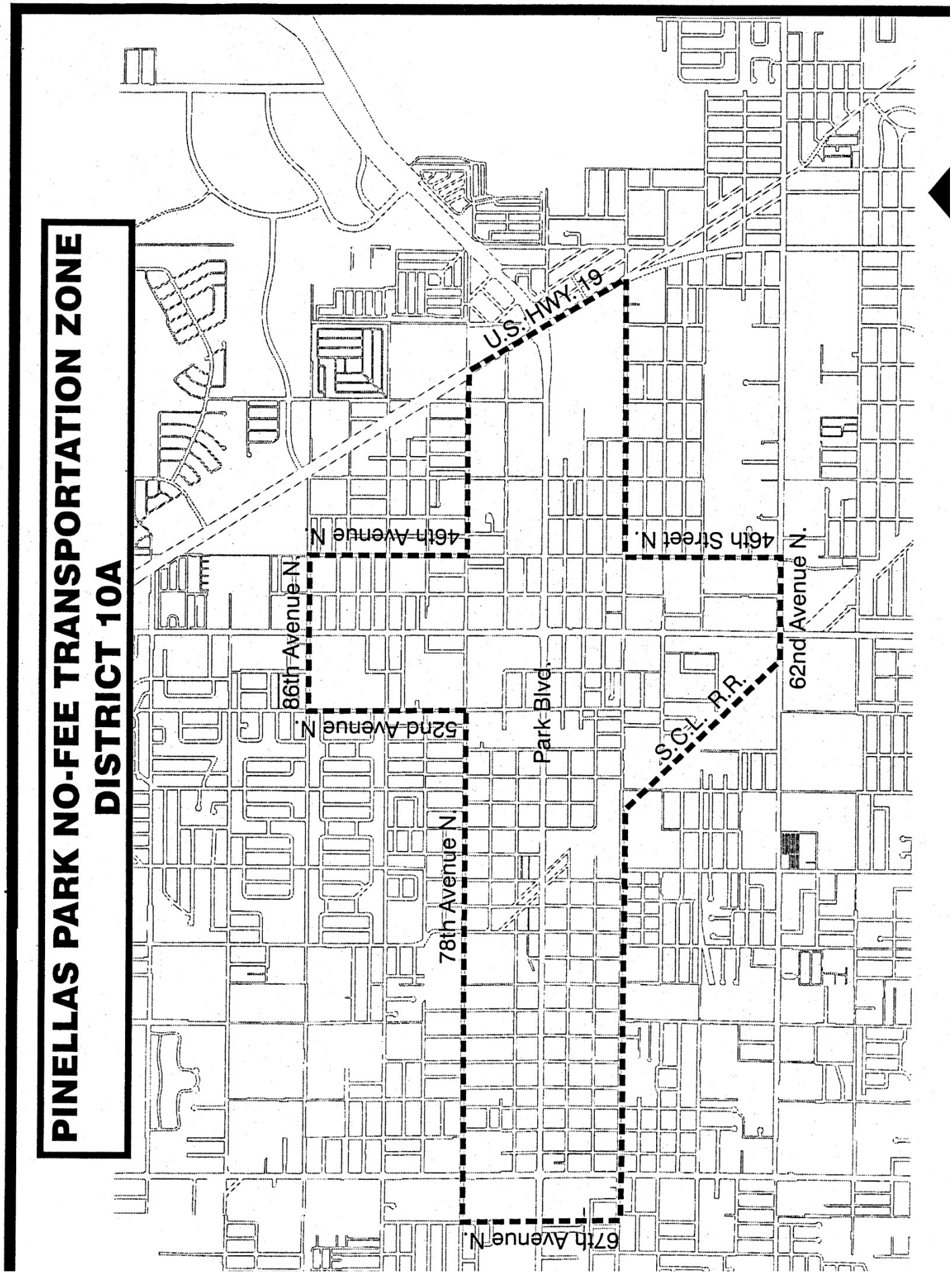

PINELLAS PARK NO-FEE TRANSPORTATION ZONE
DISTRICT 10A
U.S. HWY. 19
46th Avenue N.
46th Street N.
62nd Avenue N.
86th Avenue N.
52nd Avenue N.
Park Blvd.
S.C.L. R.R.
78th Avenue N.
67th Avenue N.

Exhibit D No-Fee Transportation Zone0 10A

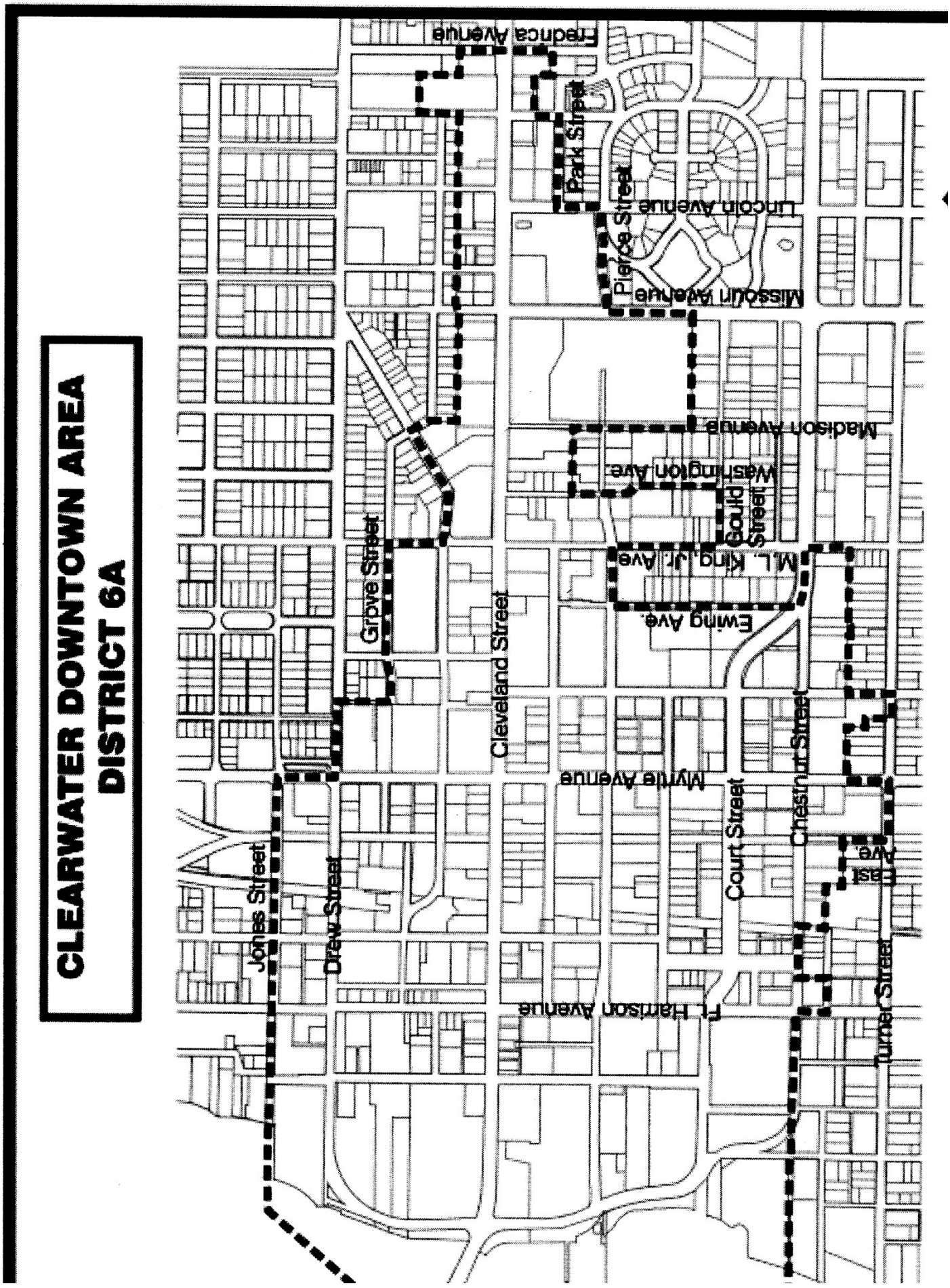

CLEARWATER DOWNTOWN AREA
DISTRICT 6A
Fredrica Avenue
Park Street
Pierce Street
Lincoln Avenue
Missouri Avenue
Madison Avenue
Washington Ave.
Gould Street
M.L. King, Jr. Ave.
Ewing Ave.
Grove Street
Cleveland Street
Myrtle Avenue
Court Street
Chestnut Street
East Ave.
Turner Street
Ft. Harrison Avenue
Drew Street
Jones Street

Exhibit E Clearwater Downtown Area District 6A

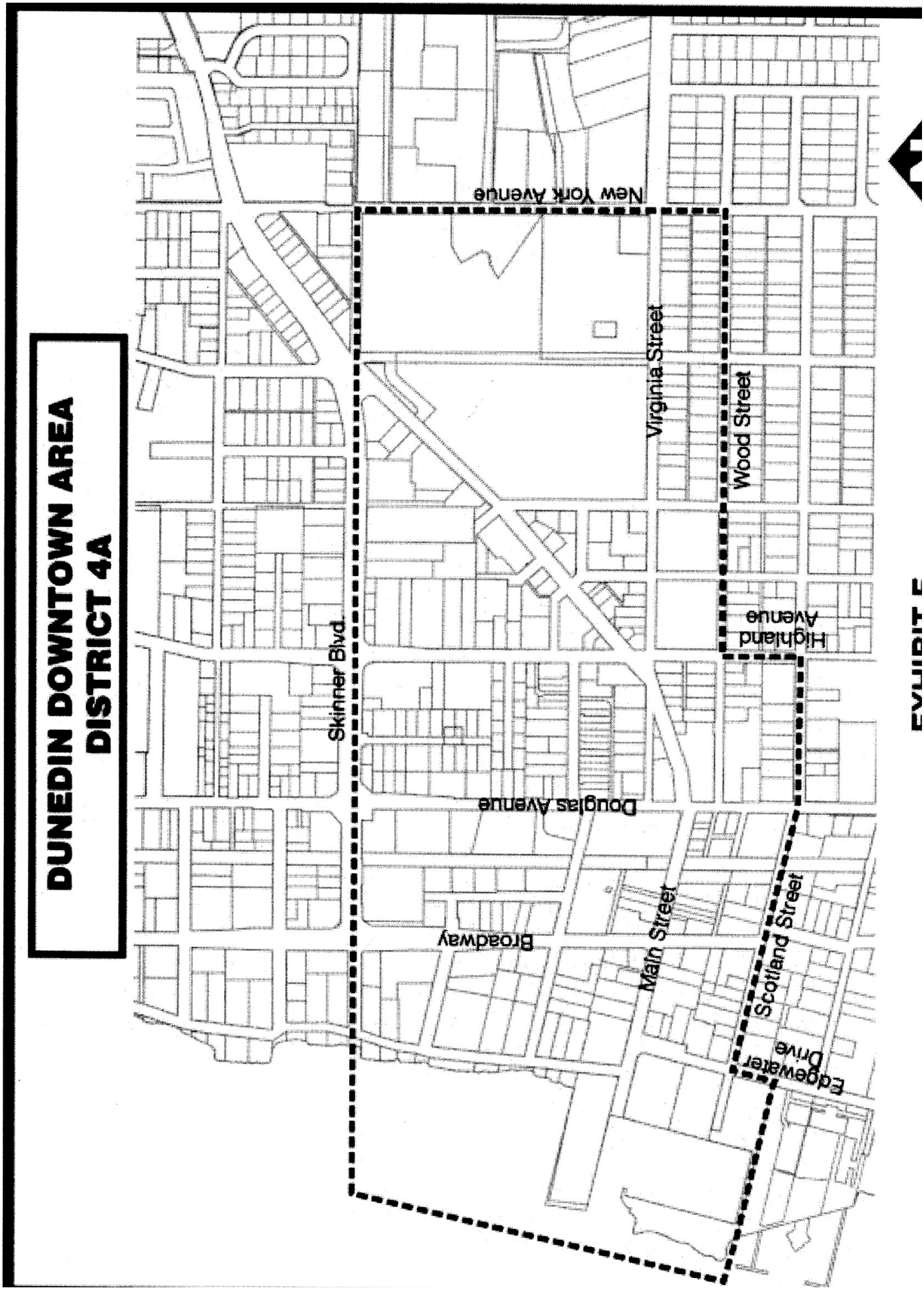

DUNEDIN DOWNTOWN AREA
DISTRICT 4A
New York Avenue
Virginia Street
Wood Street
Highland Avenue
Skinner Blvd.
Douglas Avenue
Broadway
Main Street
Scotland Street
Edgewater Drive

Exhibit F Dunedin Downtown Area District 4A

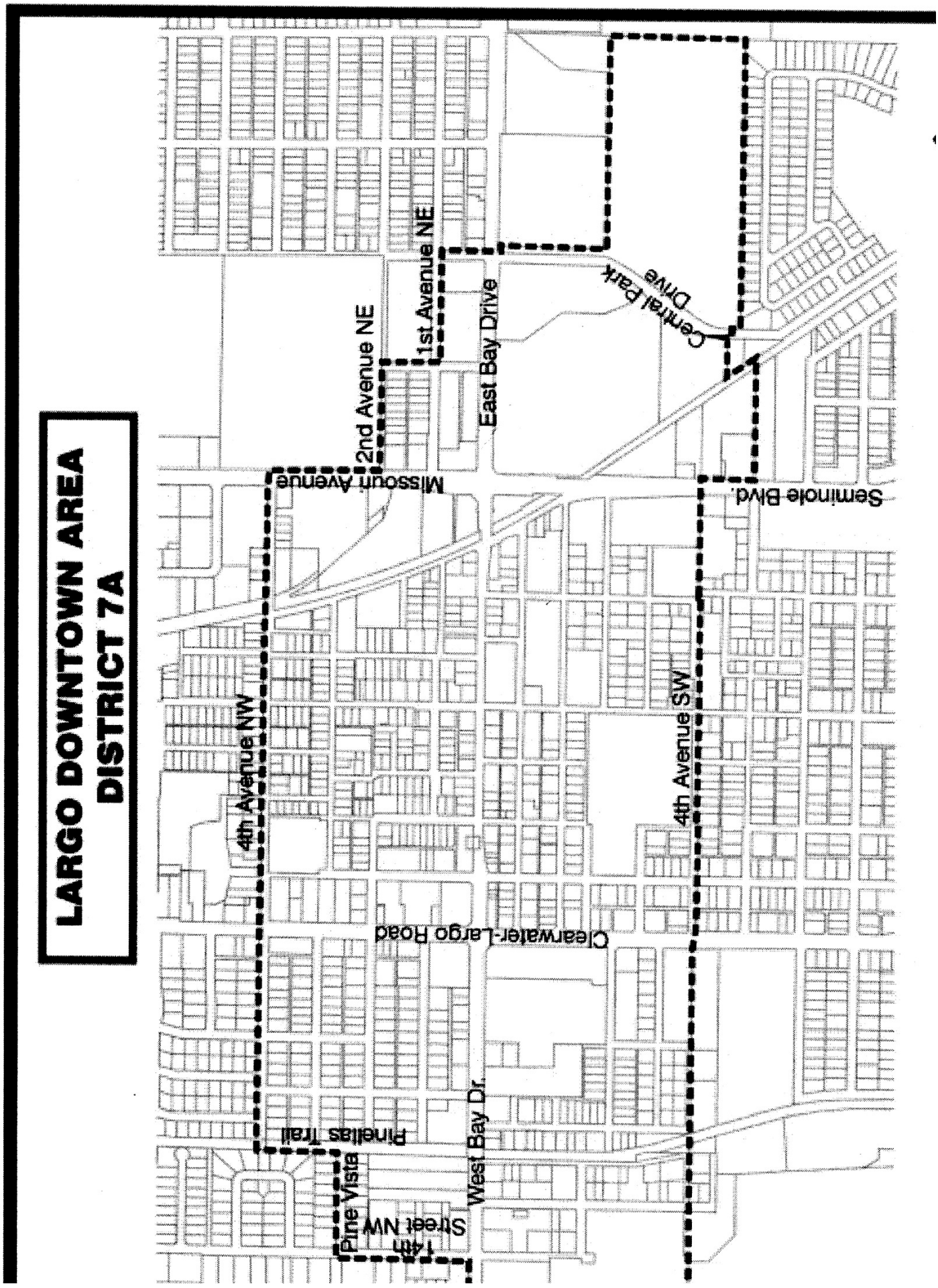

LARGO DOWNTOWN AREA
DISTRICT 7A
1st Avenue NE
2nd Avenue NE
East Bay Drive
Central Park Drive
Missouri Avenue
Seminole Blvd.
4th Avenue NW
4th Avenue SW
Clearwater-Largo Road
West Bay Dr.
Pinellas Trail
Pine Vista
14th Street NW

Exhibit G Largo Downtown Area District 7A

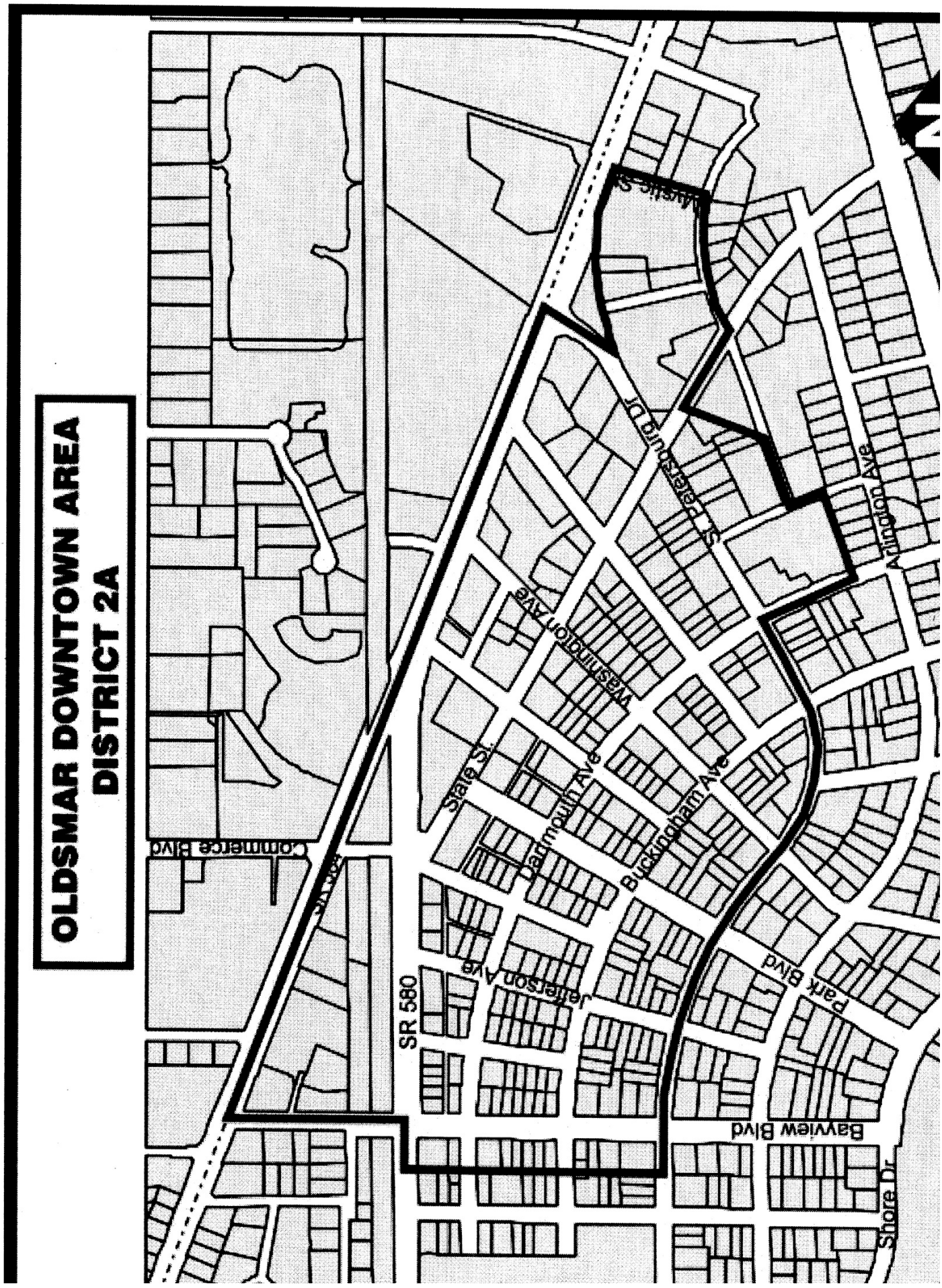

OLDSMAR DOWNTOWN AREA
DISTRICT 2A
Commerce Blvd
State St
Dartmouth Ave
Buckingham Ave
Jefferson Ave
Washington Ave
S Jefferson Dr
Atlington Ave
SR 580
Park Blvd
Bayview Blvd
Shore Dr

Exhibit H Oldsmar Downtown Area District 2A

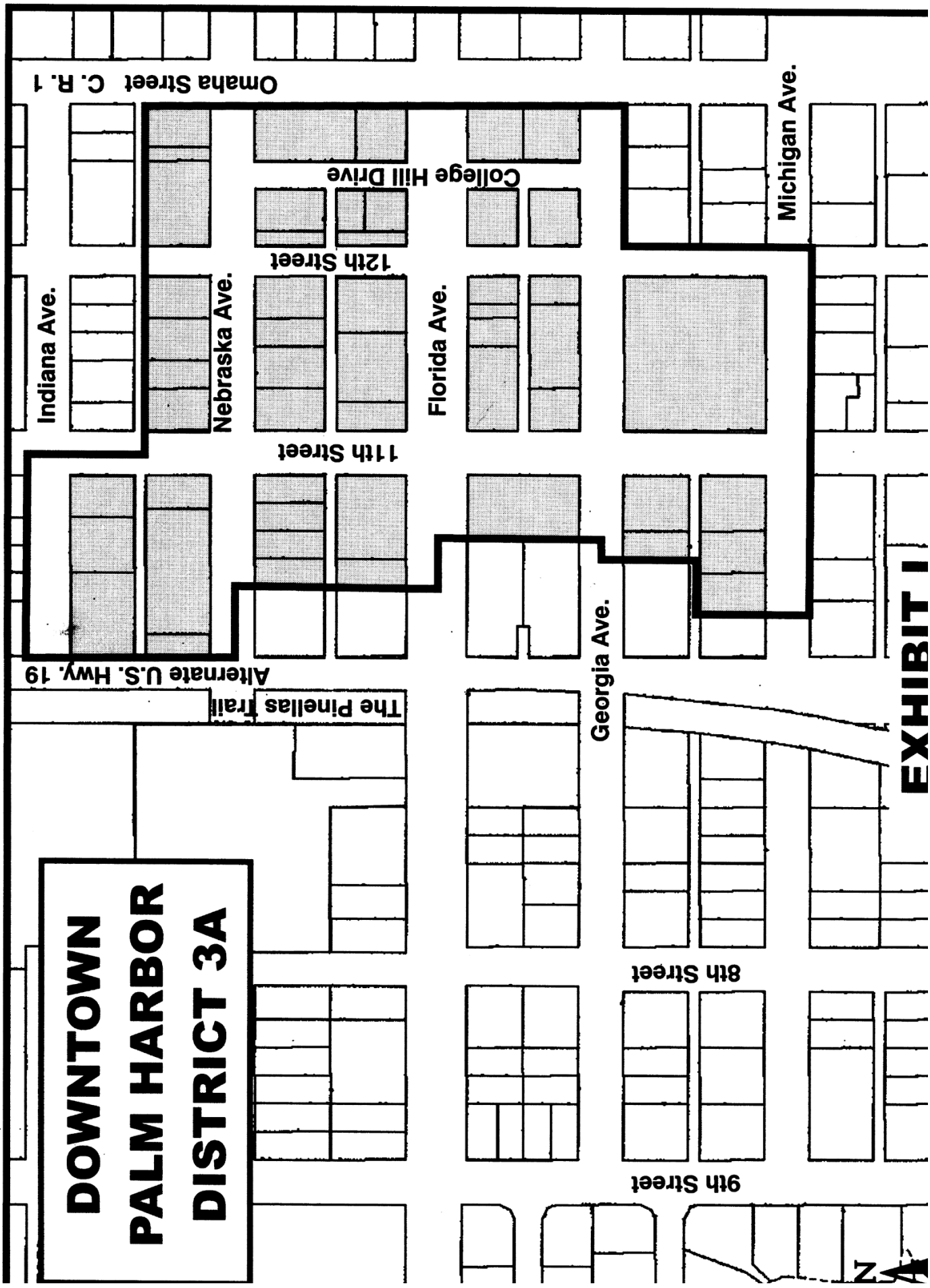

Omaha Street C. R. 1
College Hill Drive
Michigan Ave.
12th Street
Indiana Ave.
Nebraska Ave.
Florida Ave.
11th Street
Georgia Ave.
Alternate U.S. Hwy. 19
The Pinellas Trail
EXHIBIT I
DOWNTOWN
PALM HARBOR
DISTRICT 3A
8th Street
9th Street
N

Exhibit I Downtown Palm Harbor District 3A

Chapter 154 - SITE DEVELOPMENT AND PLATTING[1]

Footnotes:
--- (**1**) ---

Cross reference— Buildings and building regulations, ch. 22; zoning, ch. 138; notification of school board as prerequisite to approval of plat site development plans and request for zoning changes pertaining to residential zoning of five or more acres, § 170-2.

State Law reference— Subdivision regulations required, F.S. § 163.3202(2)(a); plats, F.S. ch. 177.

ARTICLE I. - IN GENERAL

Sec. 154-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Arterial streets means main traffic thoroughfares, as indicated on the Pinellas County Sector Plan Right-of-Way Requirements and Traffic Corridors Plan, and defined as roads consisting of connecting links between municipalities and/or state roads.

Block length means the length between centerlines of intersecting streets.

Collector street means a route providing service which is of relatively moderate average traffic volume, moderately average trip length, and moderately average operating speed, and allows the distribution of traffic between arterial roads and local roads. Average daily traffic usually ranges from 1,000 to 4,000 vehicle trips per day.

Compensatory excavation means that excavation within or directly contiguous to a floodplain for the purpose of restoring flood storage capacity lost by fill within the floodplain. Compensatory excavation shall become part of the floodplain and shall not be separated from it by either an open channel or closed conduit, such as culvert pipe. Compensatory excavation must be above the seasonal high surface water elevation and seasonal high groundwater elevation.

County administrator means the chief executive officer of the county, responsible to the board of county commissioners for the execution of this chapter and the delegation of responsibilities for the individual tasks contained in this chapter.

County engineer or director means the county administrator if certified and licensed as a professional engineer in the State of Florida, or his or her authorized designee(s), certified and licensed as a professional engineer in the State of Florida.

Detention means the temporary storage of stormwater runoff to limit the rate of discharge into receiving water bodies.

Developer means the owner, his agent or employee engaged in the process of development.

Development means any manmade material change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Easement means a right to use the land of another for specific purposes.

Elevation means the vertical distance of a point above the established 1929 National Geodetic Vertical Datum (NGVD) or the established North American Vertical Datum of 1988 (NAVD 88), expressed in feet above mean sea level (MSL).

File of record means a permanent file which contains all pertinent data, correspondence, calculations, drawings, plats, etc., used to review site plans and/or plats of submitted developments.

Final stabilization means that all soil disturbing activities at the site have been completed, and that a uniform (evenly distributed, without large bare areas) perennial vegetative cover, with a density of at least 70 percent for all unpaved areas and areas not covered by permanent structure, has been established, or equivalent permanent stabilization measures have been employed.

Floodplain means the lateral extent of inundation by an event of given statistical frequency, such as "25-year floodplain," as designated in the county stormwater management plan (SWMP).

Floodway means the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the 25-year flood or 100-year flood (base flood), as stipulated, without cumulatively increasing the water surface elevation more than one-tenth of a foot.

Impervious means surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water, including surfaces such as compacted sand, limerock, shell or clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots and other similar structures.

Lowest floor means the floor of any portion of a building structure as defined in chapter 158, with the exception that basements shall not be included as part of the definition for the purpose of this chapter.

Major drainage system means a system of natural or manmade drainageways such as streams, ditches or canals that collect stormwater runoff from water sheds identified by name or number in the county stormwater management plan (SWMP).

Natural area means a preservation area which is to remain in its natural state.

Natural drainageways means those watercourses that are either natural or have not been substantially excavated, graded or otherwise altered or improved by man.

NOT or notice of termination" means elimination of the stormwater discharges associated with construction activities authorized by the NOI.

NPDES or national pollutant discharge elimination system means the permitting process by which technology based and water quality based controls are implemented.

Plat means a map or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision, and other information in compliance with the requirement of all applicable sections of this chapter, state statutes and of any local ordinances, and may include the terms "replat" and

"amended plat."

Receiving water bodies means those water bodies and drainageways, either natural or manmade, that lie downstream of the site in question and which are susceptible to degradation of water quality due to activity at the upstream site.

Redevelopment means any manmade material change to improved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Registered engineer or land surveyor shall be as defined by F.S. chs. 471 and 472.

Retention means the prevention of direct discharge of stormwater runoff into receiving waters; included as examples are systems which discharge through percolation, exfiltration, and evaporation processes and which generally have residence times less than three days.

Right-of-way means a strip of land used or intended to be used for vehicular or pedestrian travel, whether public or private.

Seasonal high water level means the elevation to which the groundwater or surface water can be expected to rise due to a normal wet season.

Site means any tract, lot or parcel or combination of lots or parcels of land where development or redevelopment can occur and which is subject to site plan requirements as defined in chapter 138, article II, division 5.

Subdivision means the division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building development; or, if a new street is involved, any division of a parcel of land. However, division of land for agricultural purposes into lots or parcels of five acres or more, and not involving a new street, shall not be deemed a subdivision. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided. The word "subdivision" includes the words "resubdivision," "plot," "plat" and "replat."

Subdivision street means a street within a subdivision defined as a local street in the county sector plan right-of-way requirements and traffic corridor plan as a very low level, direct access street which provides access to individual properties and connections to the collector street system.

Substantial site improvement means any manmade change to a site which discharges the surface water runoff from the site at a faster rate.

Variance means a grant of relief to a person or entity from the requirements of this chapter, which permits construction in a manner otherwise limited or prohibited by this chapter where specific enforcement would result in inequitable hardship.

Waiver means a grant of relief, in the form of no longer requiring the person or entity to meet the requirements of this chapter, which permits construction in a manner otherwise limited or prohibited by this chapter where specific enforcement would result in inequitable hardship.

Water body means any lake, reservoir, pond or other containment of surface water occupying a bed or depression in the earth's surface and having a discernible shoreline.

(Ord. No. 92-62, § I, 10-27-92; Ord. No. 03-24, § 15, 4-15-03; Ord. No. 15-32, §§ 14, 15, 8-18-15)

Cross reference— Definitions generally, § 134-2.

Sec. 154-2. - Penalties for violation; inspections and enforcement.

(a)

Any person committing any act declared unlawful by the provisions of this chapter or F.S. ch. 177 shall be punished as provided in section 134-8.

(b)

No certificate of occupancy will be issued for any structures within the parameter of the approved site plan and/or construction plan (including all single-family homes) unless all conditions of the plan have been addressed and satisfied. This statement also applies to all county issued right-of-way utilization permits associated with the aforementioned plans.

(c)

Inspections.

(1)

The county may conduct inspections to determine compliance with the provisions of this chapter.

(2)

The county may have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of this chapter, including, but not limited to, the following:

a.

Where it is determined that a violation of this chapter exists, the codes inspector shall attempt to contact the violator and direct compliance with this chapter. With or without such notice, the codes inspector may refer the matter to the county attorney for proper legal action;

b.

Injunctive relief to enjoin and restrain any person from violating the provisions of this chapter;

c.

An action to recover any and all damages that may result from a violation of this chapter, including an action to recover fines imposed by state law;

d.

Revocation, suspension, or modification of any approvals issued under this chapter; and

e.

Withholding the issuance of certificate of occupancy for structures belonging to the same person or other legal entity, either individually or through its agents, employees, or independent contractors.

The county may elect any or all of these remedies concurrently, and the pursuance of one shall not preclude the pursuance of another.

(3)

Codes inspectors are to be designated by the board of county commissioners. These inspectors' authority is to enforce the provisions of this chapter and to initiate enforcement proceedings. Codes inspectors shall have the authority to issue citations in accordance with F.S. § 125.69. The county administrator also has the authority to initiate the above actions.

(4)

State inspections. As part of the NPDES program, FDEP officials may conduct inspections to determine compliance with any applicable NPDES permits, including but not limited to the county's NPDES permit.

(Ord. No. 92-62, § XIX, 10-27-92; Ord. No. 03-24, § 16, 4-15-03)

Sec. 154-3. - Areas embraced.

The areas embraced by this chapter shall be all lands within the unincorporated area of the county and properties of countywide importance as defined in article VII of chapter 170 of the Pinellas County Land Development Code.

(Ord. No. 92-62, § XVII, 10-27-92; Ord. No. 15-32, § 16, 8-18-15)

Sec. 154-4. - Waivers and variances.

Written request for variance must be made by the applicant to the county administrator and must include detailed plans and written justification for the variance. If the county administrator or his designee determines that strict compliance with this chapter would impose an unnecessary hardship on the applicant due to unusual circumstances peculiar to the property of the applicant, he may vary or waive requirements of this chapter provided that such variance or waiver will be consistent with the intent and purpose of this chapter. In granting such variances or waivers, the county may impose such reasonable conditions as will ensure that the objectives of this chapter are met.

(Ord. No. 92-62, § XIV, 10-27-92)

Sec. 154-5. - Consistency with other ordinances.

It is the intent of this chapter to provide for harmonious development within the county. In addition to this chapter, development is subject to other county ordinances and regulations, including but not limited to the following: building, zoning, water, sewer, habitat, access, floodplain, flood damage prevention, surface water, wellhead protection, water and navigation, health, air quality, as well as state and federal statutes and regulations. This chapter is intended to supersede and prevail over previous ordinances regulating the same subject matter.

(Ord. No. 92-62, § XV, 10-27-92)

Sec. 154-6. - Appeals.

Any person adversely affected by a decision of the county administrator in the permitting, enforcement or interpretation of any of the terms or provisions of this chapter may appeal such decision to the board of county commissioners. Such appeal shall be taken by filing written notice with the county administrator with a copy to the clerk of the board within 20 days after the decision of the county administrator. Each such appeal shall be accompanied by a payment in sufficient amount to cover the cost of publishing and mailing notices of hearing(s). Failure to file such appeal constitutes acceptance of the permit and any conditions thereof or the denial of the application.

(Ord. No. 92-62, § XVI, 10-27-92)

Sec. 154-7. - Site plan review.

Uses which require site plan review shall be in accord with the requirements of section 138-176.

(Ord. No. 92-62, § II, 10-27-92)

Sec. 154-8. - Platting required.

Platting is required for the following conditions:

(1)

Land which is intended to be subdivided into two or more lots is required to be platted prior to sale of any interest in the land.

(2)

Land which is being developed in such a manner that it is apparent from the documents submitted that subdivision of the land for sale will result.

(Ord. No. 92-62, § III, 10-27-92; Ord. No. 94-37, § 1, 4-19-94; Ord. No. 99-67, 7-20-99)

Sec. 154-9. - Preliminary site plans.

Preliminary site plan submittals shall be in accord with the requirements of section 138-178(a).

(Ord. No. 92-62, § IV, 10-27-92)

Sec. 154-10. - Final site plan requirements.

(a)

The final site plan shall be in accord with section 138-178(b) of this Code.

(b)

In addition to the general requirements outlined in subsection (a) of this section, the following specific information shall be furnished by the developer and prepared by a state registered engineer, signed, sealed and dated for final site plan review and approval:

(1)

An index of all plan sheets included in the subdivision plans with drawing number references.

(2)

Street and lot layout together with street profiles and cross sections, details and street names meeting all minimum standards of this chapter and such other ordinances as may be applicable. A complete street and lot plan shall be provided.

(3)

Lot numbers in consecutive order per phase for platting.

(4)

Side lot lines shall be substantially at right angles or radial to street lines.

(5)

Narrow reserved strips shall not be allowed except where dedicated as public land or of sufficient size and area to be of some practical use to the party or parties reserving such areas.

(6)

A topographic map of the development, with contours shown at not greater than one-foot intervals. The topographic map should be current and represent present conditions and include date, north point and scale. Bar scale must be provided on all sheets; not to scale (NTS) will not be permitted. The existing and proposed lot and street grading is to be shown. Lot grading is to be shown on all lot corners and breakpoints.

(c)

The contents of plans and specifications to be submitted with the final site plan shall be as follows:

(1)

All design and construction must conform to the minimum standards set down in all applicable county ordinances.

(2)

The number assigned to this site plan upon preliminary review must appear on all site plan submittals, utility permits, plats, or any other correspondence dealing with the site.

(3)

The Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highway (Green Book) (latest edition), and the Roadway and Traffic Design Standards (latest edition), and the Standard Specifications for Road and Bridge Construction (latest edition) are by reference incorporated into this chapter except where modified by this chapter. In case of conflict, the following standards set out in this section shall apply.

(4)

Asphaltic concrete surface courses shall be mixed, placed, and compacted in accordance with Pinellas County Specifications for Hot Bituminous Material, Plant Methods, Equipment and Construction Methods.

(5)

Specifications to cover construction of all the work proposed, providing for good workmanship and standard practices of construction to achieve the desired finished product as designed by the engineer and accepted by the director. These specifications shall meet or exceed specifications as referenced in this chapter.

(6)

Plans will be no less than a scale of one inch equals 30 feet. Larger projects will be permitted to be no less than one inch equals 50 feet. All public right-of-way drawings will be no less than one inch equals 30 feet. All lettering must be a minimum one-tenth inch with white background for microfilming purposes.

(7)

Plans, profiles, and cross section of all proposed roads. Where proposed roads intersect existing roads, elevations and other pertinent details shall be shown. Design shall meet the requirements of this chapter.

(8)

All public drainage systems will be in pipe, except for major canals or natural streams or where specifically approved by the county engineer.

(9)

Hydraulics of curb and gutter construction:

a.

The minimum grade for curb and gutter road construction shall be 0.4 percent.

b.

Length of curb run from any high point to a drainage inlet shall not exceed 400 feet.

(10)

Hydraulics of underground drainage and drainage structures:

a.

Underground drainage through storm sewers, where employed, shall conform to good accepted engineering practice. Coefficients of friction suitable for the type of pipe or structure shall be applied. Minimum pipe diameters shall be 15 inches for side drains and 18 inches for cross drains, for swale drainage; 15-inch minimum pipe diameter for closed hydraulic design. Inverted siphons shall not be accepted.

b.

Drainage structures such as bridges, box culverts, headwalls, dams, weirs, spillways, bulkheads and other structures shall be designed hydraulically and structurally in accordance with good accepted engineering practice. The effects on adjacent channels and structures shall be considered. Foundations or other supports or anchoring methods shall be adequate. Erosion shall be minimized by energy dissipators or other means of reducing flow velocity. Erosion control shall be state department of transportation approved concrete ditch pavement per Index No. 281 or approved equal.

(11)

Culvert pipe:

a.

Culvert pipe shall be reinforced concrete pipe, PVC or ADS N-12 or equal. Corrugated metal pipe shall not be used between structures. Culvert pipe within right-of-way shall be reinforced concrete pipe. Easements for pipe outside of right-of-way shall be large enough to permit access, maintenance and protection.

b.

Maximum length of culvert pipe between structures shall not exceed 400 feet.

(12)

All backfill over any pipe (storm sewer, water line, sanitary sewer) that is to be installed under roadways or within the embankment, etc., of the roadway is to be compacted per department of transportation specifications, section 125.8.3, 1986 edition (or latest edition). This particular section specifies compaction to 100 percent of maximum density as determined by AASHTO T-99. This must be indicated on the plans.

(13)

Curb end transitions to meet department of transportation Index No. 300.

(14)

Endwalls shall be made of 3000 psi concrete per department of transportation Index No. 250 and shall be used only outside the roadway recovery area.

(15)

Inlets:

a.

Curb type. All inlets shall be constructed of reinforced concrete. They shall have a minimum inside area of ten square feet, with straight walls and suitable access through manhole covers. Inlets used also as junction boxes will be required to have formed inverts to one-half the pipe diameter. See Florida Department of Transportation Roadway and Traffic Design Standards Index Nos. 200 and 210 (latest edition). Bottomless inlets will not be allowed. County RC-3 and RC-4 inlets may be used in lieu of department of transportation Index No. 210. Curb inlets shall not be placed within curb return radii.

b.

Ditch bottom type. Will be constructed per subsection (c)(15)a, above, with the exception that department of transportation Index No. 232 type D or greater shall be used. A department of transportation index type F "modified" may be used and details obtained from the county land development/permitting division.

(16)

Manholes and junction boxes:

a.

All manholes or junction boxes shall be constructed of reinforced concrete. They shall be a minimum of four feet inside diameter at the base with straight walls or corbelled a maximum of four inches in one foot, with a manhole rim cast in place for access. Inverts are to be formed to a minimum of one-half the pipe diameter. Department of transportation Index Nos. 200 and 201 shall be used with a maximum corbell height of four feet and a vertical chimney height of no more than 18 inches including ring and cover.

b.

The use of conflict boxes must be approved by the director. If approved, they must be constructed per subsections (c)(15)a or (c)(16)a of this section. The lowest portion of the conflict cannot be lower than the top one-third of the proposed storm sewer pipe.

(17)

Mitered end sections:

a.

All culverts under roadways or driveways shall have mitered end sections made of reinforced concrete meeting state department of transportation standards. Where shallow swales intersect deeper drainage ditches, erosion control shall be provided by use of culvert pipes, concrete swales, mitered end section with spillways, or other suitable means. Cover material over culverts in swales shall be stabilized, compacted and sodded to prevent erosion.

b.

Vertical curb and gutter shall conform to department of transportation Index No. 300 type F.

c.

Vertical curb without gutters shall be constructed using 3,000 p.s.i. concrete and be per department of transportation Index No. 300 type D and may be used on high side of road only.

d.

All curbs shall conform to the Americans with Disabilities Act where necessary, i.e., sidewalks at intersections.

(18)

The design of valley crossings in streets shall be submitted for approval. In no case shall concrete valley

gutters be less than 36 inches wide.

(19)

Curbs: Valley curb shall be 24 inches wide with a minimum thickness of six inches at the center, with a three-inch rise to the back of the curb and a one-inch rise to the pavement edge, 3,000 p.s.i. concrete used throughout.

(20)

Details of all construction items: All details must be to scale or completely dimensioned. Not to scale (NTS, without dimensions) is not acceptable.

(21)

Street signs on public streets: Street name signs shall be placed at each intersection. Street name signs shall be fabricated and installed by the county's staff on all proposed public rights-of-way, based upon a plat submitted for recording. County staff will prepare a cost estimate for the developer. Funds sufficient to cover this cost must be received by the county before the proposed plat will be submitted to the board of county commissioners for approval.

(22)

Street signs on private streets: All street name and regulatory signs are to be installed by the developer in accordance with the M.U.T.C.D. with a performance bond or other acceptable surety prior to platting.

(23)

Composition of street name signs: The following criteria apply to both public and private subdivisions:

a.

Street names shall be no longer than 14 characters (including spaces and abbreviated suffix) and shall conform to the following:

1.

Each street shall have one correct name. Avoid the use of directional or suffixes to distinguish separate, noncontinuous streets (e.g., Palm Ct., Palm Ave., Palm St., N. Palm Ct.).

2.

Avoid the assignment of a primary street name which is also used as a suffix or directional (e.g., Court St., or Southeast Blvd.).

3.

Avoid sound-alike street names (e.g., Beach and Beech, Main and Maine).

4.

Avoid special characters (e.g., hyphens, apostrophes, periods, decimals).

b.

Acceptable suffix abbreviations that will appear on the sign are as follows:

1.

Drive: Dr.

2.

Avenue: Ave.

3.

Court: Ct.

4.

Place: Pl.

5.

Street: St.

6.

Boulevard: Blvd.

7.

Parkway: Pkwy.

8.

Circle: Cir.

9.

Lane: Ln.

10.

Road: Rd.

11.

Terrace: Terr.

12.

Way: Way

13.

Causeway: Cswy.

c.

Street name signs shall be fabricated from 0.080 gauge aluminum alloy 6061-T6 with reflective sheeting on both sides. The aluminum blank shall be anodized or etched before application of facing material. The reflective sheeting shall conform to the physical and photometric requirements in ASTM D 4956, Type IX Prismatic. The signs shall be nine inches high, have series "C" (bureau of public roads standards), five-inch upper case letters and numbers and 3¾-inch lower case letters. The length of the sign shall be increments of six inches, depending upon the requirements for the proper spacing of letters. The sign shall also have a ½-inch wide ASTM D 4956 Type IX white outside border along the perimeter of the street name sign.

d.

The facing of the sign shall be green on white. The facing material shall be a green transparent electric cut sheeting material, and letters shall conform to ASTM D 4956, Type IX sheeting material.

(24)

Where warranted by the Federal Highway Administration's Manual on Uniform Traffic Control Devices and specified by the department, regulatory signs must be installed. Regulatory signs must be paid for by the developer and, by law, be installed by the county. On private subdivisions these signs must be installed by the developer. The sheeting material for all regulatory and warning signs shall conform to ASTM D 4956, Type IX.

(25)

Whether on public streets or in private subdivisions, where street signs are maintained by the county through contract with the private subdivision's homeowners' association (HOA), or as part of a neighborhood grant, or other Pinellas County program:

a.

A HOA that chooses to replace original standard sign material with decorative posts and signs will return the standard material to the Sign Shop at 22211 US 19 N, Building #5, Clearwater, FL, 33765.

b.

The Pinellas County Sign Shop will not maintain these decorative posts and signs, but will replace with standard equipment if damaged. If the HOA subsequently chooses to change out this standard equipment with decorative materials the HOA will return the standard equipment to the sign shop at the address listed above.

c.

Any foundations that exceed 36-inch deep into the soil shall be called into the Florida State Sunshine One Call System (Candy).

(26)

Utility easements shall be provided.

(27)

Underground installation of all public utility facilities including lines, wires and related appurtenances will be required in all subdivisions, with the exception of major transmission lines. Where public utility companies can show that underground service creates a hardship, a variance to permit overhead installation may be granted by the county administrator.

(d)

No construction plans will be approved until proof of submittal of vacation procedures has been received for proposed vacation of existing easements or rights-of-way. No plat will be recorded until all required public rights-of-way or easements have been officially vacated. Petitions for vacations are available from the real estate division of public works.

(e)

Copies of required permits, department of transportation drainage and Southwest Florida Water Management District permit approvals, and other necessary documents, shall be provided to the director prior to site plan approval.

(Ord. No. 92-62, § VI, 10-27-92; Ord. No. 94-37, §§ 2, 3, 4-19-94; Ord. No. 97-52, §§ 1—4, 7-1-97; Ord. No. 2007-04, § I, 1-09-07; Ord. No. 15-32, § 18, 8-18-15)

Sec. 154-11. - Easements.

(a)

Development abutting a 25-year floodway (or 25-year floodplain if no floodway is designated) as shown in the county's stormwater management plan (SWMP), or abutting a 100-year floodway as shown on the Federal Emergency Management Agency (FEMA) maps, or abutting a drainage channel of a major drainage system, as defined in this chapter, shall dedicate, as a minimum, 25 feet of public drainage easement contiguous to such floodway or top of bank of channel.

(b)

Any wetland portions of a site to be developed that also lie within a 25-year floodplain and/or a 100-year floodway, as designated by the Federal Emergency Management Agency, shall be dedicated as a public conservation and/or drainage easement, whichever is applicable.

(c)

Conservation easements:

(1)

Areas shown on site plans as preservation areas which are to remain in their natural state are to be shown on the plat as a conservation easement and dedicated to the county.

(2)

Areas shown on site plans as preservation areas which are a portion of the drainage system are to be shown

on the plat as drainage easements and dedicated to the county.

(d)

All easements for canals and major waterways shall conform to recommendations of stormwater management plan or they shall include sufficient width for the ultimate design canal top-of-bank width plus a minimum 25-foot level area on one side of the proposed canal and five feet on the other side for top-of-bank dimensions under 40 feet, and a minimum 25-foot berm on both sides of the proposed canal for top-of-bank dimensions of 40 feet and over.

(e)

Where lakes or detention ponds that accept drainage are included as a part of the drainage system of the development, a drainage easement covering the entire lake area and extending between 15 feet to 25 feet (depending upon pond configuration) beyond the top of the bank on all sides will be dedicated to the county. One 20-foot drainage easement in and one 20-foot drainage easement out will be provided for maintenance access.

(f)

Drainage easements:

(1)

Easements for swales shall be from top of bank to top of bank for the ultimate size swale required, with a minimum width of ten feet.

(2)

Easements for structures shall be large enough to permit access, maintenance, and protection. A minimum easement of 15 feet width shall be provided over all culvert pipe that is not placed within street rights-of-way.

(3)

A minimum easement of 15 feet width shall be provided for access to structures not placed within street rights-of-way. Such easement shall be along the nearest lot lines from the structure to the street rights-of-way.

(g)

Where an easement is to be used for two or more uses such as storm sewer and water lines, the minimum width shall be 15 feet. The director may require wider easements due to depth or size of structure.

(h)

Utility easements shall be provided.

(i)

All easements must be fully dimensioned on the final site plan and the plat.

(Ord. No. 92-62, § VIII, 10-27-92; Ord. No. 94-37, § 4, 4-19-94; Ord. No. 97-52, § 5, 7-1-97)

Sec. 154-12. - Construction phase.

(a)

Before construction is authorized to begin, the contractor must have final site plan approval as well as approved permits for all work within the public right-of-way. If platting is required, the preliminary submittal of the record plat must be submitted for review prior to final administrative approval of the site plan.

(b)

Before a certificate of occupancy will be issued, the final plat for any site development which requires platting must have been approved by staff. Also, a copy of the NOT issued by the FDEP for activities regulated under the NPDES program shall be provided to staff.

(c)

After construction, the owner shall provide to the county a certification by a state licensed professional engineer that the design, intent and functionality of the project conform to the approved construction plans. If authorized field changes are made, the owner shall provide an as-built survey as defined in chapter 61G17, Florida Administrative Code, or record drawings signed and sealed by a state registered professional engineer depicting the locations and elevations of the items so changed.

(d)

If construction of the infrastructure needed for development ceases for a period of one year or if the infrastructure of the development has not been completely developed within five years of plan approval, the plan shall require review and re-approval. Plans thus submitted for review and re-approval shall comply with all current regulations.

(e)

All lots shall be graded in accordance with drainage plans with fill of good clean acceptable material. No clay, muck, or other such materials shall be used for fill except in areas where construction is prohibited. Temporary ground cover, sod or seed and mulch will be planted and maintained on all disturbed areas.

(f)

It is the developer's responsibility to keep the county informed at all times of the development's progress and it is the developer's responsibility to notify the consulting engineers so that inspection and testing can be properly performed.

(g)

Expense and responsibility for testing.

(1)

The expense of testing materials and construction will be paid for by the developer.

(2)

Upon completion of all improvements required, the developer's engineer shall submit a statement certifying that all work has been constructed according to the plans and specifications originally approved by the county engineer.

Accompanying this statement shall be a construction report showing where tests were made, who made them, when they were made and what the results were. Testing shall be in accordance with the Pinellas County Minimum Testing Frequency Requirements, as prepared by the county department of public works and operations. Copies of all test reports shall be furnished to the county highway department as soon as each test has been completed. Where test reports show noncompliance with specifications, corrective work shall be started immediately.

(h)

Miscellaneous requirements for completion of site developments.

(1)

Irrigation systems shall utilize low volume design such as low trajectory heads or soaker hoses to provide direct application and low evaporation and must have a rain sensor device or switch which will override the irrigation cycle of the sprinkler system when adequate rainfall has occurred. Water supply shall be piped to each individual planter island, and in no case shall any planted vegetation area required pursuant to chapter 166, article II be more than 50 feet from a water supply hose bib. Shallow wells, open surface water bodies or reclaimed water shall be used unless unavailable as a source of irrigation water.

(2)

Inspection of storm sewers is required by the county, and will be requested in writing by the owner or engineer accompanied by the required inspection fee. Such inspection shall include verification of final stabilization.

(3)

Mailboxes shall be installed in conformance with the Florida Department of Transportation Roadway and Traffic Design Standards Index 532, latest edition, or as required by the U.S. Postal Service.

(4)

All proposed swales requiring excavation from existing conditions shall be graded and sodded by the developer prior to acceptance of any subdivision for platting.

(5)

All proposed retaining walls shall be constructed by the developer prior to acceptance of the subdivision for platting.

(6)

Access for fire apparatus shall be as follows:

a.

All developments shall be designed and constructed to provide access for firefighting equipment in conformance with the standards of the Fire Prevention Code of the National Fire Protection Association, Inc., latest edition.

b.

All premises which the fire department may be called upon to protect in case of fire and which are not readily accessible from public roads shall be provided with suitable gates, access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus.

c.

Fire lanes shall be provided for all buildings which are set back more than 150 feet (45.75m) from a public road or which exceed 30 feet (9.14m) in height and are set back over 50 feet (15.25m) from a public road.

d.

Fire lanes shall be at least 20 feet (6.1m) in width with the road edge closest to the building at least ten feet (3.05m) from the building. Any dead-end road more than 300 feet (91.5m) long shall be provided with a turnaround at the closed end at least 90 feet (27.45m) in diameter.

e.

The designation, use, and maintenance of fire lanes on private property shall be accomplished as specified by the fire marshal.

f.

It shall be unlawful for any person to park motor vehicles on, or otherwise obstruct, any fire lane.

g.

Exception: When any combination of private fire protection facilities, including, but not limited to, fire resistive roofs, fire separation walls, space separation and automatic fire extinguishing systems, are provided and approved by the fire marshal as an acceptable alternate, subsections (7)f.2 through (7)f.4 of this section shall not apply.

(7)

Street lighting generally.

a.

Proposed lighting improvements within dedicated or proposed rights-of-way, including private streets, shall be submitted to and approved by the county prior to construction.

b.

Proposed roadway lighting for use within the public right-of-way in the unincorporated areas of the county must meet the minimum illumination levels and spacing requirements as described below. This criterion will be applied to all proposed lighting designs to be installed in subdivisions. The lighting plan will be prepared

by Florida Power Corporation or by an approved engineering company, and will utilize the most efficient roadway lighting system.

(8)

Design standards for street lighting.

a.

The Illuminating Engineering Society of North America's (IESNA) Lighting Handbook, 1987 application volume; the latest edition of the Florida Department of Transportation's Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (the Green Book); and the American National Standard Institute (ANSI) manuals on roadway lighting.

b.

Luminaire type lighting will contain the necessary equipment, including refractors and reflectors, to distribute a lighting pattern over the roadway, so as to meet minimum average maintained footcandles over the class of roadway surface.

c.

Mounting height of luminaire and pole setbacks will not be installed less than 20 feet above the ground and will create a lighting pattern with a uniformity ratio of not more than six-to-one. Lighting pole setbacks shall meet or exceed Green Book standards. Location shall be staked by the developer's surveyor to eliminate conflict with sidewalk and meet Green Book standards.

_____

d.

Below is the criterion used for determining minimum average maintained footcandles and uniformity ratios for street lighting extracted from the IESNA Lighting Handbook, 1987 application volume, section 2-14:

General Application for Roadways
(Average minimum footcandles/minimum uniformity ratio)

	Commercial	Intermediate	Residential
Freeway, major urban	0.84 (3:1)	0.84 (3:1)	0.84 (3:1)
Freeway, all other	0.56 (3:1)	0.56 (3:1)	0.56 (3:1)
Divided highway	1.30 (3:1)	1.12 (3:1)	0.84 (3:1)
Major	1.58 (3:1)	1.21 (3:1)	0.84 (3:1)
Collector	1.12 (4:1)	0.84 (4:1)	0.56 (3:1)
Local	0.84 (6:1)	0.65 (6:1)	0.37 (6:1)

_____

e.

Definitions for this subsection are as follows:

1.

Luminaire: A complete lighting unit.

2.

Pole: Luminaire support.

3.

Footcandle: Equal to an incident flux density of one lumen per square foot.

4.

Uniformity ratio: The ratio (average to minimum) of various illumination levels along the lighting system.

5.

Maximum uniform ratio: Defined as one-to-one (1:1).

(i)

Duty and authority of county inspector.

(1)

The director's county inspectors may inspect all construction, all materials, and may inspect preparation, fabrication or manufacture of supplies. The county inspector is not authorized to revoke, alter or waive any requirements of the specifications, but he is authorized to call to the attention of the developer any failure of work or materials to conform to the plans or specifications.

(2)

The county inspector shall in no case act as foreman or perform other duties for the developer, nor interfere with the management of the work, and any advice which the county inspector may give to the developer shall in no way be construed as binding to the director or releasing the developer from carrying out the intent of the plans and specifications.

(3)

The director or his inspectors, at any time they perceive a hazard or noncompliance with approved plans, may stop any work within a public right-of-way.

(Ord. No. 92-62, § IX, 10-27-92; Ord. No. 94-37, § 5, 4-19-94; Ord. No. 02-58, § 1, 7-23-02; Ord. No. 03-24, §§ 17, 18, 4-15-03)

Sec. 154-13. - Platting requirements and information.

(a)

General requirements for platting are as follows:

(1)

For platting purposes, the owner of the land shall cause a record plat to be made. Such plat must be prepared by a registered land surveyor, made with permanent black drawing ink on a stable base film, a minimum of 0.003 inches thick, coated upon completion with a suitable plastic material to prevent flaking and to assure permanent legibility; or a photographic fixed line mylar. Plat and photographic fixed line mylars must both be of an overall size of 22 by 28 inches with a three-inch border on the left, a one-inch border on remaining sides, one inch equals 100 feet minimum scale of drawing, all lettering to be a minimum of one-tenth inch high for microfilming purposes. The plat will conform to the requirements of F.S. ch. 177, part 1, platting (latest amendment) and the current platting standards as presented by the examples and requirements package available from the county plat review services.

(2)

Developers must submit the required number of copies of the plat along with the check for the engineering fee as established by resolution of the board of county commissioners. Such check shall be made payable to the board of county commissioners.

(3)

There shall be a dedication to the public of such streets, easements or other public areas necessary for the safe access, drainage and utility location on the plat, or as established by resolution of the board of county commissioners. Such dedication shall be duly executed by the owner or owners, in the same manner as deeds conveying lands are required to be executed for recordation.

(4)

Lots shall be numbered consecutively or, if in blocks, consecutively numbered in each block, and the blocks progressively lettered or numbered.

(5)

In order to provide an acceptable level of service relative to the development platting procedure, the county staff requires sufficient time to process the final application to plat in an orderly fashion. To ensure sufficient time is allotted, the following goals have been made a part of the existing procedure:

a.

Within 30 calendar days after the required copies of the plat and the review fee are received, the developer/engineer/surveyor will be sent a letter stating any required changes to the plat and listing any additional information that must be submitted prior to the request for placement on a board agenda.

b.

Once revised prints are received and approved, and all of the fees have been paid, all applicable department releases received and all required information submitted, the developer/engineer/surveyor will be notified that the plat original can be executed and submitted along with one set of photographic fixed line mylars and

prints of the proposed plat with a request to be placed on the next available board of county commissioners agenda.

c.

The plat original, photographic fixed line mylars and prints must be submitted no later than the date stated in the letter of notification outlined above.

(6)

The clerk of the circuit court requires:

a.

All additions after initial drafting of plat be executed in permanent black ink.

b.

Every plat submitted to the board of county commissioners must be accompanied by a title opinion of an attorney at law licensed in Florida or a certification by an abstractor or a title company showing that record title to the land as described and shown on the plat is in the name of the person, persons, corporation, or entity executing the dedication as it is shown on the plat. The title opinion or certification shall also show all mortgages not satisfied or released of record nor otherwise terminated by law.

c.

Every subdivision shall be given a name by which it shall be legally known. Such name shall not be the same or in any way similar to any name appearing on any recorded plat in the same county as to confuse the records or to mislead the public as to the identity of the subdivision, except when the subdivision is subdivided as an additional unit or section by the same developer or his succession in title. Every subdivision's name shall have legible lettering of the same size and type, including the words "section," "unit," "replat," "amended," etc. The name of the subdivision shall be shown in the dedication and shall coincide exactly with the subdivision name.

(7)

The board of county commissioners shall establish fee schedules by board resolution for plat review, final inspection and reinspections for release of surety. Checks for these fees shall be made out to the county board of commissioners.

(8)

The board of county commissioners shall establish fee schedules by board resolution for filing fees for plats and for recording consents to plat if mortgagee(s) did not sign the plat itself. Checks for these fees shall be made out to the clerk of the circuit court.

(b)

The following information shall appear on the record plat:

(1)

In the title: Name of development (must agree with the final site plan), section, township, range and Pinellas County, Florida. If a replat, the lot and block numbers being replatted must be included in the title area.

(2)

Both a numerical and bar scale and a north arrow.

(3)

Each plat shall show a description of the lands subdivided, and the description shall be the same in the title certification. The description must be so complete that from it, without reference to the plat, the starting point and boundary can be determined. The description must be tied to a section corner or quarter corner either within the description or by a graphic tie on the plat.

(4)

Surveyor's certificate, dedication and its acknowledgement, grant and its acknowledgement, approval of the chairman, board of county commissioners, director of public works and approval of county clerk.

(5)

Block corner radii dimensions shall be shown.

(6)

Sufficient survey data shall be shown to positively describe the bounds of every lot, block, street easement, and all other areas shown on the plat. When any lot or portion of the subdivision is bounded by an irregular line, the major portion of that lot or subdivision shall be enclosed by a witness line showing complete data, with distances along all lines extended beyond the enclosure to the irregular boundary shown with as much certainty as can be determined or as "more or less," if variable. Lot, block, street, and all other dimensions except to irregular boundaries, shall be shown to a minimum of hundredths of feet. All measurements shall refer to horizontal plane and in accordance with the definition of the U.S. Survey foot or meter adopted by the National Institute of Standards and Technology. All measurements shall use the 39.37/12=3.28083333333 equation for conversion from a U.S. foot to a metric foot.

(7)

Curvilinear lots shall show the radii, arc distances, central angles, chord, and chord bearing, or both. Radial lines will be so designated. Direction of nonradial lines shall be indicated.

(8)

Sufficient angles, bearing, or azimuth to show direction of all lines shall be shown, and all bearings, angles, or azimuth shall be shown to the nearest second of arc.

(9)

The centerlines of all streets shall be shown with distances, angles, bearings or azimuth, "P.C.s," "P.T.s," "P.R.C.s." "P.C.C.s." arc distance, central angles, tangents, radii, chord, and chord bearing or azimuth, or both.

(10)

Name and right-of-way width of each street or other right-of-way. Location, dimensions and purposes of all easements and whether the right-of-way or easement is to be public or private. All easements must be fully dimensioned and tied to the plat or lot corner.

(11)

Reference to recorded subdivision plats of adjoining platted land by record name, plat book and page and the O.R. book and page number of all existing easements and rights-of-way.

(12)

All abutting property ownership lines and lot numbers to be shown by dashed or dotted lines.

(13)

All land within the boundaries of the plat must be accounted for, either by blocks, lots, parks, streets, or expected parcels. Unusable strips will not be permitted.

(14)

Location and description of permanent reference monuments.

(15)

The plat shall include in a prominent place the following statement: NOTICE: There may be additional restrictions that are not recorded on this plat that may be found in the public records of this county.

(c)

The following shall be submitted with the record plat:

(1)

Required plat review fee.

(2)

Proof that vacations of existing right-of-way and easements within the proposed boundaries of the development have been completed.

(3)

Letter from utility companies (i.e., water, sewer, power, phone, gas, etc.) stating that the easements shown are sufficient for their needs.

(4)

Developer's sidewalk completion guarantee. Sidewalks adjacent to common areas must be constructed as a portion of the development construction.

(5)

An engineer's certification on design.

(6)

A letter from the postal service indicating that there are no duplicate street names. The street names on the plans and on the plat must be the same.

(7)

The fee for installation of street signs shall be per quote from the county traffic department. If the streets are private, street signs must have been installed or a private street sign installation guaranty submitted.

(8)

In the event improvements have been made prior to the plat being submitted for recording, an engineer's certification of completion, a subdivider's affidavit that all bills have been paid, a letter from the water, sewer and highway departments that all their requirements have been met and they are accepting their respective systems, and a maintenance surety are required prior to the plat being recorded.

(9)

Subdivisions where the infrastructure is not to be public must be completed before the filing of the plat or a payment and escrow agreement must be submitted and approved.

(10)

Repealed.

(d)

It is the responsibility of the project engineer to request in writing to the Highway Department, 22211 U.S. Hwy. 19 North, Clearwater, Florida 34625, that the final inspection of the street, drainage, and related grading improvements be made. This request should be made at the earliest possible date to allow sufficient time to complete incidental construction items prior to surety expirations or to meet deadlines mentioned.

(e)

Completion and maintenance security:

(1)

The board of county commissioners, as a condition to the approval of the plat, shall require the developer who is seeking to have the plat approved provide a completion security in the form of a surety bond, letter of credit or other acceptable guaranty as the board shall determine adequate to guarantee construction and installation of all roads, streets, sidewalks, drainage, and water and sewerage disposal facilities as are required in accordance with this chapter and other applicable ordinances, statutes and regulations. Security shall be in the amount of 110 percent of the estimated cost of required improvements based on a certificate of cost estimate prepared, signed, sealed and dated by a registered professional engineer.

(2)

Upon satisfactory completion of all improvements within areas to be dedicated to the public, the board of county commissioners may, at its discretion, accept those dedicated areas, by resolution, on behalf of the public. As a condition of acceptance, the developer shall provide a maintenance security in the form of a surety bond, letter of credit, or other acceptable guaranty in such amount and for such duration as the board deems sufficient to indemnify the board against latent defects in the improvements within the dedicated areas. Minimum security shall be 20 percent of the estimated cost of required improvements, to be fully effective for 18 months from acceptance by the board. Upon acceptance and receipt of the maintenance surety, the board shall release the completion security. A bill for the cost of work may be used to calculate the amount for the 20 percent maintenance bond.

(3)

A separate security may be required for construction to be performed and/or maintained within existing county rights-of-way and other public property.

(f)

Procedure of acceptance of improvements and release of surety:

(1)

Sixty days before the expiration date, the county inspector will inspect the development and prepare an inspection report. This report will be sent to the principal of the bond (owner/developer or contractor) by certified mail, return receipt requested. Copies will also be forwarded to the project engineer, the surety agent, either the owner/developer or contractor and the director.

(2)

Thirty days before the expiration date, the highway division shall reinspect the development to determine whether defects in the above referenced 60-day report have been corrected satisfactorily. If defects still exist within the development, the highway division shall prepare a final letter stating that the contractor or developer has failed to repair certain defects within the development. Such letter of defects shall be specific and shall give exact locations within the development.

a.

Completion surety: If the inspection shows that all defects have been corrected, and a maintenance surety has been submitted and approved, the release of the completion surety will be placed on the next board of county commissioners agenda.

b.

Maintenance surety: If the inspection shows that all defects have been corrected, the request for release of the maintenance surety will be placed on the board of county commissioners agenda.

(3)

Eighteen days before the expiration date, correspondence will be prepared that will enable the county to collect on the completion surety or maintenance surety. In the case of a bond, a letter will be sent directly to

the bonding company. In the case of a letter of credit, a sight draft will be prepared to be drawn upon the bank or lending institution. Necessary signatures on the sight draft will be obtained and will be sent by certified mail, return receipt requested, to the respective surety representative.

(4)

A request to release a surety (completion or maintenance) must be made in writing to the public works land development permitting division no later than 5:00 p.m. on Monday of the week previous to the scheduled board meeting. At this time the board of county commissioners must have a written release from the highway and utility departments stating that the work is accepted and a maintenance surety has been received and approved or the project has been accepted for county maintenance after the maintenance surety has expired or been released.

(5)

Should a surety have to be extended beyond the expiration date, in order that requirements of the surety are met, then the time of extension shall not exceed six months. If it is deemed necessary to further extend the time of surety, a new certificate of cost estimate shall be submitted, signed, sealed and dated by a state registered engineer. The new surety shall be in the amount of the cost estimate but not less than the amount of the original surety. The new sureties shall not be extended.

(Ord. No. 92-62, § X, 10-27-92; Ord. No. 94-37, §§ 6—11, 4-19-94; Ord. No. 97-52, §§ 6—29, 7-1-97; Ord. No. 02-58, § 2, 7-23-02)

Sec. 154-14. - Correcting or changing street names.

(a)

As provided in the following subsections, there are three ways to correct or change a street name that has become official either by a recorded subdivision, by resolution, or just by years of use.

(1)

The first way to correct a street name would be by filing an affidavit confirming an error on a recorded plat. This can be done only by the surveyor of the plat and it is filed in the clerk of the circuit court's office. However, this can only be done provided there are no residents presently receiving mail on that street.

(2)

The second way to change a street name is by having a resolution adopted by the board of county commissioners. It is required that all property owners have to be in 60 percent agreement to the name change. The procedure is as follows:

a.

Submit a request by letter along with the processing fee as established by resolution of the board, with a check to be made payable to the board of county commissioners.

b.

The county will send a petition package to the person requesting the name change to get the owners'

signatures on the street name change petition.

c.

Once the 25 days have elapsed, and if all property owners are in agreement, a resolution changing the subject street name shall be prepared for review by the county attorney's office.

d.

When the above steps are accomplished, the subject street is scheduled for a board of county commission meeting.

e.

After board approval, all homeowners affected as well as all required agencies shall be notified in writing of the name change.

(3)

The third way to change a street name is if it is deemed in the interest of the post office or 911 (emergency response). The procedure is as follows:

a.

The post office or 911 suggests a name change on a street.

b.

The board of county commissioners sends the resolution to the county attorney's office for review.

c.

The subject street is scheduled for a board of county commission meeting.

d.

After board approval, all homeowners affected as well as all required agencies shall be notified in writing of the name change.

(Ord. No. 92-62, § XI, 10-27-92; Ord. No. 97-52, §§ 30, 31, 7-1-97)

Sec. 154-15. - Model home permit requirements.

The purpose of this section is to state county policy relative to permitting of model homes in unplatted subdivisions so that a thorough review can take place as the permit is processed. When issuing such permits, the following should be adhered to:

(1)

A maximum of four model homes may be permitted within a subdivision which has received final site plan approval and construction plan approval.

(2)

These model homes may be located on any of the proposed lots in the subdivision. The applicant will be required to provide a metes and bounds legal description of the parcel as well as the proposed lot number, block number (if applicable) and subdivision name.

(3)

All normal steps for obtaining permits will be followed. In addition, the applicant will be required to obtain approval from the public works land development permitting division to ensure that the proposed house will conform to subdivision and site plan requirements.

(Ord. No. 92-62, § XII, 10-27-92)

Sec. 154-16. - Unlawful acts.

It shall be unlawful for any person to convey or mortgage land in the county by reference to any plat unless and until such plat is recorded in the office of the clerk of the circuit court. It shall be unlawful also for any person to convey or mortgage by metes and bounds description any land in the county included within any plat recorded in the office of the clerk of the circuit court unless such description identifies the land with reference to such plat. It shall also be unlawful to fail to complete required improvements, in substantial compliance with site and/or construction plans approved in compliance with this chapter, within a timely manner. Cancellation or nonrenewal of the security required by section 154-13 shall be deemed a violation of this chapter.

(Ord. No. 92-62, § XIII, 10-27-92)

Secs. 154-17—154-50. - Reserved.

ARTICLE II. - DRAINAGE REQUIREMENTS[2]

Footnotes:
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Cross reference— Stormwater pollution, § 58-236 et seq.

Sec. 154-51. - General requirements.

A complete drainage system shall be provided. All areas within the proposed development, including lots, streets and other areas, must be adequately drained. In addition, where drainage runoff from outside the development passes over or through the areas of the development, such runoff shall be included in the drainage system design. The system shall be designed for long life and shall be suitable for low cost maintenance by normal maintenance methods.

(Ord. No. 92-62, § V(1), 10-27-92)

Sec. 154-52. - Reserved.

Sec. 154-53. - Plans and design.

Plans showing the proposed design features and typical sections of canals, swales and all other open

channels, storm sewers, all drainage structures, retention/detention ponds, roads and curbs and other proposed development construction shall be filed with the county. Design shall meet the requirements of this chapter.

(Ord. No. 92-62, § V(3), 10-27-92)

Sec. 154-54. - Connections.

Drainage connections to drainageways, and intersecting or converging drainageways, shall be suitably designed and aligned to provide effective control of erosion and siltation.

(Ord. No. 92-62, § V(4), 10-27-92)

Sec. 154-55. - Floodplains.

(a)

Where lands are or have been subject to periodic flooding and minimum building elevations have not been established by the county and or the Federal Emergency Management Agency, the developer shall establish 100-year flood elevations at design flood conditions.

(b)

On-site stormwater detention areas may be excavated within the 100-year floodplain as long as perimeter berms are not constructed above existing ground level.

(c)

All public utilities and facilities such as sewer, gas, electrical, and water systems, telephone and cable television must be located and constructed to minimize or eliminate flood damage. Adequate drainage must be provided to reduce exposure to flood hazards.

(d)

All new construction or substantial improvement to existing construction shall conform to all general and specific standards and all provisions of chapters 158 and 170, article III.

(Ord. No. 92-62, § V(5), 10-27-92)

Sec. 154-56. - Compliance with other specifications.

Drainage plans, profiles, cross sections, and details, including detention facilities and underdrains, shall meet all minimum standards of this chapter and other ordinances and regulations with the preliminary plat. A master lot grading plan shall be included. Drainage calculations will be furnished. Hydraulic calculations for all closed storm sewer systems shall be prepared and submitted utilizing the standard county engineering department storm sewer tabulation form.

(Ord. No. 92-62, § V(6), 10-27-92)

Sec. 154-57. - Drainage plan.

Every application for new construction or substantial improvement to existing construction, including single-

family homes, subdivided lands and unplatted lands, must include a drainage plan demonstrating that:

(1)

All runoff entering the site from adjacent lands is carried through the site and discharged to a positive and adequate outfall. A sinkhole shall not be considered a positive or adequate outfall.

(2)

On-site detention and/or retention is provided as required.

(3)

Existing surface water drainage systems are not blocked or diverted onto adjacent property.

(4)

The drainage system can be maintained; that the planting will be limited to ground cover (sodding); that drainage easement areas will not be built upon and that the system will continue to function.

(Ord. No. 92-62, § V(7), 10-27-92)

Sec. 154-58. - Diversion of surface runoff.

Surface water runoff shall not be diverted across the major drainage basin boundaries as depicted in the county stormwater management plan (SWMP).

(Ord. No. 92-62, § V(8), 10-27-92)

Sec. 154-59. - Basin map.

A drainage map of the basin or basins within which the development lies, inclusive of immediate off-site drainage, must be provided. This map may be combined with the topographic map required in this article, but in any event must include suitable topographic data acceptable to the director. All ridges outlining the basins and the sizes of the basins in acres must be shown. The outlines and sizes in acres of all existing and proposed drainage areas within the basin shall be shown and related to corresponding points of flow concentration. Flow paths shall be indicated throughout, including final outfalls from the subdivision and basins.

(Ord. No. 92-62, § V(9), 10-27-92)

Sec. 154-60. - Drainage data.

Drainage data, assumed criteria and hydrologic and hydraulic calculations shall be provided to the county and shall meet the requirements of this chapter.

(Ord. No. 92-62, § V(10), 10-27-92)

Sec. 154-61. - Calculation of runoff rates.

Weighted runoff coefficients shall be used where different coefficients apply within the areas comprising the basin. The rational formula may be used to determine peak runoff rates for projects with total drainage areas

of ten acres or less. Other more precise methods acceptable to the county engineer shall be employed for developments with larger drainage areas.

Where infrastructures exist and later proposed changes in the building structures increase the weighted coefficient, appropriate changes will be required in the infrastructure.

(Ord. No. 92-62, § V(11), 10-27-92)

Sec. 154-62. - Rainfall and runoff criteria.

(a)

Rainfall intensity factors shall be from state department of transportation zone 6 as contained in Florida Department of Transportation Drainage Manual (latest edition) or accepted meteorological and rainfall sources as applicable to the county.

(b)

The drainage system shall be designed for design floods resulting from design storm events of the following frequencies or greater:

(1)

The system shall be designed for design floods resulting from 25-year frequency, 24-hour duration design storm event (9.0 inches).

(2)

The 100-year, 24-hour design storm event generates 12 inches of rainfall.

(Ord. No. 92-62, § V(12), 10-27-92)

Sec. 154-63. - Design criteria.

The following criteria are for design of drainage conveyance systems exclusive of retention/detention ponds:

(1)

Design of drainage systems serving less than 200 acres (ditches, inlets and pipe culverts) shall be based on a ten-year storm or greater return frequency, subject to criterion C.

(2)

Design of drainage systems serving more than 200 acres shall be based on a 25-year storm or greater return frequency, subject to criterion C.

(3)

The design objective for drainage systems shall be to contain the 25-year storm runoff within the confines of the major drainage system or designated floodplain and to prevent the flooding of existing buildings during the 100-year return frequency flood.

(Ord. No. 92-62, § V(13), 10-27-92)

Sec. 154-64. - Retention/detention facilities.

The attenuation, treatment and habitat characteristics of constructed retention/detention facilities shall be retained or restored as follows:

(1)

Side slopes of retention/detention facilities shall be constructed to a maximum slope of four feet horizontal to one foot vertical (4:1).

(2)

Vertical walls shall not be permitted around more than 25 percent of the perimeter of wet detention ponds. Only 50 percent of the perimeter of a dry detention pond may be walled.

(3)

At least 50 percent of the surface area of a detention area must be open to sunlight.

(Ord. No. 92-62, § V(14), 10-27-92)

Sec. 154-65. - Drainage outfalls.

(a)

Positive and adequate outfalls are required for all proposed or existing drainage systems. Studies may be required showing that existing outfalls are both positive and adequate.

(b)

Drainage walls, seepage basins, percolation, sinkholes or underdrains are not acceptable as positive outfalls. Percolation will be recognized as a water quality treatment method only. In some cases of severe hardship, the director may approve such an outfall with special site specific restrictions and requirements.

(Ord. No. 92-62, § V(15), 10-27-92)

Sec. 154-66. - Hydraulics of minor streams, canals, ditches and swales.

(a)

"Open channels," other than major waterways, may be defined as minor streams, canals, ditches, and swales. Such open channels shall be designed in accordance with good accepted engineering practice adapted to local conditions. Cross-sectional areas and hydraulic gradients shall be such that design velocities shall not result in soil scouring for the soil and/or turf conditions reasonably anticipated. Mean velocities greater than three feet per second shall be considered excessive unless permanent channel lining or other suitable protection is employed.

(b)

The design of open channels described in this section shall provide that the channels will not overflow their

banks at design flood conditions.

(Ord. No. 92-62, § V(16), 10-27-92)

Sec. 154-67. - Major waterways.

Where development will impact an existing major waterway, the improvements to the waterway shall conform to the county stormwater management plan for the various drainage basins. Improvement or establishment of major canals is of such significance to the county that the design of each such improvement or establishment proposed shall be developed as a separate hydraulic problem. Any deviations from the construction shown on the stormwater management plan will require that engineering data, criteria and suitable calculations be submitted prior to approval of site and/or construction plans.

(Ord. No. 92-62, § V(17), 10-27-92)

Sec. 154-68. - Canals, lakes, ponds, major waterways.

(a)

Lakes and ponds shall have a maximum side slope of four to one to a point two feet below normal water level.

(b)

Maximum use shall be made of lakes and retention and/or detention ponds. The stormwater runoff rate shall not exceed the runoff rate from the site in the undeveloped state.

(c)

Where lakes and/or ponds are used for retention or detention, an identification of the seasonal high water table shall accompany design calculations.

(d)

Where lakes are included as a part of the drainage system, detention time in these lakes may be considered in computing discharge by presentation of hydrographs developed with accepted engineering methods.

(e)

Where the development abuts the centerline of the natural drainageway, natural area or water body it shall be used as a site plan property line. Where a natural drainageway, natural area or water body separates the same ownership and no project is to be submitted for the opposite side of the natural drainageway, natural area or water body then the centerline of the natural drainageway, natural area or water body shall be used as the site plan line.

(Ord. No. 92-62, § V(18), 10-27-92)

Sec. 154-69. - Swale drainage.

(a)

Roadside swale geometry. Roadways using roadside swale drainage will be subject to the approval of the county engineer. The maximum side slope of a roadside swale/ditch shall be three to one. The minimum shoulder width shall be eight feet. Swales and sidewalks shall be located within the road right-of-way. Minimum bottom width of swale shall be two feet, and minimum depth of swale shall be 18 inches below the edge of the pavement.

(b)

Yard swales.

(1)

For local lot drainage, rear yard swales are not acceptable where traversing more than one lot. Yard drains and inlets are required where necessary for adequate drainage.

(2)

Where side yard swales and other swales are required, side slopes shall be not steeper than five to one for subdivisions and three to one for commercial sites. Minimum depth of swales will be six inches. Minimum gradients of yard swales shall be one-eighth inch per foot (one percent). Vertical rise from high point of swale to lowest floor level shall be not less than eight inches.

(Ord. No. 92-62, § V(19), 10-27-92)

Sec. 154-70. - Surface water management standards.

The water quality of receiving water bodies shall be maintained or improved as follows:

(1)

All new development or construction shall have provision for retention and treatment of surface waters as required by chapter 17-25, Florida Administrative Code.

(2)

All redevelopment which adds or exceeds a cumulative total of 3,000 square feet of additional impervious development or 25 percent of the lot or parcel shall meet surface water quality discharge standards for the entire site. If a site is completely razed, all current surface water management standard requirements shall apply.

(3)

During excavation and construction, downstream turbidity shall be maintained at or below 29 NTUs above background, i.e., the level of turbidity upstream of the site, or as existed prior to development; or conditions reasonable to assure maintenance of water quality to meet the conditions of chapter 17-25, Florida Administrative Code.

(4)

All ground surfaces disturbed by construction, which are subject to soil erosion, shall be sodded per state department of transportation design standards. Other areas can be stabilized by grass and mulch or other

practical methods.

(5)

All site plans shall include on-site detention of surface water runoff such that the peak rate of runoff from a 25-year frequency, 24-hour duration rainfall (nine inches) shall be equal to or less than the undeveloped condition.

(Ord. No. 92-62, § V(20), 10-27-92)

Sec. 154-71. - Swale erosion protection.

(a)

Swales shall be provided with permanent erosion protection. Such protection may be turf, using an approved type grass, or an approved type of pavement liner may be utilized. When turf protection is used, the swales shall be sodded a lateral distance extending from within one foot of the road pavement to the top of the swale backslope.

(b)

Driveways across swales shall have placed beneath them drainage pipes of adequate size for drainage, a minimum of 15 inches wide. The culvert pipes shall be long enough to provide a six-foot-wide shoulder on each side of the driveway pavement. The ends of the pipe shall be finished with mitered end sections per state department of transportation standards.

(c)

All slopes shall be stabilized to prevent erosion.

(Ord. No. 92-62, § V(21), 10-27-92)

Sec. 154-72. - Erosion control methods.

All construction practices shall conform to accepted best management practices (BMP) for erosion control, such as straw bales, ground cover, slope stabilization, temporary vegetation, silt barriers and turbidity barriers.

(Ord. No. 92-62, § V(22), 10-27-92)

Sec. 154-73. - Detention areas, grading.

Detention areas must be roughed out prior to other site grading as a means of erosion control.

(Ord. No. 92-62, § V(23), 10-27-92)

Sec. 154-74. - Use of water for on-site irrigation.

For on-site irrigation purposes, water quality treatment volume may be pumped onto land from which surface water runoff returns to the same detention area.

(Ord. No. 92-62, § V(24), 10-27-92)

Secs. 154-75—154-100. - Reserved.

ARTICLE III. - ROADS

Sec. 154-101. - Public and private roads.

All roads in new developments will be dedicated to the public, unless such development is part of an RPD master plan and private roads are clearly indicated as such on the plat. All private and/or privately maintained roads shall meet all land development ordinance requirements.

(Ord. No. 92-62, § VII(1), 10-27-92)

Sec. 154-102. - Proposed street system.

The proposed street shall recognize and extend the plan and profile of suitable existing streets, and shall make possible the future extension of streets into adjacent undeveloped land where feasible. Any subdivision with 50 or more lots shall have at least two accesses from a paved street. The proposed street system shall be so designed that the minimum floor elevation of all structures within the area of special flood hazards shall be at or above the level of the 100-year flood, as indicated on the official FEMA flood hazard boundary map and/or the county stormwater management plan, whichever is more stringent. Where no FEMA flood elevation has been established, the engineer of record shall establish a 100-year flood elevation and set finish floor elevations accordingly. All calculations used to establish a 100-year elevation must be signed and sealed by a state registered engineer and shall become part of the file of record.

(Ord. No. 92-62, § VII(2), 10-27-92)

Sec. 154-103. - Minimum elevation.

The minimum edge of pavement elevation for road construction is five feet above mean sea level (NAVD), or the lowest edge of pavement shall be above the 25-year storm event as indicated in the stormwater management plan, whichever is the more stringent.

(Ord. No. 92-62, § VII(3), 10-27-92; Ord. No. 15-32, § 17, 8-18-15)

Sec. 154-104. - Location and width.

The location and width of all streets shall conform to the comprehensive plan or shall be as established by resolution of the board of county commissioners. New subdivision streets shall not be allowed adjacent to the rear of existing lots of record unless no other practical alternative exists.

(Ord. No. 92-62, § VII(4), 10-27-92)

Sec. 154-105. - Collector and arterial streets.

(a)

Collector and arterial streets shall have a minimum design speed as indicated in the Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways.

(b)

Arterial streets shall be designed to meet county requirements. Whenever a subdivision abuts or includes an arterial road, intersecting streets shall be designed with acceleration and deceleration lanes or left-turn lanes. When divided roadways exist or are proposed, median openings, if allowed, must conform to state department of transportation standards and/or chapter 170, article IV. Acceleration or deceleration lanes may be required on collector roads. Plans for such intersections must be approved by the engineering department's traffic section.

(Ord. No. 92-62, § VII(5), (6), 10-27-92)

Sec. 154-106. - General paving criteria.

(a)

Minimum pavement width, including width of curb or valley curb, for streets shall be as follows:

(1)

Arterial street, 28 feet.

(2)

Collector, commercial, or industrial street, 28 feet.

(3)

Residential streets, 24 feet.

(4)

Residential streets using department of transportation type F vertical curb, 28 feet.

(5)

Distance between edge of paving and right-of-way shall be the same around a cul-de-sac as along a straight street.

(b)

Pavement cross-slope shall be one-fourth inch per foot or greater with no inverted crowns permitted. Finish pavement shall be one-fourth inch higher than the lip of any concrete gutter.

(Ord. No. 92-62, § VII(7), 10-27-92)

Sec. 154-107. - Layout design criteria.

Layout design criteria for street development shall be as follows:

(1)

Block lengths shall not exceed 1,500 feet.

(2)

Culs-de-sac shall have a maximum length of 600 feet.

(3)

Where offset streets on opposite sides of a common street intersect the common street, the minimum distance between the centerline of the offset streets shall be 100 feet measured along the centerline of the common street, except where the common street is arterial, in which case offsets will not be permitted.

(4)

Back of curb radius shall be a minimum of 25 feet at all intersections.

(5)

Intersections shall be substantially at right angles on all streets and meet all state department of transportation sight distance requirements.

(6)

At the intersection of any arterial road or collector road and another street, additional right-of-way in the form of a triangle 15 feet long on each leg shall be provided on all corners.

(7)

No trees are to be planted within the required clear zone from edge of pavement. For clear zone criteria see state department of transportation standards.

(8)

Pavement for nonpublic roads which are divided by a median isle will be at least 16 feet in width on both sides of the median isle. A minimum clear zone of 20 feet is required for access by fire apparatus, as per NFPA 1, Fire Prevention Code (latest edition).

(9)

No gatehouses are permitted on any public road. Entrance sign locations must be in accordance with county standards.

(Ord. No. 92-62, § VII(8), 10-27-92)

Sec. 154-108. - Right-of-way requirements.

Right-of-way requirements shall be as follows:

(1)

Streets shall meet the requirements for right-of-way widths as established by the comprehensive plan or by resolution of the board of county commissioners. Arterial and collector streets shall be located as shown on the comprehensive plan. Arterial streets shall have right-of-way widths ranging from 100 to 200 feet in width as indicated in the comprehensive plan. Major collector roads shall have a right-of-way width of 80 feet. Minor collector, commercial or industrial streets shall have a minimum right-of-way width of 60 feet.

(2)

Residential streets shall have a minimum of 80 feet right-of-way width when constructed with swale drainage.

(3)

Residential streets shall have a minimum of 50 feet of right-of-way width when constructed with curb.

(4)

Culs-de-sac shall have 50 feet of right-of-way approach to a 90-foot diameter right-of-way for a turnaround circle when constructed with curb.

(5)

Culs-de-sac shall have 80 feet of right-of-way approach to a 120-foot diameter right-of-way for a turnaround circle when constructed with swale drainage.

(Ord. No. 92-62, § VII(9), 10-27-92)

Sec. 154-109. - Residential subdivision streets.

(a)

Residential subdivision streets shall be planned so that residential lots will not have driveways entering directly onto arterial streets. Residential lot arrangements shall also be planned to have the least possible residential lot driveway connections to major collector streets.

(b)

Residential or subdivision streets shall be classed as "residential or subdivision—light traffic" or "residential or subdivision—medium traffic."

(c)

"Residential or subdivision—light traffic streets" are defined as those streets which end in a cul-de-sac or which form a loop, leaving and entering the same trunk road and which will serve less than 100 dwelling units; or which run between two trunk streets serving less than 50 dwelling units.

(d)

All residential or subdivision streets other than as defined in subsection (3) of this section shall be classed as "residential or subdivision—medium traffic," or identified on the comprehensive plan.

(Ord. No. 92-62, § VII(10), 10-27-92)

Sec. 154-110. - Flexible pavement standards.

(a)

Subbases shall be of good, clean, acceptable material with a limerock bearing ratio of no less than 40,

compacted to 98 percent of the maximum density determined by AASHTO T-180. The subbase must extend six inches beyond the back-of-curb or, for rural road sections, six inches beyond the base. If utilities cuts are made after subbase stabilization, the trenches shall be backfilled, full depth, with base material compacted to 98 percent maximum density.

(b)

Minimum compacted thickness of subbases for residential light-traffic streets shall be nine inches. Minimum compacted thickness of subbases for all other streets shall be 12 inches.

(Ord. No. 92-62, § VII(11), 10-27-92)

Sec. 154-111. - Base materials.

Bases may be constructed of limerock, shell, cemented coquina shell, soil cement, or asphaltic concrete. Other materials may be proposed by the developer for approval by the director, subject to the following standards:

(1)

Cement-treated limerock is not an acceptable base material.

(2)

Bases of limerock, shell, or cemented coquina shell shall be compacted to 98 percent of the maximum density determined by AASHTO T-180.

(3)

Soil cement mixtures shall be designed by an engineering testing laboratory and approved by the director. Mixing and compaction shall be monitored by the testing laboratory. A minimum compressive strength of 300 pounds per square inch shall be achieved in seven days.

(4)

Asphaltic concrete base courses shall be mixed, placed, and compacted in accordance with Pinellas County Specifications for Hot Bituminous Material, Plant Methods, Equipment and Construction Methods.

(5)

For rural road sections the bases shall extend six inches beyond the surface course.

(6)

Minimum thickness of finished base shall be as follows:

a.

Arterial streets, 10½ inches.

b.

Collector, commercial, industrial and medium traffic streets, eight inches.

c.

Residential light traffic streets, six inches.

(Ord. No. 92-62, § VII(12), 10-27-92)

Sec. 154-112. - Asphaltic concrete surface course standards.

Minimum thickness and types of asphaltic concrete surface courses shall be as follows:

(1)

Arterial streets, three inches of PC-1.

(2)

Collector, commercial, and industrial streets, two inches of PC-1.

(3)

Residential and medium traffic streets, 1½ inches of PC-1.

(Ord. No. 92-62, § VII(13), 10-27-92)

Sec. 154-113. - Pavement structural design.

(a)

The pavement section elements specified in this article are minimums. In some areas, due to soil conditions and/or traffic density, it may be required that the pavement structural section be designed in accordance with the Florida Department of Transportation's Flexible Pavement Design Manual.

(b)

Rigid (Portland cement concrete) pavement designs will be reviewed for approval by the director on a case-by-case basis.

(Ord. No. 92-62, § VII(14), (15), 10-27-92)

Sec. 154-114. - Underdrains.

Standards for underdrains are as follows:

(1)

Underdrains are required on both sides of curbed roads.

(2)

Underdrains outfalling to inlets are to have inverts at or above the treatment volume elevation of receiving

retention/detention ponds and/or lakes, or, alternatively, a separate, positive and adequate outfall is to be provided.

(3)

If the bottom of roadside swale ditches is less than 24 inches below the edge of the road surface, underdrains shall be installed.

(4)

Underdrain installation shall be per county underdrain detail. Underdrain inspection boxes are required at the end of all runs that do not terminate in structures or maximum of 300-foot intervals.

(5)

If the storm sewer system is less than 30 inches below the edge of pavement, a separate underdrain system with cleanout/inspection boxes shall be installed to an outfall greater than 30 inches in depth.

(Ord. No. 92-62, § VII(16), 10-27-92)

Sec. 154-115. - Sidewalks.

(a)

Sidewalks shall be required on all arterial, collector, commercial and subdivision streets. This will apply on both sides of the street if the street lies wholly within the boundaries of the subdivision. All sidewalks shall be located so that the back of the sidewalk is 2.0 feet off the right-of-way line and/or future right-of-way line where applicable. All corner lot sidewalk constructions shall extend to the edge of curb, or pavement where no curb exists. A level recovery area, a minimum of two feet wide, will be provided adjacent to sidewalks. Where special circumstances warrant, the director may vary the requirement. All pedestrian pathways, including all roadway crossings and sidewalk ramps, shall be in accordance with the standards of the Americans with Disabilities Act and county ordinances.

(b)

Sidewalk construction:

(1)

Sidewalks shall be constructed of 3,000 p.s.i. concrete at least five feet wide on arterial, collector, and residential streets, and four inches thick, except at driveways and along rural cross section roadways where the sidewalk can be crossed with vehicles. Sidewalks through driveways and along rural cross section roadways where vehicles can cross the sidewalk shall be six inches thick. Sidewalks through driveways shall include six-inch by six-inch no. 10 wire mesh reinforcing. All concrete driveways shall be six inches thick 3,000 p.s.i. concrete with six-inch by six-inch no. 10 wire mesh reinforcement, and shall extend from back of curb to property line.

(2)

Subbases for sidewalks shall be of good, clean, acceptable material compacted to 95 percent of maximum density as determined by AASHTO T-180.

(3)

Sidewalks are to be constructed across all driveways.

(Ord. No. 92-62, § VII(17), 10-27-92; Ord. No. 2007-04, § II, 1-09-07)

Chapter 158 - FLOODPLAIN MANAGEMENT[1]
Footnotes:
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Editor's note—Ord. No. 15-21, § 2, adopted May 19, 2015, repealed the former Ch. 158, §§ 158-1—158-14, and enacted a new Ch. 158 as set out herein. Provisions have been redesignated as necessary to conform with the Code's style. The former Ch. 158 pertained to similar subject matter; see the Code Comparative Table for complete derivation.

Charter reference— General powers of county, § 2.01.

Cross reference— Fresh water conservation board, § 2-251 et seq.; buildings and building regulations, ch. 22; environment, ch. 58; stormwater pollution, § 58-236 et seq.; natural resources, ch. 82; special assessments for storm sewers, § 110-31 et seq.; management and storage of surface waters, § 166-111 et seq.; zoning, ch. 138; flood damage prevention, § 170-101 et seq.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g); drainage by counties, F.S. ch. 157.

ARTICLE I. - ADMINISTRATION
DIVISION 1. - GENERALLY

Sec. 158-1. - Title.

These regulations shall be known as the floodplain management ordinance of Pinellas County, hereinafter referred to as "this chapter."

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-2. - Scope.

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

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-3. - Intent.

The purposes of this chapter and the flood load and flood-resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

(1)

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

(2)

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

(3)

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

(4)

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

(5)

Minimize damage to public and private facilities and utilities;

(6)

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

(7)

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

(8)

Meet the requirements of the National Flood Insurance Program for community participation as set forth in the 44 CFR 59.22.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-4. - Coordination with the Florida Building Code.

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

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-5. - Warning.

The degree of flood protection required by this chapter and the Florida Building Code, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the flood insurance study and shown on flood insurance rate maps and the requirements of 44 CFR 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this chapter.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-6. - Disclaimer of liability.

This chapter shall not create liability on the part of the Board of County Commissioners of Pinellas County or by any officer or employee thereof for any flood damage that results from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. No. 15-21, § 2, 5-19-15)

Secs. 158-7—158-20. - Reserved.

DIVISION 2. - APPLICABILITY

Sec. 158-21. - General.

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

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-22. - Areas to which this chapter applies.

This chapter shall apply to flood hazard areas established in section 158-23 within the following areas:

(1)

All areas within the unincorporated area of Pinellas County;

(2)

Property, easements, right-of-way and/or any other areas which the county has jurisdiction over outside the unincorporated areas of the county;

(3)

Any activities which would have an effect on floodplains within the areas described in subsections (1) and (2) above.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-23. - Basis for establishing flood hazard areas.

The flood insurance study for Pinellas County, Florida and incorporated areas dated August 18, 2009, and all subsequent amendments and revisions, and the accompanying flood insurance rate maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this chapter and shall serve as the minimum basis for establishing flood hazard areas. When limited data is available from FEMA flood insurance study and flood insurance rate maps, the county will refer to the best available data through locally determined flood map data. Locally determined data shall include but not [be] limited to watershed management plans and the county's stormwater management plan maps and profiles and the county storm drainage basin study technical appendices nos. 1 through 52, consecutively, and any subsequent amendments. These sources are adopted by reference and made a part of this chapter. Studies and maps that establish flood hazard areas are on file at the Building and Development Review Services, 310 Court Street, Clearwater, Florida 33756.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-24. - Submission of additional data to establish flood hazard areas.

To establish flood hazard areas and base flood elevations, pursuant to division 5 of this article, the floodplain administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

(1)

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

(2)

Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a letter of map change that removes the area from the special flood hazard area.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-25. - Other laws.

The provisions of this chapter shall not be deemed to nullify any provisions of local, state or federal law.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-26. - Abrogation and greater restrictions.

This chapter supersedes any ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances including but not limited to land development regulations, zoning ordinances, stormwater management regulations, or the Florida Building Code. In the event of a conflict between this chapter and any other ordinance, the more restrictive shall govern. This chapter shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this chapter.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-27. - Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

(1)

Considered as minimum requirements;

(2)

Liberally construed in favor of the governing body; and

(3)

Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 15-21, § 2, 5-19-15)

Secs. 158-28—158-40. - Reserved.

DIVISION 3. - DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

Sec. 158-41. - Designation.

The county administrator shall designate the floodplain administrator. The floodplain administrator may delegate performance of certain duties to other employees.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-42. - General.

The floodplain administrator is authorized and directed to administer and enforce the provisions of this chapter. The floodplain administrator shall have the authority to render interpretations of this chapter consistent with the intent and purpose of this chapter and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this chapter without the granting of a variance pursuant to division 7 of this article.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-43. - Applications and permits.

The floodplain administrator, in coordination with other pertinent offices of the community, shall:

(1)

Review applications and plans to determine whether proposed new development will be located in flood hazard areas;

(2)

Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this chapter;

(3)

Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries (for example, where there appears to be a conflict between a mapped boundary and actual field conditions); a person contesting the determination shall have the opportunity to appeal the interpretation;

(4)

Provide available flood elevation and flood hazard information;

(5)

Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;

(6)

Review applications to determine whether proposed development will be reasonably safe from flooding;

(7)

Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code, when compliance with this chapter is demonstrated, or disapprove the same in the event of noncompliance, including filling of property for any other purpose other than minor landscaping; and

(8)

Coordinate with and provide comments to the building official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this chapter.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-44. - Findings of fact.

The board of county commissioners hereby finds and declares that:

(1)

Because of variations in rainfall and the amount of stormwater runoff, flooding is a natural, recurring phenomenon.

(2)

The floodprone areas of the county are subject to periodic inundation which could result in loss of life, property damage, health and safety hazards, disruption of commerce and governmental services,

extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which could adversely affect the public health, safety and general welfare.

(3)

These flood losses are caused, in part, by the cumulative effect of obstructions and fill in floodplains causing increases in flood heights and velocities, and by the occupancy in floodprone areas of uses vulnerable to damage by floods or hazardous to other lands which are inadequately elevated, floodproofed or otherwise protected from flood damages.

(4)

Flooding and lands that are subject to flooding (floodprone lands) serve the following important functions in the hydrologic cycle and ecological system:

a.

Floodprone lands provide natural storage and conveyance of floodwaters;

b.

The water on flooded lands may provide recharge to groundwater and is a basic source of flow to rivers, streams and estuaries;

c.

Temporary storage of surface waters on floodprone lands regulates flood elevations and the timing, velocity and rate of flood discharges;

d.

Floodprone lands and the natural vegetation thereon maintain water quality by reducing erosion, removing nutrients and other pollutants and allowing sediment to settle.

(5)

Development of floodprone lands is inconsistent with their natural functions, and improper management of floodwaters have the following significant adverse impacts on the health, safety and welfare of the community:

a.

The owners of homes and business structures located in frequently flooded areas and their customers, guests, employees, children and future generations are subjected to unreasonable risk of personal injury and property damage.

b.

Expensive and dangerous search and rescue and disaster relief operations must be conducted when developed properties are flooded.

c.

Roads and utilities associated with development are subject to damage from flooding at great expense to taxpayers and rate payers.

d.

Flooding of developed properties leads to demands for government to construct expensive and often environmentally damaging projects to control floodwaters.

e.

Loss of natural water storage capacity leads to reduction in the available water supply and a reduction in the stormwater treatment effectiveness in these areas.

f.

The level, velocity, frequency and duration of flooding on other lands are often increased when floodwaters are obstructed, diverted, displaced or channelized.

g.

Water quality is degraded, freshwater inflows to estuaries are disrupted and valuable wetland and wildlife habitat is lost.

h.

Property values are lowered and economic activity is disrupted by damaging floods.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-45. - Substantial improvement and substantial damage determinations.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the floodplain administrator, in coordination with the building official, shall:

(1)

Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

(2)

Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(3)

Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

(4)

Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood-resistant construction requirements of the Florida Building Code, NFIP and this chapter is required.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-46. - Modifications of the strict application of the requirements of the Florida Building Code.

The floodplain administrator shall review requests submitted to the building official that seek approval to modify the strict application of the flood load and flood-resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance pursuant to division 7 of this article.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-47. - Notices and orders.

The floodplain administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this chapter.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-48. - Inspections.

The floodplain administrator shall make the required inspections as specified in division 6 of this article for development that is not subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code, and including filling of property for any purpose other than minor landscaping. The floodplain administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-49. - Other duties of the floodplain administrator.

The floodplain administrator shall have other duties, including but not limited to:

(1)

Establish, in coordination with the building official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to section 158-45 of this chapter;

(2)

Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office and the Southwest Florida Water Management District, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);

(3)

Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the flood insurance rate maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within six months of such data becoming available;

(4)

Review required design certifications and documentation of elevations specified by this chapter and the Florida Building Code and this chapter to determine that such certifications and documentations are complete;

(5)

Notify the Federal Emergency Management Agency when the corporate boundaries of Pinellas County are modified; and

(6)

Advise applicants for new buildings and structures, including substantial improvements that are located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such construction; areas subject to this limitation are identified on flood insurance rate maps as "Coastal Barrier Resource System Areas" and "Otherwise Protected Areas."

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-50. - Floodplain management records.

Regardless of any limitation on the period required for retention of public records, the floodplain administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this chapter and the flood-resistant construction requirements of the Florida Building Code, including flood insurance rate maps; letters of change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the Florida Building Code and this chapter; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this chapter and the flood-resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at the Pinellas County Development Review Services.

(Ord. No. 15-21, § 2, 5-19-15)

Secs. 158-51—158-60. - Reserved.

DIVISION 4. - PERMITS

Sec. 158-61. - Permits and approvals required.

Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this chapter, including buildings, structures and facilities exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area shall first make application to the floodplain administrator, and the building official if applicable, and shall obtain the required permit(s) and approval(s). In addition:

(1)

No development of any land or structure shall be commenced until such time as the all the proper zoning clearances, building permits, or land development permits habitat permits and other required approvals have been issued.

(2)

No land development permit may be issued for any development or use of any land or structure encompassed by the provisions of this chapter until the requirements of this chapter and all other floodplain management regulations have been met.

(3)

All development and/or use of any land or structures within the scope of this chapter for which a development permit has been issued shall, at all times, continue to conform to the requirements of this chapter and the final approved development order or site plan for which the development permit was issued.

(4)

More restrictive requirements imposed by other local and state legislation currently in effect or as amended shall take precedence over the terms of this chapter.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-62. - Floodplain development permits or approvals.

Floodplain development permits or approvals shall be issued pursuant to this chapter for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the floodplain administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-63. - Buildings, structures and facilities exempt from the Florida Building Code.

Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 CFR 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the Florida Building Code and any further

exemptions provided by law, which are subject to the requirements of this chapter:

(1)

Railroads and ancillary facilities associated with the railroad.

(2)

Nonresidential farm buildings on farms, as provided in F.S. § 604.50.

(3)

Temporary buildings or sheds used exclusively for construction purposes.

(4)

Mobile or modular structures used as temporary offices.

(5)

Those structures or facilities of electric utilities, as defined in F.S. § 366.02, which are directly involved in the generation, transmission, or distribution of electricity.

(6)

Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this subsection, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.

(7)

Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.

(8)

Temporary housing provided by the department of corrections to any prisoner in the state correctional system.

(9)

Structures identified in F.S. § 553.73(10)(k) are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on Flood Insurance Rate Maps.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-64. - Application for a permit or approval.

To obtain a floodplain development permit or approval, the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:

(1)

Identify and describe the development to be covered by the permit or approval.

(2)

Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.

(3)

Indicate the use and occupancy for which the proposed development is intended.

(4)

Be accompanied by a site plan or construction documents as specified in division 5 of this article.

(5)

State the valuation of the proposed work.

(6)

Be signed by the applicant or the applicant's authorized agent.

(7)

Give such other data and information as required by the floodplain administrator.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-65. - Validity of permit or approval.

The issuance of a floodplain development permit or approval pursuant to this chapter shall not be construed to be a permit for, or approval of, any violation of this chapter, the Florida Building Codes, or any other ordinance of this community. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the floodplain administrator from requiring the correction of errors and omissions.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-66. - Expiration.

A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-67. - Suspension or revocation.

The floodplain administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this chapter or any other ordinance, regulation or requirement of this community.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-68. - Other permits required.

Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

(1)

The Southwest Florida Water Management District; F.S. § 373.036.

(2)

Florida Department of Health for onsite sewage treatment and disposal systems; F.S. § 381.0065 and ch. 64E-6, F.A.C.

(3)

Florida Department of Environmental Protection for construction, reconstruction, changes, or physical activities for shore protection or other activities seaward of the coastal construction control line; F.S. § 161.141.

(4)

Florida Department of Environmental Protection for activities subject to the joint coastal permit; F.S. § 161.055.

(5)

Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; section 404 of the Clean Water Act.

(6)

Federal permits and approvals.

(Ord. No. 15-21, § 2, 5-19-15)

Secs. 158-69—158-80. - Reserved.

DIVISION 5. - SITE PLANS AND CONSTRUCTION DOCUMENTS

Sec. 158-81. - Information for development in flood hazard areas.

The site plan or construction documents for any development subject to the requirements of this chapter shall be drawn to scale and shall include, as applicable to the proposed development:

(1)

Delineation of flood hazard areas, floodway boundaries which include the 100-year and/or 25-year (if delineated) boundaries, and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.

(2)

Where base flood elevations, or floodway data are not included on the FIRM or in the flood insurance study, they shall be established in accordance with section 158-52(2) or (3) of this chapter.

(3)

Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than five acres and the base flood elevations are not included on the FIRM or in the flood insurance study, such elevations shall be established in accordance with section 158-82(1) of this chapter.

(4)

Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas, new buildings shall be located landward of the reach of mean high tide.

(5)

Location, extent, amount, and proposed final grades of any filling, grading, or excavation, including any proposed compensatory excavation.

(6)

Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.

(7)

Delineation of the coastal construction control line or notation that the site is seaward of the coastal construction control line, if applicable.

(8)

Extent of any proposed alteration of sand dunes and mangrove stands provided such alteration is approved by the Florida Department of Environmental Protection and in accordance with chapter 166, article II, division 3 of the county's Land Development Code, as applicable.

(9)

Existing and proposed alignment of any proposed alteration of a watercourse.

(10)

Elevation of all structures, in relation to the datum on the flood insurance rate map, of the lowest floor,

including basement, or lowest horizontal structural member, as applicable.

(11)

Datum used to determine the floodplain elevation and source of data. A datum of NAVD 88 shall be used.

The floodplain administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this chapter but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this chapter.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-82. - Information in flood hazard areas without base flood elevations (approximate Zone A).

Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the floodplain administrator shall:

(1)

Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.

(2)

Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.

(3)

Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the floodplain administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:

a.

Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or

b.

Specify that the base flood elevation is three feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than three feet.

(4)

Upon approval of base flood elevation data, incorporate the data into the stormwater management plan.

(5)

Where the base flood elevation data are to be used to support a letter of map change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-83. - Twenty-five-year floodways and floodplains.

If the limits of the 25-year floodplain and floodway are available and approved by the county, no development is allowed within the limits of the 25-year floodway. In addition, development is only allowed within the 25-year floodplain that is outside the limits of the 100-year floodway. Engineering studies and analyses shall be submitted to demonstrate the compensatory excavation hydraulically balances the proposed development, redevelopment or fill for development within the 25-year floodplain.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-84. - Additional analyses and certifications.

As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

(1)

For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in section 158-85 of this chapter and shall submit the conditional letter of map revision, if issued by FEMA, with the site plan and construction documents.

(2)

For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the flood insurance study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation at any point within the areas identified in section 158-22 of this chapter.

(3)

For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in section 158-85 of this chapter.

(4)

For activities that propose to alter sand dunes and mangrove stands in coastal high hazard areas (Zone V), an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-85. - Submission of additional data.

When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a letter of map change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

(Ord. No. 15-21, § 2, 5-19-15)

Secs. 158-86—158-100. - Reserved.

DIVISION 6. - INSPECTIONS

Sec. 158-101. - General.

Development for which a floodplain development permit or approval is required shall be subject to inspection.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-102. - Development other than buildings and structures.

The floodplain administrator shall inspect all development to determine compliance with the requirements of this chapter and the conditions of issued floodplain development permits or approvals.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-103. - Buildings, structures and facilities exempt from the Florida Building Code.

The floodplain administrator shall inspect buildings, structures and facilities exempt from the Florida Building Code to determine compliance with the requirements of this chapter and the conditions of issued floodplain development permits or approvals.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-104. - Buildings, structures and facilities exempt from the Florida Building Code, lowest floor inspection.

Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the Florida Building Code, or the owner's authorized agent, shall submit to the floodplain administrator:

(1)

If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or

(2)

If the elevation used to determine the required elevation of the lowest floor was determined in accordance with section 158-82(3)b of this chapter, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-105. - Buildings, structures and facilities exempt from the Florida Building Code, final inspection.

As part of the final inspection, the owner or owner's authorized agent shall submit to the floodplain administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in section 158-104 of this chapter.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-106. - Manufactured homes.

The building official shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this chapter and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the building official.

(Ord. No. 15-21, § 2, 5-19-15)

Secs. 158-107—158-110. - Reserved.

DIVISION 7. - VARIANCES AND APPEALS

Sec. 158-111. - General.

The county administrator shall designate a variance review board that shall hear and decide on requests for appeals and requests for variances from the strict application of this chapter. Pursuant to F.S. § 553.73(5), the variance review board shall hear and decide on requests for appeals and requests for variances from the strict application of the flood-resistant construction requirements of the Florida Building Code. This section does not apply to section 3109 of the Florida Building Code, Building.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-112. - Appeals.

The variance review board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the administration and enforcement of this chapter. Any person aggrieved by the decision of variance review board may appeal such decision to the circuit court, as provided by Florida Statutes.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-113. - Limitations on authority to grant variances.

The variance review board shall base his/her decisions on variances on technical justifications submitted by applicants, the considerations for issuance in section 158-116 of this chapter, the conditions of issuance set forth in section 158-117 of this chapter, and the comments and recommendations of the floodplain administrator and the building official. The variance review board has the right to attach such conditions as it deems necessary to further the purposes and objectives of this chapter.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-114. - Restrictions in floodways.

A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in section 158-84 of this chapter.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-115. - Historic buildings.

A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood-resistant construction requirements of the Florida Building Code, Existing Building, Chapter 11 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-116. - Considerations for issuance of variances.

In reviewing requests for variances, the variance review board shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this chapter, and the following:

(1)

The danger that materials and debris may be swept onto other lands resulting in further injury or damage;

(2)

The danger to life and property due to flooding or erosion damage;

(3)

The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;

(4)

The importance of the services provided by the proposed development to the community;

(5)

The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;

(6)

The compatibility of the proposed development with existing and anticipated development;

(7)

The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;

(8)

The safety of access to the property in times of flooding for ordinary and emergency vehicles;

(9)

The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(10)

The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-117. - Conditions for issuance of variances.

Variances shall be issued only upon:

(1)

Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this chapter or the required elevation standards. The burden shall be on the applicant to provide documentation, sufficient to the satisfaction of the floodplain administrator, to show that the standards and conditions required for the granting of a variance have been met;

(2)

Determination by the variance review board that:

a.

Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not

constitute hardship. For purpose of this section, an exceptional hardship can only be caused by a peculiar and unique circumstance related directly to the land and shall not be the result of inconvenience, aesthetic consideration, physical or medical handicap, personal preference, financial considerations, or any after-the-fact circumstance created by the inhabitants of the structure or the present or previous property owners;

b.

The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and

c.

The variance is the minimum necessary, considering the flood hazard, to afford relief;

(3)

Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the office of the clerk of the court in such a manner that it appears in the chain of title of the affected parcel of land; and

(4)

If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the floodplain administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation, and stating that construction below the base flood elevation increases risks to life and property.

(Ord. No. 15-21, § 2, 5-19-15)

Secs. 158-118—158-130. - Reserved.

DIVISION 8. - VIOLATIONS

Sec. 158-131. - Violations.

Any development that is not within the scope of the Florida Building Code but that is regulated by this chapter that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this chapter, shall be deemed a violation of this chapter. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this chapter or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-132. - Authority.

For development that is not within the scope of the Florida Building Code but that is regulated by this chapter and that is determined to be a violation, the floodplain administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons

performing the work.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-133. - Unlawful continuance.

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

(Ord. No. 15-21, § 2, 5-19-15)

Secs. 158-134—158-150. - Reserved.

DIVISION 9. - ENFORCEMENT; PENALTIES

Sec. 158-151. - Enforcement.

The owners of property subject to this chapter shall be responsible for compliance with this chapter with respect to their property. Enforcement action taken by the county or state may be brought against the owner and/or persons or entities in control of the property, including a contractor working on the property.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-152. - Penalties.

(a)

Any person who violates any provision of this chapter shall be punished as provided in section 134-8.

(b)

Any person or agency violating the provisions of this chapter may be required to restore land to its undisturbed condition and may be held responsible for any damages occurring as a result of the violation.

(Ord. No. 15-21, § 2, 5-19-15)

Secs. 158-153—158-180. - Reserved.

ARTICLE II. - DEFINITIONS

Sec. 158-181. - General.

(a)

Scope. Unless otherwise expressly stated, the following words and terms shall, for the purposes of this chapter, have the meanings shown in this article.

(b)

Terms defined in the Florida Building Code. Where terms are not defined in this chapter and are defined in the Florida Building Code, such terms shall have the meanings ascribed to them in that code.

(c)

Terms not defined. Where terms are not defined in this chapter or the Florida Building Code, such terms shall have ordinarily accepted meanings such as the context implies.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-182. - Definitions.

Adverse impact means any modifications, alterations or effects on a feature or characteristic of water or floodprone lands, including their quality, quantity, hydrodynamics, surface area, species composition, living resources, aesthetics or usefulness for human or natural uses which are or potentially may be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity or stability or which may unreasonably interfere with the enjoyment of life or property, including outdoor recreation. The term includes secondary and cumulative as well as direct impacts.

Alteration of a watercourse means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

Appeal means A request for a review of the floodplain administrator's interpretation of any provision of this chapter or a request for a variance.

Applicant means the owner of the property for which a development permit is sought, or his authorized agent.

ASCE 24 means a standard titled "Flood Resistant Design and Construction" that is referenced by the Florida Building Code. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

Base flood means a flood having a one percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, section 1612.2.] The base flood is commonly referred to as the "100-year flood" or the "one-percent-annual chance flood."

Base flood elevation means the elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the flood insurance rate map (FIRM). [Also defined in FBC, B, section 1612.2.]

Basement means the portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, section 1612.2.]

Breakaway walls means a partition or wall that is independent of supporting structural members and that is intended to withstand design wind forces but to collapse from a water load less than that which would occur during the base flood, without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls are designed and constructed to meet the requirements of the FBC, Residential, section R322.3.4 or ASCE 24 for walls below the design flood elevation.

Coastal Barrier Resource Act of 1982 (CBRA). For the purposes of the NFIP, the Coastal Barrier Resources Act of 1982 designated certain portions of the Gulf and East Coasts and undeveloped coastal barriers. These

areas are shown on the appropriate flood insurance maps panels and have certain flood insurance coverage restrictions.

Coastal construction control line means the line established by the State of Florida pursuant to F.S. § 161.053 and recorded in the official records of the community, which defines that portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge, storm waves or other predictable weather conditions.

Coastal high hazard area means a special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal high hazard areas are also referred to as "high hazard areas subject to high velocity wave action" or "V Zones" and are designated on flood insurance rate maps (FIRM) as Zone V1-V30, VE, or V. This term is not to be confused with the "coastal high hazard area" defined in the Pinellas County Comprehensive Plan, which is based upon the sea, lake, and overland surges from hurricanes (SLOSH) model, and used for land use planning purposes. [Note: The FBC, B defines and uses the term "flood hazard areas subject to high velocity wave action" and the FBC, R uses the term "coastal high hazard areas."]

Compensatory excavation means that excavation within or directly contiguous to a floodplain for the purpose of hydraulically balancing proposed fill.

County administrator means the chief executive officer of the county responsible to the board of county commissioners for the execution of this article and the delegation of responsibilities for the individual tasks contained in this article.

Design flood means the flood associated with the greater of the following two areas: [Also defined in FBC, B, section 1612.2.]

(1)

Area with a floodplain subject to a one percent or greater chance of flooding in any year; or

(2)

Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Design flood elevation means the elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to three feet. [Also defined in FBC, B, section 1612.2.]

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities. For the purposes of this chapter, "development" shall include, but is not limited to, the following activities or uses:

(1)

A reconstruction, alteration of the size, or change in the external appearance of a structure;

(2)

A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or an increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land;

(3)

Alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, including any coastal construction as defined in F.S. § 161.021;

(4)

Commencement of drilling, except to obtain soil samples, mining, or excavation on a parcel of land;

(5)

Demolition of a structure;

(6)

Clearing of land as an adjunct of construction; and

(7)

Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

Encroachment means the placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

Existing building and existing structure mean any buildings and structures for which the start of construction commenced before June 18, 1971. [Also defined in FBC, B, section 1612.2.]

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before June 18, 1971.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Federal Emergency Management Agency (FEMA) means the federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry

land from: [Also defined in FBC, B, section 1612.2.]

(1)

The overflow of inland or tidal waters.

(2)

The unusual and rapid accumulation or runoff of surface waters from any source.

Flood damage-resistant materials means any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, section 1612.2.]

Flood hazard area means the greater of the following two areas: [Also defined in FBC, B, section 1612.2.]

(1)

The area within a floodplain subject to a one percent or greater chance of flooding in any year.

(2)

The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Flood insurance rate map (FIRM) means the official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, section 1612.2.]

Flood insurance study (FIS) means the official report provided by the Federal Emergency Management Agency that contains the flood insurance rate map, the flood boundary and floodway map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, section 1612.2.]

Floodplain means the lateral extent of inundation by an event of given statistical frequency, such as special flood hazard areas as designated in the FIRMs, and 100-year and 25-year floodplain as designated in county watershed management plans and the county stormwater master plan (SWMP) or any other source approved by the county's floodplain administrator.

Floodplain administrator means the office or position designated and charged with the administration and enforcement of this chapter (may be referred to as the floodplain manager) as designated by the county administrator.

Floodplain development permit or approval means an official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this chapter.

Floodprone area means any land area susceptible to being inundated by water from any source.

Floodway means the channel of a river or other riverine watercourse and the adjacent land areas that must be

reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. [Also defined in FBC, B, section 1612.2.] The county has a no rise policy within the floodways.

Floodway encroachment analysis means an engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

Florida Building Code [(FBC)] means the family of codes adopted by the Florida Building Commission, including: Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

Freeboard means a level higher than the base flood elevation. It is a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. Freeboard compensates for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action or the hydrological effect of urbanization on the watershed.

Hazardous material means those chemicals or substances that are physical hazards or health hazards as defined and classified in the Florida Building Code and the Florida Fire Prevention Code, whether the materials are in usable or waste condition. [Defined in FBC, B, section 307.]

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

Historic structure means any structure that is determined eligible for the exception to the flood hazard area requirements of the Florida Building Code, Existing Building, Chapter 11 Historic Buildings.

Letter of map change (LOMC) means an official determination issued by FEMA that amends or revises an effective flood insurance rate map or flood insurance study. Letters of map change include:

Letter of map amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective flood insurance rate map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

Letter of map revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

Letter of map revision based on fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

Conditional letter of map revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective flood insurance rate map or flood insurance Study; upon submission and approval of certified as-built documentation, a letter of map revision may be issued by FEMA to revise the effective FIRM.

Light-duty truck means, as defined in 40 CFR 86.082-2, any motor vehicle rated at 8,500 pounds gross vehicular weight rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

(1)

Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or

(2)

Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

(3)

Available with special features enabling off-street or off-highway operation and use.

Lowest floor means the lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the Florida Building Code or ASCE 24. [Also defined in FBC, B, section 1612.2.]

Major drainage system means a system of natural or manmade drainageways such as streams, ditches or canals that collect stormwater runoff from watersheds identified by name or number in the county's watershed management plans or stormwater management plan.

Manufactured home means a structure, transportable in one or more sections, which is eight feet or more in width and greater than 400 square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." [Also defined in 15C-1.0101, F.A.C.]

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

Market value means the price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this chapter, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, actual cash value (replacement cost depreciated for age and quality of construction), or approximate market value as identified by the property appraiser from which the taxable value is derived.

New construction means, for the purposes of administration of this chapter and the flood-resistant construction requirements of the Florida Building Code, structures for which the start of construction commenced on or after June 18, 1971, and includes any subsequent improvements to such structures. For the purposes of determining NFIP flood insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including

at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after June 18, 1971.

North American Vertical Datum of 1988 (NAVD) means the vertical datum used by the Federal Emergency Management Agency (FEMA) as the basis for published flood elevations.

Otherwise protected areas (OPAs) are undeveloped coastal barriers that are within the boundaries of areas established under federal, state or local law, or held by a qualified organization, primarily for wildlife refuge, sanctuary, recreational or natural resource conservation purposes. The only federal spending limitation within OPAs is federal flood insurance.

Park trailer means a transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. [Defined in F.S. § 320.01.]

Recreational vehicle means a vehicle, including a park trailer, which is: [See F.S. § 320.01.]

(1)

Built on a single chassis;

(2)

Four hundred square feet or less when measured at the largest horizontal projection;

(3)

Designed to be self-propelled or permanently towable by a light-duty truck; and

(4)

Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

Special flood hazard area means an area in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, CAZ, V1-V30, VE or V. [Also defined in FBC, B, section 1612.2.]

Start of construction means the date of issuance for new construction and substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual "start of construction" means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

"Permanent construction" does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that

alteration affects the external dimensions of the building. [Also defined in FBC, B, section 1612.2.]

Substantial damage means damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. [Also defined in FBC, B, section 1612.2.]

Substantial improvement means any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, section 1612.2.]

(1)

Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.

(2)

Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure. [See Instructions and Notes.]

Twenty-five-year flood means the flood having a four percent chance of being equaled or exceeded in any given year.

Variance means a grant of relief from the requirements of this chapter, or the flood-resistant construction requirements of the Florida Building Code, which permits construction in a manner that would not otherwise be permitted by this chapter or the Florida Building Code.

Watercourse means a river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

Wetland means all those waters, fresh and saline, or areas which are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation specifically adapted to life in saturated conditions. Such wetland vegetative indicators shall be those species listed in the Florida Administrative Code. Wetlands include, but are not limited to, rivers, lakes, streams, springs, impoundments, swamps, hydric hammocks, marshes, bogs, sinkholes, estuaries, sloughs, cypress heads, mangrove forests, bayheads, bayous, bays, and open marine waters, whether on private or public lands and whether they are manmade or natural. Wetlands shall not include stormwater retention ponds.

(Ord. No. 15-21, § 2, 5-19-15)

Secs. 158-183—158-220. - Reserved.

ARTICLE III. - FLOOD-RESISTANT DEVELOPMENT

DIVISION 1. - LIMITATIONS ON DEVELOPMENT

Sec. 158-221. - Development not permitted in floodways, isolated wetlands, and preservation areas.

No new development, substantial improvement, or fill shall be permitted within the 100-year floodway, the 25-year floodway, isolated wetlands, or environmentally sensitive areas that are designated as preservation areas on the future land use map adopted by the local government.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-222. - Development permitted outside of floodways.

Development, redevelopment or fill is permitted outside of floodways if compensatory excavation is provided. Engineering studies and analyses shall be submitted to demonstrate the compensatory excavation hydraulically balances the proposed development, redevelopment or fill. Compensatory excavation shall be taken between the seasonal high water level and the base flood elevation and shall not result in adverse impact to the special flood hazard area. Compensatory excavation shall become part of the special flood hazard area and not be separated from it by an open channel or closed conduit such as culvert pipe. The floodplain administrator may waive the requirement for compensatory excavation if the applicant demonstrates that no adverse effects will result from the proposed activities outside the floodway and within the floodplain.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-223. - General.

No encroachments, including fill material or structures, shall be located within a distance of the stream bank equal to three times the width of the stream at the top of bank or 20 feet on each side from top of bank, whichever is greater, unless certification by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(Ord. No. 15-21, § 2, 5-19-15)

Secs. 158-224—158-240. - Reserved.

DIVISION 2. - BUILDINGS AND STRUCTURES

Sec. 158-241. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code.

Pursuant to section 158-63 of this chapter, buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings shall comply with the requirements of division 8 of this article.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-242. - Buildings and structures seaward of the coastal construction control line.

If extending, in whole or in part, seaward of the coastal construction control line and also located, in whole or in part, in a flood hazard area:

(1)

Buildings and structures shall be designed and constructed to comply with the more restrictive applicable requirements of the Florida Building Code, Building section 3109 and section 1612 or Florida Building Code, Residential section R322.

(2)

Minor structures and non-habitable major structures as defined in F.S. § 161.54 shall be designed and constructed to comply with the intent and applicable provisions of this chapter and ASCE 24.

(Ord. No. 15-21, § 2, 5-19-15)

Secs. 158-243—158-250. - Reserved.

DIVISION 3. - SUBDIVISIONS

Sec. 158-251. - Minimum requirements.

Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:

(1)

Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

(2)

All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

(3)

Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-252. - Subdivision plats.

Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required in addition to the other items that are required to be shown on plats by the county:

(1)

Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats;

(2)

Where the subdivision has more than 50 lots or is larger than five acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with section 158-82(1) of this

chapter; and

(3)

Compliance with the site improvement and utilities requirements of division 4 of this article.

(Ord. No. 15-21, § 2, 5-19-15)

Secs. 158-253—158-260. - Reserved.

DIVISION 4. - SITE IMPROVEMENTS, UTILITIES AND LIMITATIONS

Sec. 158-261. - Minimum requirements.

All proposed new development shall be reviewed to determine that:

(1)

Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

(2)

All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

(3)

Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-262. - Sanitary sewage facilities.

All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in ch. 64E-6, F.A.C. and ASCE 24 chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-263. - Water supply facilities.

All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in ch. 62-532.500, F.A.C. and ASCE 24 chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-264. - Limitations on sites in regulatory floodways.

No development, including but not limited to site improvements, and land disturbing activity involving fill or regrading shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in section 158-84(1) of this chapter demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-265. - Limitations on placement of fill.

Subject to the limitations of this chapter, fill shall be the minimum necessary for the intended purpose and shall be designed to be stable under conditions of flooding, including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the Florida Building Code.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-266. - Limitations on sites in coastal high hazard areas (Zone V).

In coastal high hazard areas, alteration of sand dunes shall be permitted only if such alteration is approved by the Florida Department of Environmental Protection, and alteration of mangrove standards shall be permitted only if permitted by Pinellas County pursuant to chapter 166, article II, division 3 of the county's Land Development Code, and only if the engineering analysis required by section 158-84(4) of this chapter demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with section 158-338(3) of this chapter.

(Ord. No. 15-21, § 2, 5-19-15)

Secs. 158-267—158-280. - Reserved.

DIVISION 5. - MANUFACTURED HOMES

Sec. 158-281. - General.

All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to F.S. § 320.8249, and shall comply with the requirements of ch. 15C-1, F.A.C. and the requirements of this chapter. If located seaward of the coastal construction control line, all manufactured homes shall comply with the more restrictive of the applicable requirements.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-282. - Limitations on installations in coastal high hazard areas (Zone V).

New installations of manufactured homes shall be permitted only in existing manufactured home parks and existing manufactured home subdivisions.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-283. - Foundations.

All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be

installed on permanent, reinforced foundations that:

(1)

In flood hazard areas (Zone A) other than coastal high hazard areas, are designed in accordance with the foundation requirements of the Florida Building Code, Residential section R322.2 and this chapter.

(2)

In coastal high hazard areas (Zone V), are designed in accordance with the foundation requirements of the Florida Building Code, Residential section R322.3 and this chapter.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-284. - Anchoring.

All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-285. - Elevation.

Manufactured homes that are placed, replaced, or substantially improved shall comply with section 158-286 or 158-287 of this chapter, as applicable.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-286. - General elevation requirement.

Unless subject to the requirements of section 158-287 of this chapter, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential section R322.2 (Zone A) or section R322.3 (Zone V).

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-287. - Elevation requirement for certain existing manufactured home parks and subdivisions.

Manufactured homes that are not subject to section 158-286 of this chapter, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:

(1)

Bottom of the frame of the manufactured home is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential section R322.2 (Zone A) or section R322.3 (Zone V); or

(2)

Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-288. - Enclosures.

Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential section R322 for such enclosed areas, as applicable to the flood hazard area.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-289. - Utility equipment.

Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the Florida Building Code, Residential section R322, as applicable to the flood hazard area.

(Ord. No. 15-21, § 2, 5-19-15)

Secs. 158-290—158-300. - Reserved.

DIVISION 6. - RECREATIONAL VEHICLES AND PARK TRAILERS

Sec. 158-301. - Temporary placement.

Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

(1)

Be on the site for fewer than 180 consecutive days; or

(2)

Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-302. - Permanent placement.

Recreational vehicles and park trailers that do not meet the limitations in section 158-301 of this chapter for temporary placement shall meet the requirements of division 5 of this article for manufactured homes.

(Ord. No. 15-21, § 2, 5-19-15)

Secs. 158-303—158-310. - Reserved.

DIVISION 7. - TANKS

Sec. 158-311. - Underground tanks.

Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-312. - Aboveground tanks, not elevated.

Aboveground tanks that do not meet the elevation requirements of section 158-313 of this chapter shall:

(1)

Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of floodborne debris.

(2)

Not be permitted in coastal high hazard areas (Zone V).

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-313. - Aboveground tanks, elevated.

Aboveground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-314. - Tank inlets and vents.

Tank inlets, fill openings, outlets and vents shall be:

(1)

At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

(2)

Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(Ord. No. 15-21, § 2, 5-19-15)

Secs. 158-315—158-330. - Reserved.

DIVISION 8. - OTHER DEVELOPMENT

Sec. 158-331. - General requirements for other development.

All development, including manmade changes to improved or unimproved real estate for which specific provisions are not specified in this chapter or the Florida Building Code, shall:

(1)

Be located and constructed to minimize flood damage;

(2)

Meet the limitations of section 158-264 of this chapter if located in a regulated floodway;

(3)

Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;

(4)

Be constructed of flood damage-resistant materials; and

(5)

Have mechanical, plumbing, and electrical systems above the design flood elevation, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-332. - Fences in regulated floodways.

Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of section 158-264 of this chapter.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-333. - Retaining walls, sidewalks and driveways in regulated floodways.

Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of section 158-264 of this chapter.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-334. - Roads and watercourse crossings in regulated floodways.

Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means

for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of section 158-264 of this chapter. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of section 158-84(3) of this chapter.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-335. - Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V).

In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:

(1)

Structurally independent of the foundation system of the building or structure;

(2)

Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and

(3)

Have a maximum slab thickness of not more than four inches.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-336. - Decks and patios in coastal high hazard areas (Zone V).

In addition to the requirements of the Florida Building Code, in coastal high hazard areas decks and patios shall be located, designed, and constructed in compliance with the following:

(1)

A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.

(2)

A deck or patio that is located below the design flood elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.

(3)

A deck or patio that has a vertical thickness of more than 12 inches or that is constructed with more than the

minimum amount of fill necessary for site drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.

(4)

A deck or patio that has a vertical thickness of 12 inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-337. - Other development in coastal high hazard areas (Zone V).

In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate federal, state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

(1)

Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;

(2)

Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters; and

(3)

On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or mound systems.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-338. - Nonstructural fill in coastal high hazard areas (Zone V).

In coastal high hazard areas:

(1)

Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.

(2)

Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures.

(3)

Where authorized by the Florida Department of Environmental Protection or applicable local approval, sand dune construction and restoration of sand dunes under or around elevated buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection if the scale and location of the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building

(Ord. No. 15-21, § 2, 5-19-15)

Secs. 158-339—158-350. - Reserved.

DIVISION 9. - HAZARDOUS MATERIALS

Sec. 158-351. - Manufacture and storage of hazardous materials.

Structures used for the manufacture or storage of hazardous materials shall not be permitted in any floodplain or floodway.

(Ord. No. 15-21, § 2, 5-19-15)

Sec. 158-352. - Discharge of hazardous materials.

It shall be unlawful for any person to discharge, cause to be discharged, or allow to be discharged any hazardous materials within any floodplain or floodway.

(Ord. No. 15-21, § 2, 5-19-15)

Chapter 162 - SIGNS[1]

Footnotes:

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Cross reference— Buildings and building regulations, ch. 22; zoning, ch. 138; sign regulations applicable to unincorporated areas, § 138-1334.

State Law reference— Sign regulations required, F.S. § 163.3202(2)(f).

ARTICLE I. - IN GENERAL

Sec. 162-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Advertising means any form of public announcement intended to aid, directly or indirectly, in the sale, use, or promotion of a product, commodity, service, activity, or entertainment.

Area or surface area of signs means the square foot area enclosed by a rectangle, parallelogram, triangle, circle, semicircle, other geometric figure, or other architectural design, the sides of which make contact with the extreme points or edges of the sign, excluding the supporting structure which does not form part of the sign proper or of the display. The area of a sign composed of characters or words attached directly to a large, uniform building wall surface shall be the smallest rectangle, triangle, circle, parallelogram, other geometric figure, or other architectural design which encloses the whole group of words or characters.

Artwork means drawings, pictures, symbols, paintings or sculptures which in no way identify a product or business and which are not displayed in conjunction with a commercial, for-profit or a nonprofit enterprise.

Banners means any sign of lightweight fabric or similar material that is mounted to a pole, a wire or a building at one or more edges. Flags shall not be considered banners.

Beacon means a stationary or revolving light which flashes or projects illumination, single color or multicolored, in any manner which is intended to attract or divert attention; except, however, this term is not intended to include any kind of lighting device which is required or necessary under the safety regulations described by the Federal Aviation Agency or similar agencies.

Building official means the local government official, or his designee, responsible for the administration, interpretation and enforcement of the building codes of the local government.

Building setback line means a line beyond which no building may extend, as established by ordinance. A building setback line, in some instances, may coincide with the property line.

Bulletin board means a sign of permanent character, but with removable letters, words, numerals or symbols, indicating the names of persons associated with, or events conducted upon, or products or services offered upon, the premises upon which such a sign is maintained.

Business establishment means any individual person, nonprofit organization, partnership, corporation, other organization or legal entity holding a valid occupational license and occupying distinct and separate physical space.

Changeable message means a portion of a sign in which message copy is changed manually or automatically in the field through the utilization of attachable letters, numbers, symbols, and other similar characteristics.

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

Erect means to build, construct, attach, hang, place, suspend or affix, and shall also include the painting of signs.

Flag means any fabric, banner or bunting containing distinct colors, patterns or symbols, used as a symbol of a government, political subdivision, corporation, business, or other entity.

Frontage means the length of the property line for a parcel which runs parallel to, and along, a road right-of-way or street, exclusive of alleyways. "Building frontage" means the single facade constituting the length

of the building or that portion of a building occupied by a single office, business, or enterprise abutting a street, parking area, or other means of customer access such as an arcade, mall, or walkway.

Ground level means the lower or finish grade of a parcel of land, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating a sign. Ground level on marina docks or floating structures shall be the finish grade of the landward portion of the adjoining parcel.

Height means the vertical distance measured from ground level nearest the base of the sign to the highest point of the sign.

Local government means the county government and the municipalities within the county.

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

Multiple dwelling means any building comprised of more than one family dwelling unit.

Multitenant building means a building where more than one business is serviced by a common entrance, and where such businesses may be located above the first story or otherwise be without frontage on a public right-of-way.

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

Property means the overall area represented by the outside boundaries of a parcel of land or development.

Sign means any device, fixture, placard or structure that uses any color, form, graphic, illumination, architectural style or design or writing to advertise, attract attention, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public. "Sign" includes sign structure.

A-frame or sandwich sign means a portable sign which is ordinarily in the shape of an A or some variation thereof.

Abandoned sign means a sign on which is advertised a business that is no longer licensed, no longer has a certificate of occupancy, or is no longer doing business at that location, and such circumstances have continued for a period of time as established by the local government.

Animated sign means any sign which includes action, motion, the optical illusion of action or motion, or color changes of all or any part of the sign facing, requiring electrical energy or set in motion by movement of the atmosphere, or a sign made up of a series of sections that turn and stop to show two or more pictures or messages in the copy area, except time and temperature signs. "Animated signs" shall include electronic reader boards.

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

Bench sign/bus shelter sign means a bench or bus shelter upon which a sign is drawn, painted, printed, or

otherwise affixed thereto, and where authorized by action of a local governing body, shall be exempt from the provision of this chapter as per F.S. § 337.407(2).

Canopy (awning) sign means any sign that is a part of or attached to an awning, canopy, or other fabric, plastic or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

Construction sign means any sign giving the name of principal contractors, architects, and lending institutions responsible for construction on the site where the sign is placed, together with other information included thereon.

Directional sign means any sign which exclusively contains information providing direction or location of any object, place, or area, including but not limited to those signs indicating avenues of ingress/egress.

Exempt signs means all signs for which permits are not required, but which must, nonetheless, conform to the other terms and conditions of this chapter.

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

Gasoline price display sign means a changeable message sign, typically mounted on the freestanding identification sign, which displays the prices of gasolines for sale.

Identification sign means any sign which indicates no more than the name, address, company logo and occupation or function of an establishment or premises.

Menu sign (for drive-through establishments) means a product sign placed so as to be viewed from a drive-through lane, and contains only a listing of products, with prices, offered for sale by the business, and may provide a mechanism for ordering products while viewing the sign.

Nonconforming sign means any sign that does not conform to the requirements of this chapter.

Off-premises sign means any sign identifying or advertising a product, business, person, activity, condition, or service not located or available on the same zone lot where the sign is installed and maintained.

On-premises sign means any sign which identifies a use, business or advertises a product for sale or service to be rendered on the zone lot where the sign is located.

Political sign means any sign which constitutes a political advertisement, the primary purpose of which is related to the candidacy of any person for public office or any issue which has been submitted for referendum approval.

Portable sign means any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted from A-frames; menu and sandwich board signs; balloons and other inflatables; and umbrellas used for advertising.

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

Public/semipublic sign means any sign erected on site for a nonprofit or quasipublic use such as a library,

school, church, hospital, or government owned building.

Real estate sign means any sign advertising the sale, rental or lease of premises, or part of the premises, on which the sign is displayed.

Roof sign means any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure. "Integral roof sign" means any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches. Any integral portion of the roof shall not extend more than five feet above the structural roof.

Snipe sign means a sign which is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, or to other objects, with the message appearing thereon not applicable to the present use of the premises or structure upon which the sign is located.

Subdivision sign means a sign which contains only the name of a platted subdivision or other residential development.

Vehicle sign means a sign attached to or placed on a vehicle, including automobiles, trucks, boats, campers, and trailers, that is parked on or otherwise utilizing a public right-of-way, public property or on private property so as to be intended to be viewed from a vehicular right-of-way for the basic purpose of providing advertisement of products or services or directing people to a business or activity. This definition is not to be construed to include those signs that identify a firm or its principal products on a vehicle or such advertising devices as may be attached to and within the normal unaltered lines of the vehicle of a licensed transit carrier, when and during that period of time such vehicle is regularly and customarily used to traverse the public highways during the normal course of business.

Wall sign means a sign which is painted on, fastened to, or erected against the wall of a building with its face in a parallel plane to the plane of the building facade or wall.

Warning sign means signs located on a property posting such property for warning or prohibitions on parking, trespassing, hunting, fishing, swimming, or other activity, provided such signs do not carry any commercial message or identification.

Window sign means a sign located on a window or within a building or other enclosed structure, which is visible from the exterior through a window or other opening.

Sign face means the part of the sign that is or can be used to identify, display, advertise, communicate information, or for visual representation which attracts or intends to attract the attention of the public for any purpose.

Sign structure means any structure which is designed specifically for the purpose of supporting a sign, has supported, or is capable of supporting a sign. This definition shall include any decorative covers, braces, wires, supports, or components attached to or placed around the sign structure.

Street means a public right-of-way used for vehicular and pedestrian traffic.

Zone lot means a parcel of land that is of sufficient size to meet minimum zoning requirements for area, coverage, and use; and that can provide such setbacks and other open spaces as required by the applicable local government zoning regulations.

(Ord. No. 91-39, § IX, 9-17-91)

Cross reference— Definitions generally, § 134-2.

Sec. 162-2. - Legislative findings, purpose and intent.

(a)

Findings.

(1)

These countywide sign regulations are promulgated based on the following findings, which findings have served as the basis for the regulations set forth in this chapter. It has been determined that in Pinellas County sign regulations are characterized by:

a.

Inadequate and incomplete sign regulation in portions of the county;

b.

Lack of uniformity and consistency between municipal sign regulations;

c.

Lack of attention to the relationship between proper sign regulation and the economic importance of the tourist industry;

d.

Visual distraction and potential safety hazards posed to movement of traffic on public rights-of-way; and

e.

Failure to consider signs as an integral component of the urban landscape.

(2)

In order to address these issues, it has been determined that the most effective, efficient and equitable approach is the implementation of a countywide system of sign regulation which shall serve as a minimum norm or standard, and which system of minimum standards is further designed to be integrated with and applied through the respective sign standards of each local government.

(b)

Purpose and intent.

(1)

The purpose of the regulations set out in this chapter is to establish minimum standards for an orderly system of signs and improve the quality of sign regulation on a countywide basis in a manner that contributes to the

economic well-being, visual appearance, and overall quality of life in the county.

(2)

In particular, it is the purpose of this chapter to further the following objectives:

a.

To establish a comprehensive countywide system of sign regulation that addresses the full spectrum of principal sign considerations on a uniform basis;

b.

To establish a countywide standard for principal sign considerations that will foster consistency and avoid disharmony between neighboring municipalities;

c.

To establish a countywide system of sign regulation that gives special recognition to protecting the natural characteristics and visual attractiveness that are essential to the tourist-based economy of the county;

d.

To address on a countywide basis the minimum standards necessary to reduce the visual distraction and safety hazards created by sign proliferation along the public rights-of-way; and

e.

To recognize on a countywide basis the significance of signs and appropriate uniform regulation thereof as a component of community appearance and character in our highly urbanized county.

(3)

It is also the intent that protection of First Amendment rights shall be afforded such that any sign, display, or device allowed under this chapter may contain, in lieu of any other copy, any otherwise lawful noncommercial message that does not direct attention to a business operated for profit, or to a commodity or service for sale, and that complies with size, lighting and spacing requirements of this chapter.

(Ord. No. 91-39, § I, 9-17-91)

Sec. 162-3. - Authority and jurisdiction.

(a)

This chapter is adopted pursuant to the authority granted in F.S. § 125.01.

(b)

Consistent with the provisions of the county Charter, and specifically not in furtherance of its countywide planning authority, and except for the provisions of sections 162-42 and 162-43, the provisions of this chapter shall be effective in the incorporated as well as the unincorporated areas of the county.

The provisions of sections 162-42—162-43 are advisory only, for purposes of promoting a standardized amortization schedule. Each local government, including the county, must adopt the provisions of sections 162-42—162-43 for those sections to be effective within that local government's jurisdiction. Nothing in this chapter shall act to prevent any local government from maintaining an existing amortization schedule, adopting an amortization schedule or any schedule that differs from the provisions of sections 162-42—162-43.

(c)

Nothing in this chapter, which is intended to establish countywide minimum standards, shall operate to restrict any local governing body, including the board of county commissioners, in its adoption of a separate ordinance having more restrictive sign provisions applicable to the respective jurisdiction of the governing body.

(d)

The board of county commissioners shall not be responsible nor liable for damages arising from municipal government implementation or enforcement of the provisions of this chapter by that municipal government.

(Ord. No. 91-39, § II, 9-17-91)

Sec. 162-4. - Computation of dimensions.

(a)

Computation of total permitted sign area.

(1)

The permitted sign area for freestanding signs shall be based upon one square foot for each linear foot of zone lot frontage. A freestanding sign shall be allowed to have an additional eight square feet per sign face, provided that this allowance is used exclusively for the street address number, numbers or number range, depicted in Arabic numerals. The public purpose for the address is to assist the traveling public to locate specific places and to assist public safety and emergency service vehicles to rapidly locate addresses.

(2)

The permitted sign area for attached signs shall be based upon 1¾ square feet for each linear foot of building frontage.

(3)

Zone lots fronting two or more streets are allowed the permitted signage for each frontage, but signage cannot be accumulated and used on one street in excess of that allowed for the zone lot based on that one street frontage.

(b)

Computation of sign area.

(1)

The area of a sign shall be computed on the basis of the smallest square, circle, rectangle, other geometric figure, or combination thereof, that will encompass the extreme limits of the writing, representation, emblem, lighting, or other display, together with any material, color, or border trim forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed. The computation of a sign area does not include any framework, bracing, fence or wall that is reasonably necessary to support the sign.

(2)

The area of a sign shall be computed on a per sign face basis and all requirements with respect to sign area reference the area of a single face of a sign. A double-faced sign shall be permitted to have the allowed area for a single-faced sign on each of the two faces of the double-faced sign.

(c)

Computation of sign height. The height of a freestanding sign shall be computed as the distance from the base of the sign at ground level to the top of any portion of the sign structure. In cases where the ground level, as defined in this chapter, cannot reasonably be determined, sign height shall be derived on the assumption that the elevation of the ground at the base of the sign is equal to the average elevation at the front property line of the zone lot.

In the case where a freestanding sign is on a parcel contiguous to an overpass or elevated road (excluding service roads) from which the sign is designed to be viewed, the height of the sign shall be measured from the highest point of the overpass or elevated road at the crown of the roadway surface to the top of the sign; such highest point to be determined by the average elevation between the perpendicular extension of the contiguous zone lot lines on which the sign is to be located, as such lot lines intersect the overpass or elevated road.

(d)

Computation of visual clearance and sight triangle. The visual clearance and sight triangle, to assure adequate sight distance at the intersection of two public roadways and at the intersection of a public roadway and an accessway or driveway, shall follow the criteria of the Florida Department of Transportation's Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways, or criteria otherwise specified by the local government.

(e)

Figures in appendixes. The computation of sign dimensions shall be as set forth in this chapter and as depicted in the appropriate figure delineating such sign dimensions in the appendixes adopted in section 162-7.

(Ord. No. 91-39, § III, 9-17-91)

Sec. 162-5. - Exempt signs.

The following types of signs are exempt from the permitting process and other provisions in this chapter, except those relating to construction, illumination, safety, nonconformity, and any other noted requirement:

(1)

Address numbers. The address numbers shall be at least three inches in height, in Arabic numerals, and of contrasting color to background and displayed on the front of the establishment. If the three-inch standard is deemed insufficient for legibility, the local government may require larger numbers where applicable.

(2)

Artwork.

(3)

Changeable message on permitted signs.

(4)

Commemorative and historic signs.

(5)

Construction signs. Such signs shall not exceed 32 square feet in area per sign face. The sign may be displayed only during the time a valid building permit is in force.

(6)

Government and public signs, including, but not limited to, community identity and entrance signs, signs for special community events, and coordinated countywide trail-blazing signs that provide direction to places of interest.

(7)

Government/public flags. There shall be a maximum of three flags permitted on each zone lot. The flags shall be flown according to protocol established by the Congress of the United States of America for the Stars and Stripes. The height of any flag or flagpole shall be as authorized by the local government.

(8)

Machinery signs; examples are signs on newspaper machines, vending machines, gasoline pumps, and public telephone booths.

(9)

Menu signs for drive-through establishments. There shall be a maximum of two such signs per zone lot or business; no more than one sign per drive-through lane. Sign area may not exceed 40 square feet per sign face.

(10)

On-site directional signs. No individual on-site directional sign shall exceed four square feet in area per sign face. The number of such signs shall be as authorized by the local government.

(11)

Political signs. Political signs in residential districts shall not exceed six square feet in area per sign face;

signs in nonresidential districts shall not exceed 32 square feet in area per sign face. The number of such signs shall be as authorized by the local government.

(12)

Real estate signs. Real estate signs in residential districts shall not exceed six square feet in area per sign face; signs in nonresidential districts shall not exceed 32 square feet in area per sign face. One such sign per saleable or leasable unit is permitted. Directional off-site real estate signs are permitted for a particular property only on those days when there is an open house. Waterfront parcels are permitted one real estate sign oriented toward the water in addition to the real estate signs permitted for nonwaterfront property. Saleable or leasable units fronting two or more streets are allowed the permitted real estate signs for each frontage, but these signs cannot be accumulated and used on one street in excess of that allowed for the saleable or leasable units based on that one street frontage. For parcels with over 500 feet of street frontage on one right-of-way, one additional real estate sign may be permitted.

(13)

Small off-premises signs that are for public/semipublic purposes and are directional only, subject to the specific authorization and standards of the local governmental jurisdiction within which they are to be located. The maximum area of these signs shall be four square feet per sign face.

(14)

Temporary window signs. Such signs shall be allowed in areas classified as multifamily residential, office, commercial, industrial, and public/semipublic. The maximum area of such signs in areas classified as office, commercial, industrial, and public/semipublic shall be 25 percent of the windowpane area or 100 square feet, whichever is less. In multifamily residential areas, the area of temporary window signs shall not exceed 25 square feet. The permitted duration of a temporary window sign shall be as authorized by the local government.

(15)

Warning signs. Warning signs shall not exceed six square feet in area per sign face.

(Ord. No. 91-39, § IV, 9-17-91)

Sec. 162-6. - Prohibited signs.

The following types of signs are prohibited:

(1)

Abandoned signs.

(2)

Bus shelter signs and bench signs, except when approved by a local government, pursuant to F.S. § 337.407(2)(a). This prohibition shall not be construed to include the identification of a transit company or its route schedule.

(3)

Off-premises signs, except for public/semipublic directional signs, per section 162-5(13), where specifically provided for elsewhere in this chapter and in industrial classifications, per section 162-82(6).

(4)

Pavement markings, except official traffic control markings or as authorized by the local government.

(5)

Pennants, streamers, banners and cold air inflatables, except for special occasions for limited time and frequency as authorized by the local government.

(6)

Portable signs, except as provided in subsection (5), above.

(7)

Roof signs, except integral roof signs in nonresidential districts.

(8)

Sandwich board signs.

(9)

Signs attached to or painted on piers or seawalls, other than such official regulatory or warning signs as are authorized by the local government.

(10)

Signs in or upon any river, bay, lake, or other body of water within the limits of the county, unless authorized by the local government.

(11)

Signs that are erected upon or project over public rights-of-way or present a potential traffic or pedestrian hazard. This includes signs which obstruct visibility.

(12)

Signs that emit sound, vapor, smoke, odor, particles, or gaseous matter.

(13)

Signs that have unshielded, illuminating devices.

(14)

Signs that move, revolve, twirl, rotate, and/or flash, including animated signs, multiprism signs, and beacon lights, except when required by the Federal Aviation Agency or other governmental agency.

(15)

Signs that obstruct, conceal, hide, or otherwise obscure from view any official traffic or government sign, signal, or device.

(16)

Snipe signs.

(17)

Temporary window signs in single-family residential districts.

(18)

Three-dimensional objects that are used as signs, except where provided for by specific authorization of the local government and in accordance with criteria of the local government.

(19)

Vehicle signs, as defined in this chapter, and portable trailer signs.

(20)

Any sign that is not specifically described or enumerated as permitted within the specific land use classifications in this chapter.

(Ord. No. 91-39, § V, 9-17-91)

Sec. 162-7. - Appendixes.

The appendixes to section 138-1334 also are applicable to this chapter.

Secs. 162-8—162-35. - Reserved.

ARTICLE II. - ADMINISTRATION

Sec. 162-36. - Permitting process.

The permitting process for signs shall be as established by the local government.

(Ord. No. 91-39, § VII(A), 9-17-91)

Sec. 162-37. - Compliance with other codes.

Signs subject to this chapter shall comply with applicable building and maintenance codes of the respective jurisdictions.

(Ord. No. 91-39, § VII(B), 9-17-91)

Sec. 162-38. - Interpretation.

Where there is ambiguity or a dispute concerning the interpretation of this chapter, an advisory interpretation

will be rendered by the board of county commissioners or its delegated administrative representative.

(Ord. No. 91-39, § VII(C), 9-17-91)

Sec. 162-39. - Variances.

(a)

Requests for variances from any provision of this chapter shall be processed and authorized by the applicable body of the local government.

(b)

Variances from the terms of this chapter may not be contrary to the public interest; but variances to this chapter may be granted where, owing to a special condition, the literal enforcement of the provisions of this chapter would result in unnecessary hardship, not to include economic hardship. However, no variance to the provisions of this chapter shall be granted unless the following conditions are met:

(1)

The special conditions or circumstances of the applicant are peculiar to the structure or premises and do not generally apply to other structures or premises in like classifications;

(2)

The variance sought does not result from an action by the applicant or from an action of which the applicant had knowledge of or gave approval;

(3)

The variance sought does not substantially impair the purpose or intent of this chapter, shall not be merely a convenience to the applicant, and shall not be a detriment to the public welfare; and

(4)

The variance granted shall be the minimum necessary to accomplish the intended objective of the variance request.

(c)

In granting variances to the terms of this chapter, special requirements or safeguards may be attached as conditions.

(Ord. No. 91-39, § VII(D), 9-17-91)

Sec. 162-40. - Enforcement and penalties.

(a)

Local governments and their respective law enforcement officials shall bear the responsibility for the appropriate enforcement of this chapter in their respective jurisdictions.

(b)

Violations of this chapter are punishable as provided in section 134-8.

(c)

In addition to the penalties provided by subsection (b) of this section for violation of this chapter, any violation of this chapter shall be subject to appropriate civil action in the court of appropriate jurisdiction.

(Ord. No. 91-39, § VII(E)(1), 9-17-91)

Sec. 162-41. - Right of appeal.

Any person adversely affected by a decision in the permitting, enforcement, or interpretation of any of the terms or provisions of this chapter may appeal such decisions to the designated appropriate body of the applicable local jurisdiction.

(Ord. No. 91-39, § VII(E)(2), 9-17-91)

Sec. 162-42. - Nonconforming signs—Generally.

(a)

Except as provided in this chapter, no nonconforming sign shall be moved, reconstructed, extended, enlarged, or altered unless changed to conform with this chapter.

(b)

Nonconforming signs may be maintained, repaired, or the message of the sign may be changed. If, however, the nonconforming sign is relocated, replaced, or structurally altered at a cost of more than 25 percent of the replacement cost of the sign, the sign must be made to conform to this chapter.

(c)

A building or site which is improved or redeveloped at a cost in excess of 50 percent of the assessed value of the existing building or site shall require any nonconforming sign which is located on or is a part of such building or site to conform to this chapter.

(Ord. No. 91-39, § VII(F), 9-17-91)

Sec. 162-43. - Same—Removal of; variances.

(a)

All legally erected nonconforming signs shall be discontinued or made conforming (amortized) within seven years from March 1, 1992, unless amortization without compensation is, at the end of that time, prohibited by state and/or federal law. This seven-year amortization period shall not be construed as an extension of any amortization presently in force in any local government within the county. Furthermore, any local government has the right to have a different amortization schedule.

All signs which are made nonconforming by an amendment to this chapter or to the official zoning map, or

extension of the areas in which this section is applicable, shall be discontinued or made conforming (amortized) within seven years after the date of such amendment or extension, unless amortization without compensation is, at the end of that time, prohibited by state and/or federal law. This seven-year amortization period shall not be construed as an extension of any amortization presently in force in any local government within the county. Furthermore, any local government has the right to have a different amortization schedule.

Each local government is responsible for administering the system of notification and the process to remove nonconforming signs.

(b)

In the event that a court of competent jurisdiction determines that, as applied to a particular nonconforming sign, the seven-year period for attaining conforming status pursuant to subsection (a) of this section is not enforceable, then a ten-year period shall apply.

(c)

In the event that a court of competent jurisdiction determines that, as applied to a particular nonconforming sign, the period for attaining conforming status provided for in subsection (a) or (b) of this section is unenforceable, then the court shall determine what additional period of time shall be required and, consistent with subsection (d) of this section, that period shall tack onto the otherwise applicable time period.

(d)

The intent of subsections (b) and (c) of this section is to prevent a successful legal challenge to the application of these removal provisions from requiring the amortization period to begin anew. Therefore, any additional period of time either required by the preceding three-year extension provision of subsection (b) of this section, or any court decision that extends the time beyond ten years under subsection (c) of this section, shall tack onto the period of time that has passed since March 1, 1992, for the purpose of calculating the eventual removal date.

(e)

Variances.

(1)

Requests for variances of up to three additional years beyond the seven-year period that would otherwise be allowed under subsection (a) of this section shall be processed and authorized as determined appropriate by the applicable body of the local government.

(2)

Variances may be granted where, owing to the peculiar facts of the structure involved, and based on no single one of the criteria listed below, but rather when, on balance, the private loss suffered by owners of the particular structure is substantial when compared to the public benefit achieved by the consistent application of the amortization period. The specific criteria for determination of a variance to the seven-year removal period shall include the following considerations:

a.

Length of the amortization period in relation to the investment;

b.

A sign owner does not have to be given a period of time necessary to permit him to recoup his investment entirely, but an amortization period should not be so short as to result in a substantial loss of the sign owner's investment;

c.

Initial capital investment;

d.

Investment realization to date;

e.

Life expectancy of investment; depreciation schedules;

f.

Existence or nonexistence of a lease obligation, as well as a contingency clause permitting termination of the lease;

g.

Removal costs directly attributable to the regulatory effects of this chapter;

h.

The depreciation period of the sign structure;

i.

Location of the sign structure;

j.

What part of the owner's total business is concerned;

k.

Monopoly or advantage, if any, resulting from the fact that similar new structures are prohibited in the same area; and

l.

The fact that the use is also of public streets since the messages are directed to the passersby.

(3)

No variance under this subsection (e) shall be granted unless the conditions listed under section 162-39(b) are also satisfied.

(f)

Signs that exist on March 1, 1992, that were not in conformance with previous regulations are illegal signs and shall conform with this chapter or be removed within 90 calendar days of the effective date of these regulations.

(Ord. No. 91-39, § VII(G), 9-17-91)

Sec. 162-44. - Legal challenge.

Any sign owner who determines that his property rights have been adversely affected by the removal of nonconforming sign provisions of this chapter may seek relief in any court of competent jurisdiction, provided such sign owner has exhausted his administrative remedy by seeking a variance to those amortization provisions, where provided.

(Ord. No. 91-39, § VIII(B), 9-17-91)

Sec. 162-45. - Repeal of chapter.

After final adoption of the ordinance from which this chapter derives by the board of county commissioners, the ordinance shall be transmitted to all municipalities within the county. After March 1, 1992, if any one incorporated or unincorporated local government or group of such local governments representing two percent or more of the total countywide land area shall elect to exempt itself or themselves, either in whole or in part, in a manner that provides for less restrictive regulations, this chapter shall be deemed repealed upon a finding of the board of county commissioners that the above-referenced circumstances exist.

(Ord. No. 91-39, § VIII(D), 9-17-91)

Secs. 162-46—162-75. - Reserved.

ARTICLE III. - PERMITTED SIGNS AND STANDARDS BY LAND USE CLASSIFICATIONS

Sec. 162-76. - Purpose and procedure.

(a)

It is the intent of this article to regulate signs consistent with the land use classification which establishes the character of the area in which the signs are located.

(b)

Local governing bodies shall establish a definitive categorization, by the respective local government land use plan or zoning district, to correlate such local designations with the major land use classifications of the countywide future land use plan as listed in this article.

(c)

Within the major commercial land use classification, the differentiation, if any, between the commercial subcategories of neighborhood commercial, general commercial, and highway commercial shall be at the

discretion of, and based upon that system of classification determined most appropriate by, the local government.

(Ord. No. 91-39, § VI(A), 9-17-91)

Sec. 162-77. - General requirements.

(a)

Signs shall not be located on publicly owned land or easements or inside street rights-of-way except signs required or erected by permission of an authorized governmental agency. "Signs" shall include, but not be limited to, handbills, posters, advertisements, or notices that are attached in any way upon lampposts, telephone poles, utility poles, bridges, and sidewalks.

(b)

Nothing in this article shall be construed to prevent or limit the display of legal notices, warnings, informational, directional, traffic, or other such signs which are legally required or necessary for the essential functions of governmental agencies.

(c)

All signs shall be moved by the owner of the sign at no expense to the applicable governmental jurisdiction when the signs are within any public property, including existing right-of-way. Nothing shall prohibit a duly authorized local official from removing a sign from public property.

(d)

All signs shall comply with applicable building and electrical code requirements.

(e)

Illumination.

(1)

The light from any illuminated sign shall be shaded, shielded, or directed from adjoining residential and nonresidential parcels.

(2)

No sign shall have blinking, flashing, or fluttering lights or any other illumination device which has a changing light intensity, brightness, color, or direction.

(3)

No colored lights shall be used at any location or in any manner so as to be confused with or be construed as traffic control devices.

(4)

Neither the direct nor the reflected light from primary light sources shall create a traffic hazard to operators of

motor vehicles on public thoroughfares.

(Ord. No. 91-39, § VI(B), 9-17-91)

Sec. 162-78. - Residential land use classifications.

The following types of signs are permitted in residential land use classifications, as depicted on the countywide future land use plan map and its local land use plan or zoning district correlation as determined by the respective local jurisdiction:

(1)

Subdivision signs for single-family residential areas shall be permitted only as follows:

a.

Number. A maximum of one sign is permitted for each platted subdivision or property entrance.

b.

Area. The maximum area shall be 24 square feet per sign face.

c.

Height. The maximum height for a freestanding sign is six feet.

d.

Setbacks. Setbacks shall be determined by local government.

(2)

Signs for multifamily residential areas shall be permitted only as follows:

a.

Number. A maximum of one sign is permitted for each platted subdivision or property entrance.

b.

Area. The maximum area is 24 square feet per sign face.

c.

Height. The maximum height for a freestanding sign is eight feet.

d.

Setbacks. Setbacks shall be determined by the local government.

(3)

Garage or yard sale signs shall be permitted only as follows: The maximum area for any one sign shall be

four square feet per sign face.

(4)

Home occupation signs in residential districts shall be permitted only as follows:

a.

Number. A maximum of one attached sign is permitted.

b.

Area. The maximum area of the sign shall be two square feet per sign face.

(5)

Residential identification signs (nameplates) shall be permitted only as follows:

a.

Number. A maximum of one attached sign is permitted.

b.

Area. The maximum area of the sign shall be two square feet per sign face.

(6)

Small, off-premises signs that are for public/semipublic purposes and are directional only, as per section 162-5(13).

(7)

Signs for public/semipublic land uses shall be in accordance with the provisions of section 162-79.

(Ord. No. 91-39, § VI(C), 9-17-91)

Sec. 162-79. - Public/semipublic land use classifications.

The following types of signs are permitted in public/semipublic land use classifications, as depicted on the countywide future land use plan map, and its local land use plan or zoning district correlation as determined by the respective local jurisdiction:

(1)

Freestanding signs shall be permitted only as follows:

a.

Number. A maximum of one sign per zone lot is permitted. One additional sign may be permitted for each additional street frontage. For parcels with over 500 feet of street frontage on one right-of-way, one additional freestanding sign may be permitted; such additional sign shall be spaced at least 300 feet from the other.

b.

Area. The total maximum area for any freestanding sign or signs shall be that area calculated according to section 162-4(a)(1) or 48 square feet per sign face, whichever is less.

c.

Height. The maximum height for a freestanding sign shall be 12 feet.

d.

Setbacks. Setbacks shall be determined by local government.

(2)

Attached signs shall be permitted only as follows:

a.

Area. The maximum total area for all attached signs shall be that area calculated according to section 162-4(a)(2) or 48 square feet, whichever is less.

b.

Types of signs. The following attached signs may be permitted, provided the cumulative area of the attached signs does not exceed the maximum area according to subsection (2)a, above:

1.

Wall sign;

2.

Canopy or awning sign;

3.

Permanent window sign;

4.

Projecting sign;

5.

Integral roof sign.

(3)

In addition to the above provisions, bulletin boards for schools and churches shall be subject to the specific authorization and standards of the local governmental jurisdiction within which they are to be located.

(Ord. No. 91-39, § VI(D), 9-17-91)

Sec. 162-80. - Mixed use classifications.

(a)

Within the mixed use classification, each local government will apply the following sign standards based on the actual type of use to which the sign pertains, i.e., residential, office or commercial. It shall further be the prerogative of the local jurisdiction to determine which commercial subcategory, i.e., neighborhood, general or highway, applies to the commercial use within the mixed use classification, which determination shall be made consistent with the provisions of section 162-76(b) and (c).

(b)

The following types of signs are permitted in mixed use classifications (residential/office, for example), as depicted on the countywide future land use plan map, and its local land use plan or zoning district correlation as determined by the respective local jurisdiction:

(1)

Office land use:

a.

Freestanding signs shall be permitted only as follows:

1.

Number. A maximum of one such sign per zone lot is permitted. One additional sign may be permitted for each additional street frontage. For parcels with over 500 feet of street frontage on one right-of-way, one additional freestanding sign may be permitted; such additional sign shall be spaced at least 300 feet from the other.

2.

Area. The total maximum area for any freestanding sign or signs shall be that area calculated according to section 162-4(a)(1) or 50 square feet per sign face, whichever is less.

3.

Height. The maximum height for a freestanding sign is 20 feet.

4.

Setbacks. Setbacks shall be determined by the local government.

5.

Time and temperature signs. The maximum area for the time and temperature portion only shall be 20 square feet per sign face.

6.

Flags. Flags containing a corporate name or logo shall be part of the computation of allowable area for freestanding signs.

b.

Attached signs shall be permitted only as follows:

1.

Area. The maximum total area for all attached signs shall be that area calculated according to section 162-4(a)(2) or 100 square feet, whichever is less.

2.

Types of signs. The following attached signs may be permitted, provided the cumulative area of the attached signs does not exceed the maximum area according to subsection (b)(1)b.1, above:

i.

Wall sign;

ii.

Canopy or awning sign;

iii.

Permanent window sign;

iv.

Projecting sign;

v.

Integral roof sign.

3.

Time and temperature signs. The maximum area for the time and temperature portion only shall be 20 square feet per sign face.

c.

Directory/information signs shall be permitted only as follows:

1.

Number. A maximum of one such sign per street frontage is permitted.

2.

Area. The maximum area for a directory/information sign shall be 40 square feet per sign face for any one sign.

3.

Setback. The minimum setback distance for a directory/information sign is 100 feet from the property line.

(2)

Residential land use: See section 162-78.

(3)

Commercial land use: See section 162-81.

(4)

Off-premises directional signs for public/semipublic purposes are permitted in accordance with section 162-5(13).

(5)

Public/semipublic land uses shall follow the sign provisions of section 162-79.

(Ord. No. 91-39, § VI(E), 9-17-91)

Sec. 162-81. - Commercial land use classifications.

(a)

Within the commercial classification, each local government will apply the sign standards set out in this section based on a determination as to which commercial subcategory, i.e., neighborhood, general or highway, applies to a given commercial classification within the local jurisdiction; such determination shall be made consistent with the provisions of section 162-76(b) and (c).

(b)

The following types of signs are permitted in commercial land use classifications, as depicted on the countywide future land use plan map, and its local land use plan or zoning district correlation as determined by the respective local jurisdiction:

(1)

Neighborhood commercial subcategory. Within the neighborhood commercial subcategory:

a.

Freestanding signs shall be permitted only as follows:

1.

Number. A maximum of one such sign per zone lot is permitted. One additional sign may be permitted for

each additional street frontage. For parcels with over 500 feet of street frontage on one right-of-way, one additional freestanding sign may be permitted, such additional sign to be spaced at least 300 feet from the other.

2.

Area. The total maximum area for any freestanding sign or signs shall be that area calculated according to section 162-4(a)(1) or 50 square feet per sign face, whichever is less.

3.

Height. The maximum height for a freestanding sign is 20 feet.

4.

Setbacks. Setbacks shall be determined by the local government.

5.

Time and temperature signs. The maximum area for the time and temperature portions only shall be 20 square feet per sign face.

6.

Flags. Flags containing a corporate name or logo shall be part of the computation of allowable area for freestanding signs.

b.

Attached signs shall be permitted only as follows:

1.

Area. The maximum total area for all attached signs shall be that area calculated according to section 162-4(a)(2) or 100 square feet, whichever is less.

2.

Types of signs. The following attached signs may be permitted, provided the cumulative area of the attached signs does not exceed the maximum area according to subsection (b)(1)b.1, above:

i.

Wall sign;

ii.

Canopy or awning sign;

iii.

Permanent window sign;

iv.

Projecting sign;

v.

Integral roof sign.

3.

Time and temperature signs. The maximum area for the time and temperature portion only shall be 20 square feet per sign face.

c.

Off-premises directional signs for public/semipublic purposes are permitted in accordance with section 162-5(13).

d.

Public/semipublic land uses shall follow the sign provisions of section 162-79.

(2)

General commercial subcategory. Within the general commercial subcategory:

a.

Freestanding signs shall be permitted only as follows:

1.

Number. A maximum of one freestanding sign per zone lot is permitted. One additional sign may be permitted for each additional street frontage. For parcels with over 500 feet of street frontage on one right-of-way, one additional freestanding sign may be permitted, such additional sign to be spaced at least 300 feet from the other.

2.

Area. The total maximum area for any freestanding sign or signs shall be that area calculated according to section 162-4(a)(1) or 100 square feet per sign face, whichever is less.

3.

Height. Maximum height for a freestanding sign is 25 feet.

4.

Setbacks. Setbacks shall be determined by the local government.

5.

Time and temperature signs. The maximum area for the time and temperature portion only shall be 20 square feet per sign face.

6.

Theater/movie announcement sign. To be determined by the local government.

7.

Flags. Flags containing a corporate name or logo shall be part of the computation of the allowable area for freestanding signs.

b.

Attached signs shall be permitted as follows:

1.

Area. The maximum total area for all attached signs shall be that area calculated according to section 162-4(a)(2) or 150 square feet, whichever is less.

2.

Types of signs. The following attached signs may be permitted, provided the cumulative area of the attached signs does not exceed the maximum area according to subsection (b)(2)b.1, above:

i.

Wall sign;

ii.

Canopy or awning sign;

iii.

Permanent window sign;

iv.

Projecting sign;

v.

Integral roof sign.

3.

Time and temperature signs. The maximum area for the time and temperature portion only shall not exceed 20 square feet per sign face.

4.

Theater/movie announcement signs. Theater/movie announcement signs shall be determined by the local government.

c.

Gasoline price display signs: The maximum area for all gasoline price display signs shall total no more than 24 square feet per sign face.

d.

Off-premises directional signs for public/semipublic purposes are permitted in accordance with section 162-5(13).

e.

Public/semipublic land uses shall follow the sign provisions of section 162-79.

(3)

Highway commercial subcategory. Within the highway commercial subcategory:

a.

Freestanding signs shall be permitted only as follows:

1.

Number. A maximum of one freestanding sign per zone lot is permitted. One additional sign may be permitted for each additional street frontage. For parcels with over 500 feet of street frontage on one right-of-way, one additional freestanding sign may be permitted, such additional sign to be spaced at least 300 feet from the other.

2.

Area. The maximum total area for any freestanding sign or signs shall be that area calculated according to section 162-4(a)(1) or 150 square feet per sign face, whichever is less.

3.

Height. The maximum height for a freestanding sign is 25 feet.

4.

Setbacks. Setbacks shall be determined by the local government.

5.

Time and temperature signs. The maximum area for the time and temperature portion only shall not exceed 20 square feet per sign face.

6.

Theater/movie announcement sign. To be determined by the local government.

7.

Flags. Flags containing a corporate name or logo shall be part of the computation of the allowable area for freestanding signs.

b.

Attached signs shall be permitted only as follows:

1.

Area. The maximum total area for all attached signs shall be that area calculated according to section 162-4(a)(2) or 150 square feet, whichever is less.

2.

Types of signs. The following attached signs may be permitted, provided the cumulative area of the attached signs does not exceed the maximum area according to subsection (b)(3)b.1, above:

i.

Wall sign;

ii.

Canopy or awning sign;

iii.

Permanent window sign;

iv.

Projecting sign;

v.

Integral roof sign.

3.

Time and temperature signs. The maximum area for the time and temperature portion only shall not exceed 20 square feet per sign face.

4.

Theater/movie announcement signs. Theater/movie announcement signs shall be as determined by the local government.

c.

Gasoline price display signs: The maximum area for all gasoline price display signs shall total no more than 24 square feet per sign face.

d.

Off-premises directional signs for public/semipublic purposes are permitted in accordance with section 162-5(13).

e.

Public/semipublic land uses shall follow the sign provisions of section 162-79.

f.

Off-premises signs shall be permitted as follows:

1.

Number. A maximum of one sign per zone lot is permitted.

2.

Lot area. The sign must be located on a zone lot, the minimum area of which shall be that lot area required in the designated plan and/or zoning district of the local jurisdiction in which the sign is to be located.

3.

Location. Off-premises signs shall be allowed only in highway commercial or industrial land use classifications which are located on interstate and federal aid primary designated roads.

4.

Area. The maximum area for an off-premises sign shall be 672 square feet per sign face. Two such sign faces may be mounted back to back on the same sign structure.

5.

Height. The maximum height shall be 25 feet from ground level, or in the case where the freestanding sign is on a parcel contiguous to an overpass or elevated road (excluding service roads) from which the sign is designed to be viewed, the height of the sign shall be measured from the highest point of the overpass or elevated road at the crown of the roadway surface to the top of the sign, such highest point to be determined by the average elevation between the perpendicular extension of the contiguous zone lot lines on which the sign is to be located, as such lot lines intersect the overpass or elevated road.

6.

Separation requirements. Off-premises signs shall not be located within a 1,500-foot radius of another such sign on interstate designated roadways, and shall not be located within a 1,000-foot radius of another such sign on all federal aid primary designated roadways. Additionally, no off-premises sign shall be placed within 500 feet of residentially zoned property; any such sign within 500 feet of property subsequently classified residential shall be classified nonconforming and be subject to the nonconforming provisions of this chapter.

7.

Setbacks. Setbacks from any property line shall be determined by the local government.

8.

Intergovernmental coordination. In those locations at or in proximity to jurisdictional boundaries where inconsistent sign regulations would serve to undermine the purpose and intent of these regulations, local governments may enter into an interlocal agreement to provide for the basis of regulation in such transition areas.

(Ord. No. 91-39, § VI(F), 9-17-91)

Sec. 162-82. - Industrial land use classifications.

The following types of signs are permitted in industrial land use classifications, as depicted on the countywide future land use plan map, and its local land use plan or zoning district correlation as determined by the respective local jurisdiction.

(1)

Freestanding signs shall be permitted only as follows:

a.

Number. A maximum of one freestanding sign per zone lot is permitted. One additional sign may be permitted for each additional street frontage. For parcels with over 500 feet of street frontage on one right-of-way, one additional freestanding sign may be permitted; such additional sign must be spaced at least 300 feet from the other.

b.

Area. The total maximum area for any freestanding sign or signs shall be that area calculated according to section 162-4(a)(1) or 75 square feet per sign face, whichever is less.

c.

Height. The maximum height for a freestanding sign is 25 feet.

d.

Setbacks. Setbacks shall be determined by local government.

e.

Time and temperature signs. The maximum area for the time and temperature portion only shall be 20 square feet per sign face.

f.

Flags. Flags containing a corporate name or logo shall be part of the computation of the allowable area for freestanding signs.

(2)

Attached signs shall be permitted only as follows:

a.

Area. The maximum total area for all attached signs shall be that area calculated according to section 162-4(a)(2) or 150 square feet per sign face, whichever is less.

b.

Types of signs. The following attached signs may be permitted, provided the cumulative area of the attached signs does not exceed the maximum area according to subsection (2)a, above:

1.

Wall sign;

2.

Canopy or awning sign;

3.

Permanent window sign;

4.

Projecting sign;

5.

Integral roof sign.

c.

Time and temperature signs. The maximum area for the time and temperature portion only shall be 20 square feet per sign face.

(3)

Gasoline price display signs: The maximum area for all gasoline price display signs shall total 24 square feet per sign face.

(4)

Off-premises directional signs for public/semipublic purposes are permitted in accordance with section 162-5(13).

(5)

Public/semipublic land uses shall follow the sign provisions of section 162-79.

(6)

Off-premises signs: See subsection 162-81(b)(3)f for regulations pertaining to these signs.

(Ord. No. 91-39, § VI(G), 9-17-91)

Sec. 162-83. - Special designations classifications.

(a)

Signs in certain business districts. Areas where local governments have established a central business district or community redevelopment districts as recognized on the countywide future land use plan, or are participating in the state's main street program, shall not be subject to the standards set out in this article. The sign regulations shall be established exclusively by the respective local government for such special areas.

(b)

Signs in scenic/noncommercial corridors. Signs in scenic/noncommercial corridors shall be as otherwise required in the rules concerning the administration of the countywide future land use plan.

(Ord. No. 91-39, § VI(H), 9-17-91)

Chapter 166 - ENVIRONMENTAL AND NATURAL RESOURCE PROTECTION[1]
Footnotes:
--- (**1**) ---

Charter reference— General powers of county, § 2.01.

Cross reference— Fresh water conservation board, § 2-251 et seq.; water and navigation control authority, § 2-271 et seq.; environment, ch. 58; natural resources, ch. 82; Pinellas Park water management district, § 114-131 et seq.; Honeymoon Island, setback line for coastal construction, § 130-2.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g).

ARTICLE I. - IN GENERAL

Sec. 166-1. - Water preservation in new developments.

(a)

As used in this section:

Irrigation means water used for the purpose of maintaining landscaped material such as grass, trees, shrubs and other flora.

New development means any change to the existing state of land development on any given parcel.

(b)

All development regulations in the county shall be amended to accommodate the following provisions for

water preservation:

(1)

For all new development that requires irrigation, shallow wells with an adequate distribution system to serve that need for irrigation shall be installed and operated for that purpose. The distribution system for irrigation shall not be connected to the county or municipal water sources.

(2)

With respect to the drainage system of all new developments, maximum use shall be made of lakes and retention ponds for irrigation purposes and to reduce the runoff. Where possible, the stormwater runoff should not exceed the runoff from the site in the undeveloped state.

(3)

All water systems shall prohibit the installation of water meters of a size that would provide for lawn sprinkling in conjunction with domestic use.

(c)

All territory within the legal boundaries of the county, including all incorporated and unincorporated areas, that are served by or connected to the county water system shall be embraced by the provisions of this section.

(Ord. No. 73-7, §§ 1—3, 9-11-73)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Secs. 166-2—166-35. - Reserved.

ARTICLE II. - HABITAT MANAGEMENT AND LANDSCAPING[2]

Footnotes:

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State Law reference— Provisions to protect environmentally sensitive lands required, F.S. § 163.3202(2)(e).

DIVISION 1. - GENERALLY

Sec. 166-36. - Definitions.

Unless specifically defined in this section, words or phrases used in this article shall be interpreted so as to give them the meanings they have in common usage and to give this article its most effective application, in consideration of its stated intent.

Adverse impact means any direct or indirect action likely to cause, or actually causing, a measurable decline in the stability, natural function, or natural diversity of a natural resource or system; or in the quiet, peaceful, safe, or healthful use or occupancy of any property.

Approved species list means a list of tree species approved as replant or landscape trees and which is available from the department.

Caliper means trunk diameter measured six inches above the soil line.

Compensation means measures provided to offset adverse impacts to wetlands, including one or more of the following:

(1)

Mitigation;

(2)

Inclusion of upland areas, beyond any required buffer zones, to maintain upland/wetland habitat diversity;

(3)

Establishment of vegetated littoral zones in on-site open water bodies;

(4)

Restoration of wetlands that have been previously impacted;

(5)

Compensation on off-site lands; and

(6)

Other reasonable measures, such as providing unlike wetland habitat.

County administrator means the county administrator for the County of Pinellas, or his designee.

Department means the county administrator or his authorized designee.

Developer means any person who engages in development either as the owner or as the agent of an owner of property.

Development or development activity means:

(1)

The construction, installation, alteration, demolition or removal of a structure or an impervious surface.

(2)

Clearing, scraping, grubbing or otherwise removing, altering or destroying the vegetation of a site.

(3)

Adding, removing, exposing, excavating, leveling, grading, digging, burrowing, dumping, piling, dredging, or otherwise significantly disturbing the soils or altering the natural topographic elevations of the site.

(4)

The maintenance of a lawn and its ancillary vegetation, excluding uplands as required in sections 166-50 and 166-51, is exempted.

Diameter breast height (dbh) means the diameter, in inches, of a tree measured at 4½ feet above the natural grade. The diameter of multiple trunks shall be added together for this measurement.

Dripline means an imaginary, perpendicular line that extends downward from the outermost tips of the tree branches to the ground.

Effectively remove means to trim or prune to the extent that a plant's natural function is severely altered.

Endangered, threatened or species of special concern means the list of plant and animal species as defined pursuant to rules 39-27.003—.005, Florida Administrative Code, or 50 CFR 17.11-12, or F.S. § 581.185.

Ground cover means low-growing plants, other than deciduous varieties, installed to form a continuous cover over the ground.

Grubbing means the effective removal of understory vegetation such as, but not limited to, palmetto from the site. As herein defined, no tree four inches dbh or greater shall be removed.

Hedge. Hedges are self-supporting, woody, evergreen species and shall be a minimum of 24 inches in height when measured immediately after planting. Hedges, where required, shall be planted and maintained so as to form a continuous, unbroken, solid visual screen. Spacing of plants shall be no more than 2½ to three feet on center, depending on species.

Historic tree means a tree which has been found by a professional forester, horticulturist, or other suitable professional to be of notable historic interest to the county because of its age, type, size, or historic association and has been so designated and that designation has been officially made and promulgated as part of the official records of the county.

Isolated wetland means any wetland as defined in this article which is not contiguous with the waters of the state as defined in the Florida Administrative Code.

Landscape tree means a tree from the approved species list which is a minimum 1½-inch caliper and six feet tall at time of planting, unless approved otherwise by the county administrator, and is a state department of agricultural nursery grade no. 1 or better.

Mangrove means any rooted trees or seedlings, of any size, including the following species: White mangrove (laguncularia racemosa), red mangrove (rhizophora mangle), black mangrove (avicennia germinans), and buttonwood (conocarpus erectus). This definition is to include all subspecies and varieties of the listed species as well as their synonyms.

Mitigation means replacement of a wetland, type for type, to restore those specific physical and functional characteristics which will be lost as a result of the proposed activity.

Native vegetative communities means those plant communities naturally occurring in the county. Native vegetative communities shall include but not be limited to sandhill, xeric hammock, upland hardwood forest, pine flatwoods, sand pine scrub and wetlands. These communities are described as follows:

(1)

Upland:

a.

Sandhill: Deep sand substrate; xeric; vegetation characterized by longleaf pine, turkey oak or bluejack oak with wiregrass understory.

b.

Xeric hammock: Deep sand substrate; xeric; vegetation characterized by sand live oak or Chapman's oak.

c.

Upland hardwood forest: Rich sandy substrate; best developed where limestone or phosphate outcrops occur; mesic; rare or no fire; vegetation may be characterized by magnolia, pignut hickory, laurel oak and other hardwoods. Species composition varies. A major variation of this vegetative association includes live oak-cabbage palm hammock.

d.

Pine flatwoods: Flat topography; sand substrate with an organic hardpan; vegetation characterized by slash pine or longleaf pine, Chapman's oak, and myrtle oak or wax myrtle with a midstory of saw palmetto, gallberry or wiregrass understory.

e.

Sand pine scrub: Upland plant communities found on relict dunes or present and former shorelines where the soil is composed of any well-drained, sterile sands. The community is composed of two layers with sand pine occupying the top layer and various scrub oaks and shrub species creating a thick understory. The understory typically includes myrtle oak, Chapman's oak, sand live oak, rosemary or lyonia.

(2)

Wetland means all those waters, fresh and saline, or areas which are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation specifically adapted to life in saturated conditions. The methodology for determining the limits of the landward extent of wetlands shall be consistent with that currently employed by the state, which includes vegetative indicators, soil type indicators and hydrology. Such wetland vegetative indicators shall be those species listed in the Florida Administrative Code. Wetlands include, but are not limited to, rivers, lakes, streams, springs, impoundments, swamps, hydric hammocks, marshes, bogs, sinkholes, estuaries, sloughs, cypress heads, mangrove forests, bayheads, bayous, bays, and open marine waters whether on private or public lands and whether they are manmade or natural. Wetlands shall not include stormwater retention ponds.

Open space means the pervious area of a site with soils sufficient to promote healthy plant growth.

Parcel means the area of land or water owned by an applicant which is the subject matter of an application under this article.

Person means any landowner, lessee, building contractor, developer or other entity involved in the use of real property, including agents, employees, independent contractors or others in privity with any of the above,

whether natural persons, corporations, partnerships, joint adventures, governmental bodies, agencies or officials.

Plant material means plants which conform to the standards for Florida No. 1, or better, as given in the existing Grade and Standards for Nursery Plants, State of Florida, Department of Agriculture, Tallahassee, or equal thereto at the time of purchase of plant material.

Preliminary land clearing means those operations where trees and vegetation are removed within designated road rights-of-way, drainage and utility areas as depicted on a preliminary site plan and which occur previous to the construction of buildings.

Protective barrier means a physical structure limiting access to a protected area, composed of wooden and/or other suitable materials, which assures compliance with the intent of this article. Diagrams of suitable protective barriers shall be available from the department. Options and/or variations of these methods may be permitted upon written request if they satisfy the intent of this article.

Remove or removal means the actual removal of vegetation by digging up or cutting down, or damage of the vegetation or alteration of a site through the application of herbicides or other chemical agents.

Replant tree means a tree from the approved species list which is a minimum 1½-inch caliper and six feet tall at time of planting unless approved otherwise by the county administrator and is a state department of agricultural nursery grade no. 1 or better.

Site means any lot, plot, parcel or area of land or water.

Site plan means a graphically drawn plan view of a site which shows all proposed or existing manmade improvements and which includes buildings, parking areas, utility lines, drives, roads, topographic changes, and natural features.

Specimen tree means:

(1)

Any tree in fair or better condition which equals or exceeds the following diameter sizes:

a.

Large hardwoods, e.g., oaks, hickories, sweetgums, gum, etc., 36 inches dbh.

b.

Large softwoods, e.g., pines, cypress, cedars, etc., 20 inches dbh.

(2)

A tree in fair or better condition must meet the following minimum standards:

a.

A life expectancy of greater than 15 years.

b.

A relatively sound and solid trunk with no extensive decay or hollow, and less than 20 percent radial trunk dieback.

c.

No more than one major and several minor dead limbs (hardwoods only).

d.

No major insect or pathological problem.

(3)

A lesser sized tree can be considered a specimen if it is a rare or unusual species, of exceptional quality, or of historical significance.

(4)

A lesser size tree can be considered a specimen if it is specifically used by a builder, developer, or design professional as a focal point in a project of landscape.

Specimen tree stands means a contiguous grouping of trees which has been determined to be of high aesthetic or ecological value by the judgment of a professional forester, horticulturalist, or other suitable professional. Determination is based upon the following criteria:

(1)

A relatively mature even-aged stand; and

(2)

A stand with purity of species composition or of a rare or unusual nature; or

(3)

A stand of historical significance; or

(4)

A stand with exceptional aesthetic quality; or

(5)

A stand which provides wildlife habitat diversity which is important for species existence.

Structure means anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground, including a mobile home.

Transplant means the digging up of a tree from one place on a site and the planting of the same tree in another location.

Tree means any self-supporting, woody plant which normally grows to an overall height of at least 15 feet in the county. All mangroves regardless of size shall be considered trees. Replant and landscape trees shall be considered a tree for the purposes of this article. All palm trees other than cabbage palms (sabal palmetto) shall not be considered trees for purposes of this article.

Tree survey means a maximum one inch equals 50 feet scale drawing which provides the following information: Location of all trees protected under the provisions of this article, plotted by accurate techniques; the common name of all the trees; and the dbh of each tree.

Trim or prune means to cut away or remove any portion of a plant.

Vehicular use area means and includes all areas used for the circulation, parking, or display of any and all types of vehicles, boats or heavy construction equipment, whether self-propelled or not, and all land upon which vehicles traverse as a function of the primary use. This shall include, but is not limited to, activities of a drive-in nature.

(Ord. No. 90-16, § 2, 2-20-90; Ord. No. 90-59, § 2, 7-24-90; Ord. No. 92-64, arts. III, IV, 10-27-92; Ord. No. 00-67, § 16, 8-29-00)

Cross reference— Definitions generally, § 134-2.

Sec. 166-37. - Intent.

Trees and native vegetative communities provide and maintain beneficial public resources; therefore, it is the intent of the board of county commissioners to protect such vegetation as set forth in this article. In addition, it is further the intent of the board of county commissioners to perpetuate adequate tree numbers, preserve native vegetative communities, require replanting of vegetation, require landscaping of vehicular use areas, manage undesirable plant material, protect and preserve wildlife and its habitat and provide a tree bank fund for furthering this intent.

(Ord. No. 90-16, § 1, 2-20-90; Ord. No. 90-59, § 1, 7-24-90)

Sec. 166-38. - Territory embraced.

This article shall be effective in the incorporated as well as unincorporated areas of the county; however, to the extent this article conflicts with a municipal ordinance, the municipal ordinance shall prevail.

(Ord. No. 90-16, § 28, 2-20-90; Ord. No. 90-59, § 18, 7-24-90)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 166-39. - Penalty for violation of article.

Whoever shall violate the provisions of this article, as defined pursuant to section 166-43, shall be subject, upon conviction, to punishment as provided in section 134-8. In any prosecution under this article, the violation of any provision of this article will constitute a separate offense for each tree. Each separate protected plant removed or trimmed without a permit will also constitute a separate violation. Further, each day of the violation of the provision(s) of this article shall constitute a separate offense. In addition to the sanctions contained in this section, the county may take any other appropriate legal action, including, but not limited to, emergency injunctive action, to enforce the provisions of this article. The county may also seek

civil remedies pursuant to Laws of Fla. ch. 90-403, the "Pinellas County Environmental Enforcement Act" (compiled in ch. 58, art. II).

(Ord. No. 90-16, § 20, 2-20-90; Ord. No. 90-59, § 13, 7-24-90; Ord. No. 92-64, art. XIII, 10-27-92)

Sec. 166-40. - Appeals.

Any persons adversely affected by a decision of the county administrator in the permitting, enforcement or interpretation of any of the terms or provisions of this article may appeal such decision to the board of county commissioners. Such appeal shall be taken by filing written notice with the county administrator, with a copy to the clerk of the board, within 20 days after the decision of the county administrator. Each such appeal shall be accompanied by a payment in sufficient amount to cover the cost of publishing and mailing notices of hearing(s). Failure to file such appeal constitutes acceptance of the permit and any conditions thereof or denial of the application.

(Ord. No. 90-16, § 19, 2-20-90; Ord. No. 90-59, § 12, 7-24-90)

Sec. 166-41. - Variances and waivers.

The county administrator may, upon appropriate application in writing, vary or waive the terms and provisions of this article in specific cases due to unreasonable hardships, overriding public interest, general public welfare or if the provisions of this article do not apply or are unnecessary.

(Ord. No. 90-16, § 17, 2-20-90)

Sec. 166-42. - Emergencies.

In case of emergencies, such as hurricane, windstorm, flood, freeze or other disasters, the requirements of this article may be waived by the county administrator, upon finding that such waiver is necessary so that public or private work to restore order in the county will not be impeded.

(Ord. No. 90-16, § 18, 2-20-90)

Sec. 166-43. - Liability for violation of article.

Whenever a violation of this article occurs or exists, or has occurred or existed, any person, individually or otherwise, who has a legal, beneficial or equitable interest in the facility or instrumentality causing or contributing to the violation, or who has a legal, beneficial or equitable interest in the real property upon which such violation occurs or exists, or has occurred or existed, shall be jointly and severally liable for such violation. This provision shall be construed to impose joint and several liability upon all persons, individually or otherwise, who, although such persons may no longer have any such legal, beneficial or equitable interest in such facility or instrumentality or real property, did have such an interest at any time during which such violation existed or occurred or continued to exist or to occur. This provision shall be liberally construed to protect the public health, safety, and welfare and to accomplish the purposes of this article.

(Ord. No. 90-16, § 24, 2-20-90; Ord. No. 90-59, § 15, 7-24-90)

Sec. 166-44. - Civil penalties.

In addition to the penalties provided in section 166-39, the board of county commissioners may institute a civil action in a court of competent jurisdiction to recover damages for any degradation, alteration, or

elimination of or to the water, soil, natural resources, or animal or plant life of the county caused by a violation of this article. The computation of civil damages will incorporate the expense of restoring the damaged habitat to its previolation condition and function. The civil penalty for violations of this article which consist of trees removed, damaged or killed without a permit will be computed using the following criteria:

(1)

Tree valuation. The valuation of tree(s) removed, damaged or killed without a permit will be calculated utilizing the following methods:

a.

Inch-for-inch dbh replacement: The replacement of a tree with a tree or trees of the same or similar species in sufficient number so that the sum of the dbh of the replacement trees equals or exceeds the dbh of the tree(s) that were removed, damaged or killed without a permit. Number of inches of trees removed may be determined by surveys, field inspection, aerial interpretation, ground truthing, statistical analysis of trees on adjacent properties, and other appropriate methods and criteria.

b.

Values as established by the International Society of Arboriculture, shade tree formula.

c.

Other professionally accepted methods.

(2)

Method of payment. The civil penalty for violations of this article will be paid to the county as follows:

a.

Tree replant requirements: The violator must fulfill the tree replant requirements for the subject property as specified in the guideline for tree replant requirements in section 166-84(1).

b.

Tree bank fund: Valuation of trees as computed in subsection (1) of this section shall be paid to the tree bank fund either by the planting of or transference of the appropriate number of tree replants or money, or a combination of tree replants and money.

(Ord. No. 90-16, § 25, 2-20-90; Ord. No. 90-59, § 16, 7-24-90)

Sec. 166-45. - Withholding of certificate of occupancy.

The county administrator may withhold the issuance of the required certificate of occupancy, or permits and inspections, on any development permitted under this article until the provisions of this article, including conditions of any permits issued under this article, have been fully met.

(Ord. No. 90-16, § 26, 2-20-90; Ord. No. 90-59, § 17, 7-24-90)

Sec. 166-46. - Site plan exemptions.

Site plans which were accepted for review by the county prior to March 1, 1990, and which have an active status as determined pursuant to chapter 138 shall not be required to comply with the specific provisions of section 166-50, and section 166-51, provided that:

(1)

Consistency with the comprehensive plan, Ordinance No. 89-69 is maintained.

(2)

When final site plan comments or reports defined pursuant to the zoning ordinance are provided to a site plan applicant, the applicant shall have 90 days in which to revise and resubmit a site plan, in compliance with such comments or reports, to the county for further review. Site plans not revised and received within such 90-day period shall be reviewed for compliance with all the requirements of this article in effect on the date of resubmittal. When the resubmitted site plan is received within such 90 days, the plan shall be reviewed under the requirements of this article with the exception of the specific requirements of section 166-50 and section 166-51.

(3)

The terms and conditions of subsection (2) of this section shall also apply to preliminary site plans except that the referred 90-day time frame shall be 180 days.

(Ord. No. 90-16, § 31, 2-20-90; Ord. No. 90-59, § 19, 7-24-90)

Sec. 166-47. - Ratification of prior regulations.

All actions previously taken by the board of county commissioners pursuant to previously enacted rules and regulations are hereby confirmed and ratified.

(Ord. No. 90-16, § 32, 2-20-90)

Sec. 166-48. - Interpretation of other laws and regulations.

Where other lawful codes, ordinances, regulations or statutory provisions are referenced within this article, such references shall include lawful revisions or amendments thereto which may occur from time to time.

(Ord. No. 90-16, § 34, 2-20-90; Ord. No. 90-59, § 21, 7-24-90)

Sec. 166-49. - Vegetation protection during construction.

(a)

Placement of solvents, material, construction machinery, or soil. It shall be unlawful for any person engaged in development activity to place solvents, construction material, construction machinery, or temporary soil deposits within six feet or two-thirds of the dripline, whichever is greater, of any tree of four inches dbh or greater or within six feet of other protected vegetation as required under the provisions of this article.

(b)

Protective barriers. Prior to land development activity, the owner or his agent shall be required to erect a suitable protective barrier(s) for all protected vegetation and placards, posted on the barricades, indicating the purpose of such barriers and the penalties for unauthorized removal. The protective barrier(s) and placards shall remain erected until such time as they are authorized to be removed by the department or upon completion of final lot grading and placement of final ground cover. Removal of vegetation within the protective barriers shall require approval by the department. Failure to obtain such approval shall be considered a violation of this article. Diagrams of suitable protective barriers and placard(s) shall be available from the department. During construction, no attachments or wires shall be attached to any protected vegetation. Wood, metal or other substantial material shall be utilized in the construction of barriers.

(Ord. No. 90-16, § 7, 2-20-90)

Sec. 166-50. - Upland buffers adjacent to wetlands.

(a)

Purpose. It is the purpose of an upland buffer to further protect wetlands, their associated wildlife and water quality and quantity attributes from adjacent development impacts. Such impacts include siltation, eutrophication, noise, artificial light intrusion and human and domestic animal intrusion. Upland buffers will also provide preservation of upland wildlife habitat.

(b)

Upland buffer requirements. Upland buffers shall be required immediately adjacent to a wetland in accordance with Table I, Standard Upland Buffer Width, or as otherwise specified in this section. The upland buffers shall be required upon submittal of a site plan through the site plan regulations and review procedures of chapter 138. The buffers must be shown on the site plan and must be preserved during site development. Platted single-family lots and sites with development approved through the site plan requirements and review procedures of chapter 138 which received approval prior to adoption of this article shall be exempt from the requirements of this section.

The upland buffer and its associated wetlands shall be recorded in the public records of the county as a conservation easement in accordance with F.S. § 704.06 or created as a conservation easement on the record plat for the development.

Table I. Standard Upland Buffer Width

(1)	Isolated wetlands	15 feet
(2)	Creeks, channels, ditches, canals or other waterways which are not designated as preservation land use areas and which are connected with waters of the state as defined in the Florida Administrative Code	15 feet outside the top of bank or contiguous wetlands, whichever is greater
(3)	County approved retention ponds adjacent to wetlands which provide the intent as described in subsection (a) of this section	15 feet from edge of wetlands to top of bank of retention pond
(4)	All other wetlands	50 feet

(c)

Alternative upland buffer plan. Upon approval of the department, an applicant may reduce the buffer width up to one-third the values in Table I, Standard Upland Buffer Width (e.g., 15 feet reduced to ten feet or 50 feet reduced to 33 feet) by providing additional width of a section of the buffer and correspondingly reduce the buffer width in another section to result in an equivalent or greater square footage.

An applicant may choose to enhance a buffer utilizing additional plant material, topographic changes or other measures in order to reduce the buffer requirement. Such an upland buffer enhancement plan shall be presented to the county administrator for approval and if approved shall permit the applicant to reduce the buffer width up to one-third the values in Table I, Standard Upland Buffer Widths (e.g., 15 feet reduced to ten feet or 50 feet reduced to 33 feet).

(d)

Activities within upland buffers. In general, the following activities within a buffer shall be prohibited unless a variance or waiver in accordance with section 166-41 has been issued or if such use is approved through the site plan requirements and review procedures of the zoning ordinance. Variances and waivers will be reviewed based on the criteria within section 166-83(e) and (f).

(1)

Placement of a structure, road or utilities.

(2)

Planting of exotic vegetation.

(3)

Removal of native vegetation, to include mowing or trimming, except as might be required for health, welfare and safety purposes as determined by the county.

(4)

Fill with dirt, topsoil, sand, gravel or other similar material.

(5)

Excavation.

(6)

Maintaining livestock.

(7)

Storage of equipment, supplies, materials, machinery, portable buildings, etc.

(8)

Application of herbicides, pesticides, fertilizers, or chemical agents injurious to vegetation.

Upon issuance of a variance or waiver for any of the above activities within the upland buffer, a permit pursuant to this article shall be issued. Maintenance activities approved by the county administrator of creeks, channels, ditches, canals or other waterways will be allowed within a buffer.

(Ord. No. 90-16, § 9, 2-20-90; Ord. No. 90-59, § 8, 7-24-90; Ord. No. 92-64, art. IX, 10-27-92)

Sec. 166-51. - Upland preservation areas.

(a)

Purpose. It is the purpose of an upland preservation area to provide for the preservation of viable upland wildlife habitats and representative native vegetative communities. The protection of these areas will help to ensure that adequate feeding, nesting and cover necessary for the continued survival of native wildlife species is available while protecting naturally occurring vegetative communities.

(b)

Criteria. Any site with ten acres or greater of contiguous ownership or under unified development control, shall be required to preserve a minimum of three percent of the upland portion of a parcel as an upland preservation area upon submittal of a site plan through the site plan requirements and review procedures of chapter 138. The upland preservation area must be shown on the plan and must be preserved during site development. The upland preservation area for one or more parcels may be provided on one or more other parcels if all parcels are contiguous and are considered as a single, master planned development under unified control.

Platted single-family lots and sites with development approved through the site plan requirements and review procedures of the zoning ordinance which received approval prior to adoption of this article shall be exempt from the requirements of this section.

The upland preservation area shall be recorded in the public records of the county as a conservation easement in accordance with F.S. § 704.06 or created as a conservation easement on the record plat for the development.

The upland preservation parcel shall be located in a manner which maximizes the contiguity and retention of natural vegetation including understory vegetation. Where wetland vegetation exists and upland buffers are provided, the upland preservation area should, wherever feasible, be required contiguous to the buffer. Upland buffers required pursuant to section 166-50 shall count toward the three percent criteria of this section.

Upon site plan submittal, the department shall inspect the parcel and, utilizing the criteria of section 166-83(e) and (f), evaluate the upland native vegetation communities of the site. If the vegetation is determined to be of good quality, the applicant shall provide the three percent in accordance with this section. However, if the department determines the vegetation is of poor quality, the applicant shall have two alternatives:

(1)

Enhancement: The upland preservation area shall be planted with one replant tree per 400 square feet and

ground cover on three-foot centers; such plan shall be submitted for approval to the county administrator; or

(2)

Tree bank fund donation: A monetary donation shall be made to the tree bank fund defined within section 166-57, in an amount equal to three percent of the subject property value utilizing its current market value established by the county property appraiser.

(Ord. No. 90-16, § 10, 2-20-90; Ord. No. 90-59, § 9, 7-24-90; Ord. No. 99-66, § 22, 7-20-99)

Sec. 166-52. - Protection of endangered, threatened, or species of special concern.

Upon field review of the site plan and determination that a site contains plant or animal species which are endangered, threatened or species of special concern, the applicant shall obtain and submit to the county administrator written comments and recommendations concerning the impact of the proposed use on such species from the appropriate agency such as the state game and freshwater fish commission, the United States Fish and Wildlife Service or the state department of agriculture and consumer services. The county administrator may utilize this information as a basis to require additional preservation area or to determine the degree of development activity allowed.

(Ord. No. 90-16, § 11, 2-20-90; Ord. No. 92-64, art. X, 10-27-92)

Sec. 166-53. - Undesirable plant species.

The exotic plant species listed as follows are considered undesirable vegetation due to their growth characteristics, which often result in human health problems and elimination of habitat for more desirable native vegetative species:

(1)

Every site on which development occurs shall, to the most reasonable extent possible, be cleared of the following species as a condition of permitting pursuant to this article. Where the removal is to a degree that a potential for erosion is created, the area must be restabilized. Effective removal of these trees, however, shall not require a permit pursuant to this article except in designated conservation easements and wetlands regulated under F.S. chs. 373 and 403, in which case a removal plan must be approved by the department.

Common name	Botanical name
Punk tree	Melaleuca quinquenervia
Brazilian pepper	Schinus terebinthifolius
Chinese tallow	Sapium sebiferum

(2)

To encourage the removal of and replacement with more desirable native species, no fees will be applied when obtaining permits to remove the following tree species:

Common name	Botanical name
Australian pine	Casuarina spp.
Citrus	Citrus spp.
Silk oak	Grevillea robusta
Ear tree	Enterolobium contortisiliquum
Java plum	Syzygium cumini
Carrotwood	Cupaniopsis anacardioides
Eucalyptus	Eucalyptus spp.
Chinaberry	Melia azedarach

(Ord. No. 90-16, § 12, 2-20-90; Ord. No. 90-59, § 10, 7-24-90; Ord. No. 92-64, art. XI, 10-27-92)

Sec. 166-54. - Removal of trees from public right-of-way.

No trees shall be removed from a public right-of-way under the management of the county administrator without a valid permit or the county administrator's authorization.

(Ord. No. 90-16, § 13, 2-20-90)

Sec. 166-55. - Minimum landscape requirements for vehicular use areas.

All site plans which propose vehicular use areas with more than three parking spaces, other than single-family residences, shall conform to the minimum landscaping requirements defined in this section. Trees planted in conformance with this section may count toward the tree replant requirements of section 166-84(1) and may be required to adhere to special design criteria specified within section 166-84(2). All requirements of this section shall be included as a condition of the granting of a permit under this article. In instances where healthy plant material exists on a site prior to its development, in part or in whole, for purposes of off-street parking or other vehicular use areas, the county administrator shall adjust the application of the following standards to allow credit for such plant material if such an adjustment is in keeping with and will preserve the intent of this section:

(1)

Perimeter landscaping. The exterior perimeters of all vehicular use areas shall be landscaped with a strip of land which is at least three feet in width. Where this three-foot landscape strip is adjacent to residentially zoned property or public right-of-way, a hedge shall be installed which at time of planting shall be 24 inches in height and planted 24 to 30 inches on center and allowed to grow to and be maintained at a minimum height of three feet.

(2)

Landscape trees. An area equal to ten percent of the total vehicular use areas shall be devoted to landscape open space for planting of landscape trees. There shall be a minimum of one landscape tree for each 200

square feet or fraction thereof of required landscape open space. Each landscape tree shall be planted within a minimum five-foot by ten-foot open space planter with suitable ground cover. Landscape trees shall be located, wherever possible, to avoid underground and overhead utilities. These open space planters shall be located at the perimeter and interior of the vehicular use areas to most effectively relieve the monotony of large expanses of paving and contribute to the orderly circulation of vehicular and pedestrian traffic. Such planters may be constructed through the deletion of paving or asphalt behind the wheel stops, bumper stops or curb.

(3)

Protection of landscaping. Vehicular use landscaping shall be protected by appropriate wheel stops, bumper stops or curbs, located in a manner which prevents vehicular encroachment and overhang into landscape material.

(4)

Vehicular use landscape plan approval. The developer must submit for approval to the county administrator a combination site plan-planting plan, referred to in this article as a vehicular use landscape plan. The use of xeriscape design shall be utilized for 50 percent of the required landscape areas. Such design should include low-maintenance design, low-volume irrigation, use of mulch ground cover, use of drought-tolerant and cold-hardy plant material, soil augmentation, and limited use of turf, and allow for low-maintenance practices.

The vehicular use landscape plan shall be submitted as part of normal site plan review required by chapter 138 and shall contain the following information: The name, address and telephone number of the owner and designer; such plan shall be drawn to suitable scale, indicate all dimensions and property lines, north point, clearly delineated existing and proposed easements, utility lines, parking spaces, access aisles, driveways, sidewalks, wheel stops, curbs and other vehicular use controls; the location of curb cuts on adjacent property, median openings on abutting streets, lighting, irrigation system, proposed planting areas, decorative or screen walls, existing trees and related buildings; planting areas must indicate the quantity, spacing, size and name of proposed plant material.

(5)

Irrigation requirements. Irrigation systems shall utilize low volume design such as low-trajectory heads or soaker hoses to provide direct application and low evaporation and must have a rain sensor device or switch which will override the irrigation cycle of the sprinkler system when adequate rainfall has occurred. Water supply shall be piped to each individual planter island, and in no case shall any planted vegetation area required pursuant to this section be more than 50 feet from a water supply hose bib. Shallow wells, open surface water bodies or reclaimed water shall be used unless unavailable as a source of irrigation water.

The following vegetated areas shall be exempt from the above irrigation requirements:

a.

Existing plant communities and ecosystems, maintained in a natural state, which do not require irrigation water shall not have any additional irrigation water added in any form.

b.

Native plant areas which are supplements to an existing plant community or newly installed by the developer may initially require additional water to become established. Irrigation water required during this establishment period shall be applied from a temporary irrigation system, a water truck, or by hand watering from a standard hose bib source. Such temporary source of irrigation water shall be specified on the approved landscape plan.

(6)

Sight distance restrictions at intersections. All landscape plant material shall be planted in accordance with sight distance restrictions determined by the department of public works and utilities.

(Ord. No. 90-16, § 14, 2-20-90; Ord. No. 90-59, § 11, 7-24-90; Ord. No. 92-64, art. XII, 10-27-92)

Sec. 166-56. - Vegetation installation and maintenance.

All vegetation planted in conformance with this article shall be installed in acceptance with good planting procedures as prescribed by the American Society of Landscape Architects, or other professional horticultural and arboricultural association. Landscape or replant trees and other required plant material shall be maintained in healthy growing condition or shall be promptly replaced within 30 days. Top pruning or other severe pruning or maintenance practices or of required plant materials that result in stunted, abnormal, or other unreasonable deviation from their normal healthy growth shall be considered as the destruction of these materials and replacement shall be required as described in this section. Failure of the owner of the property to maintain the premises in good condition, as set forth in this section, shall make him liable for the penalties as set forth by this article.

(Ord. No. 90-16, § 15, 2-20-90; Ord. No. 97-53, § 1, 7-1-97; Ord. No. 98-97, § 10, 11-17-98)

Sec. 166-57. - Tree bank fund.

(a)

Creation; purpose. There is hereby created the county tree bank fund for the purpose of:

(1)

Acquiring, protecting, and maintaining native vegetative communities in the county;

(2)

Acquiring, protecting, and maintaining land for the placement of trees acquired pursuant to this section;

(3)

Purchasing vegetation for placement on public properties in the county and their maintenance; and

(4)

Mitigating the impact of any damage from violations of this article.

(b)

Maintenance of fund. Moneys of the tree bank fund may be used as a matching fund contribution towards the acquisition of native vegetative communities in the county in association with other public land acquisition programs. Such tree bank fund shall be kept, maintained and identified by the board of county commissioners solely for the purposes set forth in this section. The county finance director is hereby authorized to establish the tree bank fund and to receive and disburse moneys in accordance with the provisions of this section.

(c)

Source of moneys. The tree bank fund shall consist of the following moneys:

(1)

All moneys collected by the county administrator pursuant to the provisions of this article which are obtained through civil action and consent agreements.

(2)

All moneys offered to and accepted by the county for the tree bank fund in the form of federal, state, or other governmental grants, allocations or appropriations, as well as foundation or private grants and donations.

(3)

Contributions in lieu of, or in conjunction with, the replacement planting provisions of section 166-84. The county administrator shall collect funds designated for the tree bank fund when the replacement planting requirements of section 166-84 cannot be met.

(4)

All county revenue generated from tree thinning or other ecologically beneficial tree removal activities occurring within Pinellas County.

(d)

Interest. Unless otherwise restricted by the terms and conditions of a particular grant, gift, appropriation or allocation, all interest earned by the investment of all moneys in the tree bank fund shall accrue to the fund and shall be disbursed for any project authorized consistent with this section. Tree bank fund moneys shall be invested only in accordance with the laws pertaining to the investment of county funds.

(e)

Effect on permitting. Decisions to grant or deny permits provided for by this article shall be made without consideration of the existence of the tree bank fund or offers of donations of moneys thereto.

(Ord. No. 90-16, §§ 22, 23, 2-20-90; Ord. No. 90-59, § 14, 7-24-90; Ord. No. 15-26, § 1, 6-23-15)

Secs. 166-58—166-80. - Reserved.

DIVISION 2. - PERMITS

Sec. 166-81. - General permit/application provisions.

On any developed or undeveloped site, any person wishing to conduct development activity, remove,

effectively remove, or relocate a tree with a trunk diameter of four-inch dbh or greater; remove vegetation in an upland buffer or upland preservation area; perform preliminary land clearing or grubbing; remove, trim or prune wetlands, specimen tree(s), specimen tree stand(s) or historic tree(s); or conduct any activity which may have a detrimental effect on protected vegetation as defined under the provisions of this article, shall make application and obtain a permit as required under the provisions of this article. Failure to obtain a permit shall be a violation of this article.

(Ord. No. 90-16, § 3, 2-20-90; Ord. No. 90-59, § 3, 7-24-90)

Sec. 166-82. - Special permit/application provisions.

(a)

Grubbing. Upon application, review and issuance of a permit, grubbing shall be permitted when a preliminary site plan as required pursuant to chapter 138 has been submitted and the physical condition of the proposed development site does not permit the preparation of a tree survey as defined in this article, or does not permit the preparation of a topographical survey, and all other provisions of this article have been adhered to. An aerial map of suitable quality (maximum one inch equals 200 feet scale) of the property will be required before grubbing will be authorized.

(b)

Preliminary land clearing. Upon application, review and issuance of a permit, preliminary land clearing shall be permitted within designated road rights-of-way, drainage and other utility areas as depicted on a preliminary site plan, as required pursuant to chapter 138. The departments of environmental management, engineering, building, sewer, water and zoning must have no objection to the issuance of such permits and must require no revisions or alterations to the site plan which would change the size or location of buildings, parking, utility lines, topographic elevations, and other relevant elements which could result in substantial changes to the remaining protected vegetation.

(c)

Wetland vegetation. All mangroves and other wetlands, regardless of size, are recognized to be of special ecological value. No wetland vegetation shall be removed, trimmed, pruned, chemically treated, filled upon or altered without a permit or exemption. Guidelines for trimming or pruning of mangroves shall be available from the department.

(1)

Where wetlands are approved for removal by a permit which was issued by the county water and navigation control authority, a permit under the provisions of this article pertaining to those wetlands shall not be required. However, wetlands removal not authorized by the water and navigation control authority permit, and otherwise subject to the county's jurisdiction, shall be subject to enforcement action under the provisions of this article.

(2)

Due to the vegetative characteristics of these plant communities, wetlands will be exempted from the tree survey requirements, except that they shall be designated by name and their boundary surveyed.

(3)

Applicants must provide compensation for all regulated wetland impacts and must demonstrate that the proposed compensation measures are consistent with the county's intent to protect and manage fish, wildlife and hydrologic features. All compensation required shall provide for equivalent habitat value to the wetland system destroyed.

(d)

Specimen tree/specimen tree stands and historic trees. It shall be unlawful to remove, trim, prune or alter a specimen tree, specimen tree stand or historic tree which has been designated as such under the provisions of this article without a permit issued under this article.

(Ord. No. 90-16, § 4, 2-20-90; Ord. No. 90-59, § 4, 7-24-90; Ord. No. 92-64, art. V, 10-27-92; Ord. No. 97-53, § 2, 7-1-97)

Sec. 166-83. - Applications.

(a)

Procedure. Application for a permit under this article shall be made by filing a written permit application with the department and paying such fee as is established by the board of county commissioners as necessary to cover the costs of processing the application. The department shall provide permit application forms which shall be used by permit applicants. The applicant, if not the owner of the property, must submit a written authorization from the owner of the property authorizing the applicant to sign the application.

(1)

Any information required on the application which is not submitted may delay the issuance of permits. Applications must be submitted in advance of anticipated permit issuance to allow for the department's review time and scheduling. Applications shall be field verified. The county administrator may request a recommendation concerning the application from any or all appropriate county departments. No permit will be issued until a plan for the site has been approved by the county administrator.

(2)

Every applicant is encouraged to request at any time to meet with the department to discuss, in good faith, any possible application of this article to any proposed development activity, so as to minimize delay and uncertainty in the permitting process and give the applicant the most accurate possible idea as to the practical impact of this article on the proposed development activity.

(b)

Information required. The applicant shall submit the following information utilizing a maximum one inch equals 50 feet scale drawing to allow the determination of matters required under this article:

(1)

The shape and dimensions of the lot or parcel, together with the existing and proposed locations of structures and improvements, if any.

(2)

If existing trees are to be transplanted, the proposed new location for such trees, together with a statement as to how such trees are to be protected during land clearing and construction.

(3)

A statement and drawing showing how vegetation not proposed for removal or relocation is to be protected during land clearing and construction, i.e., a diagram and notation of a protective barrier as defined in this article.

(4)

Locations and dimensions of all setbacks and easements required by chapter 138.

(5)

A topographical survey sealed by a registered engineer or surveyor indicating grade changes proposed for the site, except when the grade changes are limited to beneath the floor area of the dwelling unit.

(6)

The location of all trees, historic trees, specimen trees, specimen tree stands, wetlands, native vegetative communities, buffers or upland preservation areas which are on or within ten feet of the site being developed. Vegetation proposed to remain, to be transplanted or to be removed shall be identified. Areas designated as preservation on the comprehensive land use plan which are within 50 feet of the site must also be shown where applicable.

(7)

All proposed replants of trees or other vegetation, by species and size, along with the type of ground cover to be installed.

(c)

Additional application requirements for site plans. Sites requiring site plan approval as required by chapter 138 shall submit a survey sealed by a registered engineer or registered surveyor, which shows the information required in subsections (b)(1)—(7) of this section, and an aerial of suitable quality (maximum one inch equals 200 feet scale), to facilitate application review. A tree survey will be required on all areas for which permit authorization is being requested other than areas previously approved.

(d)

Application information waiver. In the event that there are no trees or vegetation located on or within ten feet of preservation areas within 50 feet of the site to be developed which are required to be protected under the provisions of this article, the applicant shall so state in his application for a permit.

(e)

Permit/application evaluation criteria. The county administrator shall consider the potential for significant adverse impacts in the following areas on the urban and natural environment in granting a permit and meeting

the other provisions of this article:

(1)

Groundwater and surface water stabilization: Whether the removal of trees or other protected vegetation will substantially alter the water table adversely or water assimilation and transpiration by vegetation or the interception of solar radiation as it affects the evaporation potential of associated soils and bodies of water.

(2)

Water quality and/or aquifer recharge: Whether the removal of trees or other protected vegetation will lessen the ability for the natural assimilation of nutrients, chemical pollutants, heavy metals, silt and other noxious substances from groundwaters and surface waters.

(3)

Ecological impacts: Whether the removal of trees or other protected vegetation will have an adverse impact upon existing biological and ecological systems, microclimatic conditions which directly affect these systems, or whether such removals will create conditions which may adversely affect the interrelationships of ecological systems.

(4)

Noise pollution: Whether the removal of trees or other protected vegetation will significantly increase ambient noise levels to the degree that a nuisance is anticipated to occur or that a violation of chapter 58, article XII is anticipated to occur.

(5)

Air movement: Whether the removal of trees or other protected vegetation will significantly reduce the ability of the remaining vegetation to reduce wind velocities to the degree that a nuisance is anticipated to occur.

(6)

Air quality: Whether the removal of trees or other protected vegetation will significantly affect the natural cleaning of the atmosphere by vegetation through particulate matter interception or the release of oxygen to the atmosphere as a byproduct of photosynthesis.

(7)

Wildlife habitat: Whether the removal of trees or other protected vegetation will significantly reduce available habitat for wildlife existence and reproduction, or result in the emigration of wildlife from adjacent or associated ecosystems.

(8)

Aesthetic degradation: Whether the removal of trees or other protected vegetation will have an adverse affect on property values in the neighborhood where the applicant's property is located and other existing vegetation in the vicinity.

(9)

Comprehensive plan: Whether the removal of trees or other protected vegetation is consistent with the comprehensive plan and level of service standards provided therein.

(10)

Endangered, threatened and species of special concern: Whether the removal of trees or other protected vegetation will significantly affect endangered, threatened, or species of special concern when reasonable scientific judgment indicates that the trees or vegetation provide a function including but not limited to nesting, reproduction, critical food source, critical habitat or cover for such species or whether the vegetation itself is endangered, threatened, or a species of special concern.

(11)

Soil stabilization: Whether the removal of trees or other protected vegetation will result in uncontrollable erosion of soils into surface waters, or adjacent properties. For sites one acre or larger a habitat management permit will not be issued until/unless a Generic Permit Notice Of Intent (NOI) DEP Form 62-621.300(4)(b), or as amended, as is required pursuant to NPDES—Phase II is submitted as part of the permit/application process.

(f)

Additional criteria; conditions. The above evaluation criteria shall be balanced against the following conditions to determine if the county administrator shall issue a permit for vegetation removal or relocation. However, should no significant adverse impact be determined using the above criteria, and if one or more of the following conditions exist, the county administrator shall issue the permit:

(1)

The vegetation is located in an area where a structure or improvements may be placed according to an approved site plan and to preserve the vegetation would unreasonably restrict the economic enjoyment of the property, and the vegetation cannot be relocated on or off the site because of age, type, or size;

(2)

The vegetation is diseased, injured, too close to existing or proposed structures, interferes with existing utility service, creates unsafe vision clearance, or conflicts with other ordinances or regulations; or

(3)

It is in the welfare of the general public or citizens that the vegetation be removed for a reasons other than set forth above.

(g)

Permit/application denial. The county administrator, upon a determination that an application for a permit under this article is to be denied, shall state the basis for such denial specifically and shall notify the applicant of the criteria outlined in subsections (e) and (f) of this section upon which such denial is predicated.

(Ord. No. 90-16, § 5, 2-20-90; Ord. No. 90-59, § 5, 7-24-90; Ord. No. 92-64, arts. VI, VII, 10-27-92; Ord.

No. 03-24, § 19, 4-15-03)

Sec. 166-84. - Permit conditions.

The county administrator may specify any or all of the following conditions to a permit provided that the conditions further the intent of this article:

(1)

Tree replant requirements. As a condition of the granting of a permit and regardless of the number of trees permitted for removal, the applicant will be required to relocate the trees being removed where practical, be required to replace the trees up to a maximum of inch-for-inch or be required to meet the tree replant requirement utilizing the table provided below. The actual number of tree replants shall also be determined based upon replant tree size and species, location of planting, existing trees on or near the site, open space availability, the guideline for tree replant requirements table and the requirements of other county ordinances and regulations.

Guideline for Tree Replant Requirements

Parcel size in square footage	Number of replants
3,500— 6,000	2
6,001— 9,500	4
9,501—16,000	6
Over 16,000 (per 16,000 sq. ft. unit)	8

An approved species list of replant trees will be available from the department. Replant tree species shall be compatible with soil conditions. All required replant trees must be maintained in good condition and planted in locations with adequate open space to allow mature tree canopy development. Each replant tree shall be planted within a minimum five-foot by ten-foot open space planter. Wherever possible, replant trees shall be located to avoid underground and overhead utilities. Existing trees on-site which meet the minimum standards of a replant tree in terms of size, species, quality and location will count toward the replant requirements. However, trees within buffers, upland preservation areas or wetlands shall not count toward the replant requirement. Failure to plant or maintain required replant trees in good condition will be a violation of this article on a per tree basis.

(2)

Special design criteria. As a condition of granting a permit, the applicant may be required to provide special construction techniques and designs to increase oxygen exchange and water and nutrient availability to a tree such as but not limited to tree wells, turf or paving block, aeration systems and stem walls.

(3)

Tree donation. Where a tree is to be removed under the provisions of this article, the county shall have the option, with the owner's permission, of relocating the tree at the county's expense and at no liability to the

owner to county-owned property for replanting, either for permanent utilization at a new location or for future use at other county property. Such relocation shall be accomplished in accordance with a schedule agreed upon by all parties. If the county does not elect to relocate any such tree, it may give to any city within the county the right to acquire any such tree at the city's expense and at no liability to the owner for relocation within the city's incorporated area for public use.

(4)

Erosion control. Silt barriers, hay bales, or similar erosion control barriers will be required in any area where erosion or siltation may cause protected vegetation to be damaged.

(Ord. No. 90-16, § 6, 2-20-90; Ord. No. 90-59, § 6, 7-24-90; Ord. No. 92-64, art. VIII, 10-27-92)

Sec. 166-85. - Betterment plans.

Applicants for permits under this article shall be entitled to demonstrate by means of a landscape/vegetation plan known as a "betterment plan" that an improvement or betterment of the environment can be accomplished over the existing vegetation given that the development is undergoing site plan review in accordance with chapter 138. If such a detailed plan is so offered and is accepted by the county administrator, the applicant's permit shall require the faithful adherence and completion of such plan.

(Ord. No. 90-16, § 8, 2-20-90; Ord. No. 90-59, § 7, 7-24-90)

Sec. 166-86. - Expiration.

Permits under this article shall be declared expired if commencement of work so permitted is not started within three months. In no case will the permit remain valid unless construction activity is continuous and uninterrupted for no more than 60 days. Permits not used within this period will expire, and future work will require a new application and permit.

(Ord. No. 90-16, § 16, 2-20-90)

Sec. 166-87. - Revocation.

(a)

The county administrator may revoke any permit issued pursuant to this article for fraud, misrepresentation or violation of conditions imposed pursuant to the permit, or other good cause. In the event the county administrator chooses to revoke a permit, written notice of the intent of the county administrator to revoke such permit shall be provided to the applicant, setting forth the specific reasons for the revocation. The applicant shall have the right to appear before the county administrator at a time and date specified in such notice to show cause why the permit issued to the applicant should not be revoked.

(b)

If the county administrator determines to revoke a permit issued pursuant to this article, after the notice procedure as provided in subsection (a) of this section, the applicant shall immediately cease all exterior work on the site. The applicant shall have the right to appear before the board of county commissioners, in accordance with section 166-40, to show cause why the permit issued to the applicant should not be reinstated.

(Ord. No. 90-16, § 21, 2-20-90)

Sec. 166-88. - Cease and desist orders.

The county administrator may issue a cease and desist order for any permit issued pursuant to this article for fraud, misrepresentation, or violation of conditions imposed pursuant to the permit, or other good cause, or for any site where work has commenced and a permit has not been obtained but is required pursuant to this article. Any person receiving such an order for cessation of operations shall immediately comply with the requirements thereof. It shall be a violation of this article for any person to fail to or refuse to comply with a cease and desist order issued and served under the provisions of this section.

(Ord. No. 90-16, § 22, 2-20-90)

Sec. 166-89. - Plan preparation.

Plan submitted for review to satisfy the requirements of this chapter must be prepared by individuals as authorized by F.S. ch. 481.

(Ord. No. 97-53, § 3, 7-1-97)

Secs. 166-90—166-95. - Reserved.

DIVISION 3. - MANGROVE TRIMMING AND PRESERVATION

Sec. 166-96. - Findings.

(a)

The board finds that there are over 555,000 acres of mangroves now existing in Florida. Of this total, over 80 percent are under some form of government or private ownership or control and are expressly set aside for preservation or conservation purposes. The board also finds that the vast majority of these mangroves are located at the southern end of the state and do not provide the direct ecological benefits to the county that the local mangroves do, estimated at 18,800 acres for the Tampa Bay area and 6,500 acres for Pinellas County.

(b)

The board finds that mangroves play an important ecological role as habitat for various species of marine and estuarine vertebrates, invertebrates, and other wildlife, including mammals, birds, and reptiles; as shoreline stabilization and storm protection; and for water quality protection and maintenance and as food-web support. The mangrove forest is a tropical ecosystem that provides nursery support to the sports and commercial fisheries. Through a combination of functions, mangroves contribute to the economies of many coastal counties in the state, including Pinellas County, which has an economy strongly dependent on tourism and a variety of marine-related industries, most of which are closely correlated to a healthy natural environment and strong fisheries. In addition, the county's coastal environment and natural resources are a strong attractant for both businesses and residents.

(c)

The board finds that since 1950, approximately half of the Tampa Bay area's natural shoreline has been adversely impacted, with some areas of Pinellas County having lost almost half of their mangroves in that same time frame.

(d)

The board finds that the Pinellas County Comprehensive Plan and the Comprehensive Conservation and Management Plan for Tampa Bay ("Charting the Course") both support the protection, conservation and restoration of marine resources and habitats, including mangroves.

(e)

The board finds that the pruning of mangroves can affect their productivity and habitat value.

(f)

The board finds that many areas of mangroves occur as narrow riparian mangrove fringes that do not provide all the functions of mangrove forests or provide such functions to a lesser degree.

(g)

The board finds that water views are important to waterfront property owners and that scientific studies have shown that mangroves are amenable to standard horticultural treatments and that waterfront property owners can live in harmony with mangroves by incorporating such treatments into their landscaping systems.

(h)

The board finds that the trimming of mangroves by professional mangrove trimmers has a significant potential to maintain the beneficial attributes of mangrove resources and that professional mangrove trimmers should be authorized to conduct mangrove trimming, as contained herein, without prior government authorization.

(Ord. No. 03-40, § 1, 5-20-03)

Sec. 166-97. - Intent.

(a)

It is the intent of the board to protect and preserve mangrove resources valuable to our environment and economy from unregulated removal, defoliation, and destruction.

(b)

It is the intent of the board that no trimming or alteration of mangroves may be permitted on uninhabited islands which are publicly owned or on lands set aside for conservation and preservation, or mitigation, except where necessary to protect the public health, safety, and welfare, or to enhance public use of, or access to, conservation areas in accordance with management plans approved by the state, county or municipality.

(c)

It is the intent of the board to provide waterfront property owners their riparian right of view, and other rights of riparian property ownership as recognized by F.S. § 253.141, and any other provision of law, by allowing mangrove trimming in riparian mangrove fringes without prior government approval when the trimming activities will not result in the removal, defoliation, or destruction of the mangroves.

(d)

It is the intent of the board to also allow mangrove trimming at waterfront properties with mangroves that do not qualify as riparian mangrove fringes, where such trimming can be done consistent with the specific criteria of this division.

(e)

It is the intent of the board that this division shall be administered so as to encourage waterfront property owners to voluntarily maintain mangroves, encourage mangrove growth, and plant mangroves along their shorelines.

(f)

It is the intent of the board that all trimming of mangroves pursuant to this act conducted on parcels having multifamily residential units result in an equitable distribution of the riparian rights provided herein.

(g)

It is the intent of the board to grandfather certain historically established mangrove maintenance activities.

(Ord. No. 03-40, § 1, 5-20-03)

Sec. 166-98. - Authority for division.

(a)

Sections 166-96 through 166-110 and any lawful regulations adopted by a local government that receives a delegation of the department's authority to administer and enforce the regulation of mangroves as provided by this section shall be the sole regulations in this county for the trimming and alteration of mangroves on privately or publicly owned lands. All other state and local regulation of mangrove is as provided in subsection (b).

(b)

The Florida Department of Environmental Protection (FDEP) has delegated its authority to regulate the trimming and alteration of mangroves to the county which requested such delegation and demonstrated to the FDEP that it has sufficient resources and procedures for the adequate administration and enforcement of a delegated mangrove-regulatory program. The county may, through interlocal agreement, further delegate the authority to administer and enforce regulation of mangrove trimming and alteration to municipalities that can also demonstrate that they have sufficient resources and procedures for the adequate administration and enforcement of a delegated mangrove regulatory program. In no event shall more than one permit for the alteration or trimming of mangroves be required within the jurisdiction of any delegated local government.

(c)

The FDEP may biannually review the performance of the county's program and, upon a determination by the FDEP that the county has failed to properly administer and enforce the program, may seek to revoke the authority under which the program was delegated. The FDEP shall provide the county with written notice of its intent to revoke the authority to operate a delegated program. The FDEP's revocation of the authority to operate a delegated program is subject to review under chapter 120.

(d)

The county shall issue all permits required by law and in lieu of any FDEP permit provided for by F.S. §§ 403.9321 through 403.9333. The availability of the exemptions to trim mangroves in riparian mangrove fringe areas provided in F.S. § 403.9326, may not be restricted or qualified in any way by any local government. This subsection does not preclude a delegated local government from imposing stricter substantive standards or more demanding procedural requirements for mangrove trimming or alteration outside of riparian mangrove fringe areas.

(Ord. No. 03-40, § 1, 5-20-03)

Sec. 166-99. - Territory embraced.

This division shall be effective in the incorporated as well as unincorporated areas of the county.

(Ord. No. 03-40, § 1, 5-20-03)

Sec. 166-100. - Definitions.

For the purposes of this division, the term:

Alter means anything other than trimming of mangroves including removal, destruction or defoliation of mangroves.

Board means the Pinellas County Board of County Commissioners.

Defoliate means the removal of leaves by cutting or other means to the degree that the plant's natural functions have been severely diminished or which results in the death of all or part of the tree.

Department means the Pinellas County Department of Environmental Management.

Local government means a county or municipality.

Maintenance means the first and subsequent trimming intended to maintain the height and configuration of a mangrove area that was legally trimmed either pursuant to a valid exemption or a previously issued permit from the appropriate governmental agency. However, where a pattern of trimming has stopped such that the view or use otherwise intended and obtained by the trimming has been broken or lost for a prolonged period of time, further trimming will not be considered maintenance.

Mangrove means any specimen of the species Laguncularia racemosa (white mangrove), Rhizophora mangle (red mangrove), or Avicennia germinans (black mangrove).

Mangroves on lands that have been set aside as mitigation means mangrove areas on public or private land which have been created, enhanced, restored, or preserved as mitigation under a dredge and fill permit issued under F.S. §§ 403.91 through 403.929 (1984 Supplement, as amended), or a dredge and fill permit, management and storage of surface waters permit, or environmental resource permit issued under [F.S.] part IV of chapter 373, applicable dredge and fill licenses or permits issued by a local government, a resolution of an enforcement action, or a conservation easement that does not provide for trimming.

Professional mangrove trimmer means a person who meets the qualifications set forth in section 166-104.

Public lands set aside for conservation or preservation means:

(1)

Conservation and recreation lands under chapter 259, Florida Administrative Code;

(2)

State and national parks;

(3)

State and national reserves and preserves, except as provided in F.S. § 403.9326(3);

(4)

State and national wilderness areas;

(5)

National wildlife refuges (only those lands under federal government ownership);

(6)

Lands acquired through the Water Management Lands Trust Fund, Save Our Rivers Program;

(7)

Lands acquired under the Save Our Coast Program;

(8)

Lands acquired under the Environmentally Endangered Lands Bond Program;

(9)

Public lands designated as conservation or preservation under a local government comprehensive plan;

(10)

Lands purchased by a water management district, the Fish and Wildlife Conservation Commission, or any other state agency for conservation or preservation purposes;

(11)

Public lands encumbered by a conservation easement that does not provide for the trimming of mangroves; and

(12)

Public lands designated as critical wildlife areas by the Fish and Wildlife Conservation Commission.

Riparian mangrove fringe means mangroves growing along the shoreline on private property, property owned

by a governmental entity, or sovereign submerged land, the depth of which does not exceed 50 feet as measured waterward from the trunk of the most landward mangrove tree in a direction perpendicular to the shoreline to the trunk of the most waterward mangrove tree. Riparian mangrove fringe does not include mangroves on uninhabited islands, or public lands that have been set aside for conservation or preservation, or mangroves on lands that have been set aside as mitigation, if the permit, enforcement instrument, or conservation easement establishing the mitigation area did not include provisions for the trimming of mangroves.

Trim means to cut mangrove branches, twigs, limbs, and foliage, but does not mean to remove, defoliate, or destroy the mangroves.

(Ord. No. 03-40, § 1, 5-20-03)

Sec. 166-101. - Exemptions.

(a)

The following activities are exempt from the permitting requirements of this division and any other provision of law if no herbicide or other chemical is used to remove mangrove foliage:

(1)

Mangrove trimming in riparian mangrove fringe areas that meet the following criteria:

a.

The riparian mangrove fringe must be located on lands owned or controlled by the person who will supervise or conduct the trimming activities or on sovereign submerged lands immediately waterward and perpendicular to the lands.

b.

The mangroves that are the subject of the trimming activity may not exceed ten feet in pretrimmed height as measured from the substrate and may not be trimmed so that the overall height of any mangrove is reduced to less than six feet as measured from the substrate.

This exemption applies to property with a shoreline of 150 feet or less. Owners of property with a shoreline of more than 150 feet may not trim, under an exemption, more than 65 percent of the mangroves along the shoreline.

(2)

Mangrove trimming supervised or conducted exclusively by a professional mangrove trimmer, as defined in section 166-104, in riparian mangrove fringe areas that meet the following criteria:

a.

The riparian mangrove fringe must be located on lands owned or controlled by the professional mangrove trimmer or by the person contracting with the professional mangrove trimmer to perform the trimming activities, or on sovereign submerged lands immediately waterward and perpendicular to such lands.

b.

The mangroves that are the subject of the trimming activity may not exceed 24 feet in pretrimmed height and may not be trimmed so that the overall height of any mangrove is reduced to less than six feet as measured from the substrate.

c.

The trimming of mangroves that are 16 feet or greater in pretrimmed height must be conducted in stages so that no more than 25 percent of the foliage is removed annually.

d.

A professional mangrove trimmer that is trimming red mangroves for the first time under the exemption provided by this paragraph must notify the department or delegated local government in writing at least ten days before commencing the trimming activities.

This exemption applies to property with a shoreline of 150 feet or less. Owners of property with a shoreline of more than 150 feet may not trim, under an exemption, more than 65 percent of the mangroves along the shoreline.

(3)

Mangrove trimming in riparian mangrove fringe areas which is designed to reestablish or maintain a previous mangrove configuration if the mangroves to be trimmed do not exceed 24 feet in pretrimmed height. The reestablishment of a previous mangrove configuration must not result in the destruction, defoliation, or removal of mangroves. Documentation of a previous mangrove configuration may be established by affidavit of a person with personal knowledge of such configuration, through current or past permits from the state or local government, or by photographs of the mangrove configuration. Trimming activities conducted under the exemption provided by this paragraph shall be conducted by a professional mangrove trimmer when the mangroves that are the subject of the trimming activity have a pretrimmed height which exceeds ten feet as measured from the substrate. A person trimming red mangroves for the first time under the exemption provided by this paragraph must notify the department or delegated local government in writing at least ten days before commencing the trimming activities.

(4)

The maintenance trimming of mangroves that have been previously trimmed in accordance with an exemption or government authorization, including those mangroves that naturally recruited into the area and any mangrove growth that has expanded from the area subsequent to the authorization, if the maintenance trimming does not exceed the height and configuration previously established. Historically established maintenance trimming is grandfathered in all respects, notwithstanding any other provisions of law. Documentation of established mangrove configuration may be verified by affidavit of a person with personal knowledge of the configuration or by photographs of the mangrove configuration.

(5)

The trimming of mangrove trees by a state-licensed surveyor in the performance of her or his duties, if the trimming is limited to a swath of three feet or less in width.

(6)

The trimming of mangrove trees by a duly constituted communications, water, sewerage, electrical, or other utility company, or by a federal, state, county, or municipal agency, or by an engineer or a surveyor and mapper working under a contract with such utility company or agency, when the trimming is done as a governmental function of the agency.

(7)

The trimming of mangrove trees by a duly constituted communications, water, sewerage, electrical, or other utility company in or adjacent to a public or private easement or right-of-way, if the trimming is limited to those areas where it is necessary for the maintenance of existing lines or facilities or for the construction of new lines or facilities in furtherance of providing utility service to its customers and if work is conducted so as to avoid any unnecessary trimming of mangrove trees.

(8)

The trimming of mangrove trees by a duly constituted communications, water, sewerage, or electrical utility company on the grounds of a water treatment plant, sewerage treatment plant, or electric power plant or substation in furtherance of providing utility service to its customers, if work is conducted so as to avoid any unnecessary trimming of mangrove trees.

(9)

The removal of dead portions of mangroves that have been freeze-damaged provided the following criteria are met:

a.

A period of six months has elapsed since the freeze event.

b.

All trimming of trees in excess of ten feet in height and all trimming below six feet from the substrate is conducted by or under the direct supervision of a professional mangrove trimmer.

c.

All trimmed branches and trunks are removed from the wetlands.

d.

The department is notified in writing of the trimming and the professional mangrove trimmer to be used (if applicable) a minimum of ten days in advance of the trimming.

(b)

Any rule, regulation, or other provision of law must be strictly construed so as not to limit directly or indirectly the exemptions provided by this section for trimming in riparian mangrove fringe areas except as provided in section 166-104(f), (g) and (h). Any rule or policy of the department, or local government regulation, that directly or indirectly serves as a limitation on the exemptions provided by this section for

trimming in riparian mangrove fringe areas is invalid.

(c)

The designation of riparian mangrove fringe areas as aquatic preserves or Outstanding Florida Waters shall not affect the use of the exemptions provided by this section.

(d)

Trimming that does not qualify for an exemption under this section requires a permit as provided in section 166-102.

(Ord. No. 03-40, § 1, 5-20-03)

Sec. 166-102. - Trimming of mangroves; permit requirement.

(a)

The department shall authorize mangrove trimming via a permit issued pursuant to this section, provided the trimming is consistent with the following criteria:

(1)

The mangroves to be trimmed are located on lands owned or controlled by the applicant or on sovereign submerged lands immediately waterward and perpendicular to such lands;

(2)

The mangroves to be trimmed are not located on uninhabited islands which are publicly owned or on lands set aside for conservation and preservation, or mitigation, except where necessary to protect the public health, safety, and welfare, or to enhance public use of, or access to, conservation areas in accordance with management plans approved by the state, county or municipality.

(3)

The trimming of mangroves over ten feet in height is supervised or conducted exclusively by a professional mangrove trimmer;

(4)

The mangroves subject to trimming under the permit do not extend more than 500 feet waterward as measured from the trunk of the most landward mangrove tree in a direction perpendicular to the shoreline;

(5)

No more than 65 percent of the area (footprint) of mangroves at the subject site will be trimmed. Also, at least 25 percent of the mangroves in the trimmed area that are over 16 feet in pre-trimmed height may not be reduced in height. These trees, however, may be laterally trimmed provided that no portion of their canopies above 12 feet from the substrate is trimmed.

(6)

No mangrove will be trimmed so that the overall height of any mangrove is reduced to less than six feet as measured from the substrate;

(7)

No herbicide or other chemical will be used for the purpose of removing leaves of a mangrove;

(8)

The trimming does not result in the removal, destruction, or defoliation of the mangroves;

(9)

All trimming of mangroves in excess of 16 feet in height must be conducted in stages so that no more than 25 percent of the pretrimmed foliage or height of the trees is removed annually. Regrowth from the previous year's trimming may be trimmed in addition to the 25 percent mentioned above;

(10)

Trimming may only be conducted from March 1 through November 30;

(11)

Only non-petroleum based lubricants must be used in chainsaws; and

(12)

All Brazilian pepper trees (Schinus terebinthifolius), punk trees (Melaleuca quinquenervia) and Chinese tallow (Sapium sebiferum) that are within 25 feet of the mangrove canopy must be removed from the applicant's property. Where the removal is to a degree that a potential for erosion is created, the area must be restabilized. Stumps and roots may be killed and left in place if desired.

(13)

All trimmed branches and trunks are removed from the wetlands.

(b)

The height and configuration of mangroves trimmed under permits issued pursuant to this section may be maintained under section 166-101(a)(4).

(c)

Requests for permits to trim mangroves must be submitted on the department's application form and must contain sufficient information to enable the department to determine the scope of the proposed trimming and whether the activity will comply with the conditions of this section.

(d)

The department shall grant or deny in writing each request for a permit within 30 days after receipt of a complete application, unless the applicant agrees to an extension. If the applicant does not agree to an extension and the department fails to act on the request within the 30-day period, the request is approved. The

department's denial of a request for a permit is subject to appeal under section 166-107.

(Ord. No. 03-40, § 1, 5-20-03)

Sec. 166-103. - Alteration of mangroves; permit requirement.

(a)

The department, when deciding to issue or deny a permit for mangrove alteration under this section, shall use the criteria in F.S. § 373.414(1) and (8) as follows:

(1)

Whether the activity will adversely affect the public health, safety, or welfare or the property of others;

(2)

Whether the activity will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats;

(3)

Whether the activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling;

(4)

Whether the activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity;

(5)

Whether the activity will be of a temporary or permanent nature;

(6)

Whether the activity will adversely affect archaeological resources under the provisions of F.S. § 267.061;

(7)

The current condition and relative value of functions being performed by areas affected by the proposed activity; and

(8)

The cumulative impact of similar activities pursuant to F.S. § 373.414(8).

(b)

If the applicant is unable to meet these criteria, the department and the applicant shall first consider measures to reduce or eliminate the unpermittable impacts. If unpermittable impacts still remain, the applicant may propose, and the department shall consider, measures to mitigate the otherwise unpermittable impacts.

(c)

A request for a permit to alter mangroves must be submitted on the department's application form and with sufficient specificity to enable the department to determine the scope and impacts of the proposed alteration activities.

(d)

The use of herbicides or other chemicals for the purposes of removing leaves from a mangrove is strictly prohibited.

(e)

A permit is not required under this division to trim or alter mangroves if the trimming or alteration is part of an activity that is permitted under [F.S.] part IV of chapter 373 or by the Pinellas County Water and Navigation Control Authority. The procedures for permitting under [F.S.] part IV of chapter 373 or by the Pinellas County Water and Navigation Control Authority will control in those instances.

(Ord. No. 03-40, § 1, 5-20-03)

Sec. 166-104. - Professional mangrove trimmers.

(a)

For purposes of this division, the following persons are considered professional mangrove trimmers:

(1)

Certified arborists, certified by the International Society of Arboriculture;

(2)

Professional wetland scientists, certified by the Society of Wetland Scientists;

(3)

Certified environmental professionals, certified by the Academy of Board Certified Environmental Professionals;

(4)

Certified ecologists certified by the Ecological Society of America;

(5)

Landscape architects licensed under [F.S.] part II of chapter 481. Only those landscape architects who are certified in the state may qualify as professional mangrove trimmers under this division, notwithstanding any reciprocity agreements that may exist between this state and other states;

(6)

Persons who have conducted mangrove trimming as part of their business or employment and who are able to

demonstrate to the department or a delegated local government, as provided in subsection (b), a sufficient level of competence to assure that they are able to conduct mangrove trimming in a manner that will ensure the survival of the mangroves that are trimmed; and

(7)

Persons who have been qualified by the county or a delegated local government through a mangrove-trimming qualification program as provided in subsection (b).

(b)

A person who seeks to assert professional mangrove trimmer status under subsection (a)(6) or (7) to trim mangroves under the exemptions and permits provided in sections 166-101 and 166-102, must request in writing professional mangrove trimmer status from the department. The department shall grant or deny any written request for professional mangrove trimmer status within 30 days after receipt of a complete application. If professional mangrove trimmer status has been granted by the department, no additional requests for professional mangrove trimmer status need be made to the department to trim mangroves under the exemptions provided in section 166-101. Persons applying for professional mangrove trimmer status must provide to the department a notarized sworn statement attesting:

(1)

That the applicant has successfully conducted trimming on a minimum of ten mangrove-trimming projects authorized by the Florida Department of Environmental. Protection or a local government program. Each project must be separately identified by project name, professional mangrove trimmer and permit number where applicable;

(2)

That a mangrove-trimming or alteration project of the applicant is not in violation of F.S. §§ 403.9321 through 403.9333, this division, or any lawful rules adopted thereunder; and

(3)

That the applicant possesses the knowledge and ability to correctly identify mangrove species occurring in this state.

(c)

The department may deny a request for professional mangrove trimmer status if the department finds that the information provided by the applicant is incorrect or incomplete, or if the applicant has demonstrated a past history of noncompliance with the provisions of F.S. §§ 403.9321 through 403.9333, this division, or any adopted mangrove rules.

(d)

A professional mangrove trimmer status granted by the department may be revoked by the department for any person who is responsible for any violations of F.S. §§ 403.9321 through 403.9333, this division, or any adopted mangrove rules.

(e)

The department's decision to grant, deny, or revoke a professional mangrove trimmer status is subject to appeal under section 166-107.

(f)

All professional mangrove trimmers working in the county must register with the department by paying an annual registration fee and by demonstrating that they meet the criteria of section 166-104. The fee for first time registration shall be $50.00 and annual renewals thereafter shall be $25.00.

(g)

All professional mangrove trimmers working in the county must notify the department prior to conducting any mangrove trimming or alteration including those activities authorized under the exemptions provided by section 166-101.

(h)

All professional mangrove trimmers working in the county must be on site when mangrove trimming activities are performed under their supervision.

(i)

Any local governmental regulation imposed on professional mangrove trimmers that has the effect of limiting directly or indirectly the availability of the exemptions provided by section 166-101 is invalid.

(Ord. No. 03-40, § 1, 5-20-03)

Sec. 166-105. - Mitigation and enforcement.

(a)

A person may not alter or trim, or cause to be altered or trimmed, any mangrove within the landward extent of wetlands and other surface waters, as defined in chapter 62-340.200(19), Florida Administrative Code, using the methodology in F.S. § 373.4211, and chapter 62-340, Florida Administrative Code, when the trimming does not meet the criteria in section 166-101 except under a permit issued under section 166-102 or 166-103 by the department or as otherwise provided by this division. Any violation of this division is presumed to have occurred with the knowledge and consent of any owner, trustee, or other person who directly or indirectly has charge, control, or management, either exclusively or with others, of the property upon which the violation occurs. However, this presumption may be rebutted by competent, substantial evidence that the violation was not authorized by the owner, trustee, or other person.

(b)

Any area in which five percent or more of the trimmed mangrove trees have been trimmed below six feet in height, except as provided in section 166-101(a)(3), (4), (6), (7), (8) and (9), destroyed, defoliated, or removed as a result of trimming conducted under sections 166-101 or 166-102 must be restored or mitigated. Restoration must be accomplished by replanting mangroves within six months, in the same location and of the same species as each mangrove destroyed, defoliated, removed, or trimmed, to achieve within five years a canopy area equivalent to the area destroyed, removed, defoliated, or trimmed; or mitigation must be accomplished by replanting offsite, in areas suitable for mangrove growth, mangroves to achieve within five

years a canopy area equivalent to the area destroyed, removed, defoliated, or trimmed. Where all or a portion of the restoration or mitigation is not practicable, as determined by the department or delegated local government, the impacts resulting from the destruction, defoliation, removal, or trimming of the mangroves must be offset by donating a sufficient amount of money to offset the impacts, which must be used for the restoration, enhancement, creation, or preservation of mangrove wetlands within a restoration, enhancement, creation, or preservation project approved by the department or delegated local government; or by purchasing credits from a mitigation bank created under F.S. § 373.4135, at a mitigation ratio of no less than two-to-one and no greater than five-to-one credits to affected area. The donation must be equivalent to the cost, as verified by the department or delegated local government, of creating mangrove wetlands at no less than a two-to-one and no greater than a five-to-one, created versus affected ratio, based on canopy area. The donation may not be less than $4.00 per square foot of created wetland area.

(c)

In all cases, the applicant, permittee, landowner, and person performing the trimming are jointly and severally liable for performing restoration under subsection (b) and for ensuring that the restoration successfully results in a variable mangrove community that can offset the impacts caused by the removal, destruction, or defoliation of mangroves. The applicant, landowner, and person performing the trimming are also jointly and severally subject to penalties.

(d)

If mangroves are to be trimmed or altered under a permit issued under section 166-103, the department or delegated local government may require mitigation. The department or delegated local government shall establish reasonable mitigation requirements that must include, as an option, the use of mitigation banks created under F.S. § 373.4135, where appropriate. The department's mitigation requirements must ensure that payments received as mitigation are sufficient to offset impacts and are used for mangrove creation, preservation, protection, or enhancement.

(e)

Any replanting for restoration and mitigation under this subsection must result in at least 80 percent survival of the planted mangroves one year after planting. If the survival requirement is not met, additional mangroves must be planted and maintained until 80 percent survival is achieved one year after the last mangrove planting.

(f)

The department or delegated local government shall enforce the provisions of this division in the same manner and to the same extent provided for in F.S. §§ 403.141 and 403.161, for the first violation, which includes, but is not limited to, the imposition of a civil penalty in an amount of not more than $10,000.00 per offense along with restoration of the mangroves consistent with the criteria of subsection (b) above.

(g)

For second and subsequent violations, the department or delegated local government, in addition to the provisions of F.S. §§ 403.141 and 403.161, shall impose additional monetary penalties for each mangrove illegally trimmed or altered as follows:

(1)

Up to $100.00 for each mangrove illegally trimmed; or

(2)

Up to $250.00 for each mangrove illegally altered.

(h)

In addition to the penalty provisions provided in subsections (b) through (g), for second and all subsequent violations by a professional mangrove trimmer, the department or delegated local government shall impose a separate penalty upon the professional mangrove trimmer up to $250.00 for each mangrove illegally trimmed or altered.

(i)

Violations of this division are also subject to the provisions of section 134-8 which includes, but is not limited to, a fine not to exceed $500.00 for violation of local ordinance.

(j)

Each day of the violation of the provision(s) of this division shall constitute a separate offense.

(k)

In addition to the sanctions contained in this section, the county may take any other appropriate legal action, including, but not limited to, emergency injunctive action, to enforce the provisions of this division.

(Ord. No. 03-40, § 1, 5-20-03)

Sec. 166-106. - Variance relief.

Upon application, the department or delegated local government may grant a variance from the provisions of this division if compliance therewith would impose a unique and unnecessary hardship on the owner or any other person in control of the affected property. Relief may be granted upon demonstration that such hardship is not self-imposed and that the grant of the variance will be consistent with the general intent and purpose of this division. The department or delegated local government may grant variances as it deems appropriate.

(Ord. No. 03-40, § 1, 5-20-03)

Sec. 166-107. - Appeals.

Any person aggrieved by the findings of the department under this division may, within 30 days of such findings, petition for a hearing before the board, stating in such petition the grounds upon which the department has erred in its findings and where in such person is aggrieved by such findings. The board may, in its discretion, grant or deny such hearing. Failure to file an appeal as provided in this section shall constitute acceptance of the department's findings.

(Ord. No. 03-40, § 1, 5-20-03)

Sec. 166-108. - Notice of public hearing.

All public hearings scheduled before the board pursuant to this division shall be advertised in a newspaper of general circulation at least two weeks prior to the public hearing. The cost of said advertisement will be the responsibility of the person requesting the hearing.

(Ord. No. 03-40, § 1, 5-20-03)

Sec. 166-109. - Fees.

All applications for mangrove trimming permits shall be accompanied by a fee to be set by the board by resolution on an annual basis. Fees shall be sufficient to cover the cost of the review and issuance of the permit.

(Ord. No. 03-40, § 1, 5-20-03)

Sec. 166-110. - Administration.

(a)

Permits issued pursuant to sections 166-102 and 166-103 shall expire one year from permit issuance if the project has not been completed, or if the initial trim has not been completed for those projects where trimming is to be phased in annually. Extensions may be granted by the department for good cause shown.

(b)

The department may revoke any permit issued pursuant to sections 166-102 and 166-103 for fraud, misrepresentation or violation of the conditions imposed on the permit. Written notice of the intent of the department to revoke a permit shall be provided to the applicant, setting forth the specific reasons for the revocation. Upon notice of the department's intent to revoke the permit, the applicant shall immediately cease all trimming and alteration activities on site. The applicant shall have 30 days to show cause why the permit should not be revoked.

(c)

The department may issue a cease and desist order for any site where trimming or alteration has commenced and a permit has not been obtained but is required pursuant to this division. Any person receiving such an order for cessation of operations shall immediately comply with the requirements thereof. It shall be a violation of this division for any person to fail or to refuse to comply with a cease and desist order issued under the provisions of this section.

(d)

The regulation of mangrove protection under this division is intended to be complete and effective without reference to or in compliance with other statutory or code provisions.

(Ord. No. 03-40, § 1, 5-20-03)

ARTICLE III. - MANAGEMENT AND STORAGE OF SURFACE WATERS[3]
Footnotes:
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Cross reference— Stormwater pollution, § 58-236 et seq.; floodplain management, ch. 158; flood damage

prevention, § 170-101 et seq.

State Law reference— Provisions to regulate areas subject to seasonal and periodic flooding and to provide for drainage and stormwater management required, F.S. § 163.3202(2)(d); management and storage of surface waters, F.S. § 373.403 et seq.

DIVISION 1. - GENERALLY

Sec. 166-111. - Definitions.

(a)

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agreement means the interlocal agreement adopted pursuant to F.S. §§ 163.01 and 125.01(1)(p), which provides for the performance by the county of all or a portion of the district's functions pursuant to a delegation under F.S. § 373.103(8).

Delegation means a delegation of authority from the district to the county pursuant to F.S. § 373.103(8), as effectuated by the agreement.

District means the Southwest Florida Water Management District.

Drainage element of the comprehensive plan means the plan for major drainage in the county as adopted in the comprehensive plan.

(b)

The definitions of words and phrases in rules 40D-4.021 and 40D-40.021, F.A.C., as they apply to chapters 40D-4 and 40D-40, F.A.C., are expressly made a part of this article and are incorporated herein by reference as if fully set forth in this article.

(Ord. No. 90-17, § 2, 2-20-90)

Cross reference— Definitions generally, § 134-2.

Sec. 166-112. - Findings and intent.

(a)

It is the policy of the board of county commissioners to regulate and control the management and storage of all surface waters within its boundaries in harmony with the policy and purpose of the district as established in rule 40D-4.011 and rule 40D-40.011, F.A.C. The county shall concentrate its efforts on new surface water management systems and alterations to existing surface water management systems which have the potential for significant impacts on the water resources of the district.

(b)

It is the policy of the board of county commissioners to regulate and control the management and storage of

all surface waters within its boundaries in harmony with the drainage element of the comprehensive plan. The provisions of subsection (a) of this section shall not preclude the county from requiring permits for all development activities, regardless of the significance of the impact, where regulation of such minimal impacts will further the drainage element of the comprehensive plan.

(c)

With the exception of replacing references to the district with references to the county where applicable to the delegation, the provisions of rule 40D-40.011, F.A.C., are expressly made a part of this article and are incorporated herein by reference as if fully set forth in this article.

(Ord. No. 90-17, § 1, 2-20-90)

Sec. 166-113. - Interpretation of statutory provisions.

In all incorporations of the provisions of chapters 40-4 and 40D-40, F.A.C., references to the district are to be replaced by references to Pinellas County, where applicable to the delegation, unless the context clearly indicates otherwise.

(Ord. No. 90-17, § 3, 2-20-90)

Sec. 166-114. - Areas embraced.

All territory within the legal boundaries of Pinellas County, Florida, as described in F.S. § 7.52, including all incorporated and unincorporated areas, shall be embraced by the provisions of this article.

(Ord. No. 90-17, § 21, 2-20-90)

Sec. 166-115. - Powers and duties of board of commissioners.

(a)

The board of county commissioners has the authority, pursuant to the delegation of such authority from the district in the agreement, to issue, deny, and enforce compliance with surface water management permits in accordance with chapters 40D-4 and 40D-40, F.A.C., for projects of less than 100 acres in total project area within the boundaries of the county. Such authority shall remain with the board of county commissioners for so long as there exists a continuing agreement providing for that delegation.

(b)

The board of county commissioners may authorize the county administrator to delegate the administration of the authority covered by this article to appropriate administrative departments.

Sec. 166-116. - Rules and regulations.

(a)

All provisions of rule 40D-4.091, F.A.C., pertinent to the delegation to the county, are expressly made a part of this article and are incorporated herein by reference as if fully set forth in this article.

(b)

The board of county commissioners may adopt such rules and regulations as it may deem necessary to effectuate the purpose and intent of this article as well as to provide for administrative efficiency. Such rules and regulations are not required but, if adopted, shall be adopted by ordinance.

(Ord. No. 90-17, § 5, 2-20-90)

Sec. 166-117. - Permit application procedure.

All provisions of rules 40D-1.601 and 40D-1.603, F.A.C., pertinent to the delegation to the county are expressly made a part of this article and are incorporated herein by reference as if fully set forth in this article.

(Ord. No. 90-17, § 6, 2-20-90)

Sec. 166-118. - Emergency authorization of construction remedial and emergency measures.

With the exception of replacing references to the district with references to the county where applicable to the delegation, the provisions of rules 40D-4.451 and 40D-4.481, F.A.C., are expressly made a part of this article and are incorporated herein by reference as if fully set forth in this article.

(Ord. No. 90-17, § 16, 2-20-90)

Sec. 166-119. - Abatement.

All provisions of rule 40D-4.071, F.A.C., pertinent to the delegation to the county are expressly made a part of this article and are incorporated herein by reference as if fully set forth in this article.

(Ord. No. 90-17, § 17, 2-20-90)

Sec. 166-120. - Investigations; enforcement; penalties.

(a)

All provisions of part IX of chapter 40D-1, F.A.C., pertinent to the delegation to the county, are expressly made a part of this article and incorporated herein by reference as if fully set forth in this article.

(b)

Violations of this article shall be subject to:

(1)

Prosecution pursuant to F.S. § 125.69, and, upon conviction, shall be punished as provided in section 134-8.

(2)

Civil action in the court of appropriate jurisdiction, including but not limited to the abatement procedures of the state statutes as adopted pursuant to rule 40D-4.471, F.A.C.

(c)

Nothing in this section shall operate to limit or preclude district investigations and enforcement procedures.

(Ord. No. 90-17, § 18, 2-20-90)

Sec. 166-121. - Right of entry; inspections.

All provisions of rule 40D-4.461, F.A.C., pertinent to the delegation to the county, are expressly made a part of this article and incorporated herein by reference as if fully set forth in this article.

(Ord. No. 90-17, § 19, 2-20-90)

Sec. 166-122. - Decisions determining substantial interests.

All provisions of part IV of chapter 40D-1, F.A.C., pertinent to the delegation to the county, are expressly made a part of this article and are incorporated herein by reference as if fully set forth in this article.

(Ord. No. 90-17, § 20, 2-20-90)

Secs. 166-123—166-150. - Reserved.

DIVISION 2. - PERMIT

Sec. 166-151. - Required; exemptions.

All provisions of rules 40D-4.041, 40D-4.051, 40D-4.053, 40D-4.054, 40D-40.041, 40D-40.042, 40D-40.111, 40D-4.112 and 40D-40.141, F.A.C., pertinent to the delegation to the county, are expressly made a part of this article and are incorporated herein by reference as if fully set forth in this article.

(Ord. No. 90-17, § 7, 2-20-90)

Sec. 166-152. - Fees.

(a)

The county may collect and retain permit fees in accordance with F.S. § 373.109, and rule 40D-0.201, F.A.C., for use in supporting the review functions mandated by this article.

(b)

Nothing in this section shall preclude the county from assessing the additional administrative fees it deems necessary to support its review functions.

(Ord. No. 90-17, § 8, 2-20-90)

Sec. 166-153. - Content of application.

All provisions of rules 40D-4.101, 40D-40.111, 40D-4.112 and 40D-40.141, F.A.C., pertinent to the delegation to the county, are expressly made a part of this article and are incorporated herein by reference as if fully set forth in this article.

(Ord. No. 90-17, § 9, 2-20-90)

Sec. 166-154. - Conditions for issuance of permits.

All provisions of rules 40D-4.301, 40D-40.301 and 40D-40.302, F.A.C., pertinent to the delegation to the

county, are expressly made a part of this article and are incorporated herein by reference as if fully set forth in this article.

(Ord. No. 90-17, § 10, 2-20-90)

Sec. 166-155. - Duration of permits.

All provisions of rules 40D-4.321 and 40D-40.321, F.A.C., pertinent to the delegation to the county, are expressly made a part of this article and are incorporated herein by reference as if fully set forth in this article.

(Ord. No. 90-17, § 11, 2-20-90)

Sec. 166-156. - Modification and extension of permits.

All provisions of rules 40D-4.331 and 40D-40.331, F.A.C., pertinent to the delegation to the county, are expressly made a part of this article and are incorporated herein by reference as if fully set forth in this article.

(Ord. No. 90-17, § 12, 2-20-90)

Sec. 166-157. - Revocation.

All provisions of rules 40D-4.341 and 40D-40.341, F.A.C., pertinent to the delegation to the county, are expressly made a part of this article and are incorporated herein by reference as if fully set forth in this article.

(Ord. No. 90-17, § 13, 2-20-90)

Sec. 166-158. - Transfer.

All provisions of rules 40D-4.351 and 40D-40.351, F.A.C., pertinent to the delegation to the county, are expressly made a part of this article and are incorporated herein by reference as if fully set forth in this article.

(Ord. No. 90-17, § 14, 2-20-90)

Sec. 166-159. - Limiting conditions.

(a)

All provisions of rules 40D-4.381 and 40D-40.381, F.A.C., pertinent to the delegation to the county, are expressly made a part of this article and are incorporated herein by reference as if fully set forth in this article.

(b)

Nothing in this article shall preclude the board of county commissioners from adopting or amending this article or other county ordinances, rules, or regulations which provide requirements compatible with, or stricter or more extensive than, the requirements of chapters 40D-4 and 40D-40, F.A.C.

(c)

The following standard limiting condition shall be attached to all permits issued pursuant to this article, unless waived or modified by the board of county commissioners: The permittee shall comply with the drainage element of the comprehensive plan.

(Ord. No. 90-17, § 15, 2-20-90)

Secs. 166-160—166-190. - Reserved.

ARTICLE IV. - WELLHEAD PROTECTION[4]

Footnotes:
--- (**4**) ---

State Law reference— Provisions for protection of potable water wellfields required, F.S. § 163.3202(2)(c); wells, F.S. § 373.302 et seq.

Sec. 166-191. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aquifer means a groundwater bearing geologic formation, or formations, that contains enough saturated permeable material to yield a minimum of 100 gallons per minute quantities of water.

Classification of groundwater, usage, reclassification. All groundwater of the county is classified by the board of county commissioners according to designated uses as follows:

(1)

Class G-1: Potable water use, groundwater in aquifers which has a total dissolved solids content of less than 3,000 mg/l in an unconfined or leaky confined aquifer and is restricted to zones of protection around major public community drinking water supplies, and has been classified as G-1 by the board of county commissioners.

(2)

Class G-II: Potable water use, groundwater in aquifers which has a total dissolved solids content of less than 10,000 mg/l, unless otherwise classified by the board.

(3)

Class G-III: Nonpotable water use, groundwater in unconfined aquifers which has a total dissolved solids content of 10,000 mg/l or greater, or which has total dissolved solids of 3,000—10,000 mg/l and which has been classified by the board as having no reasonable potential as a future source of drinking water, or has been designated by the county water system as an exempted aquifer using the standards contained in section 17-28.130(C), Florida Administrative Code (F.A.C.).

(4)

Class G-IV: Nonpotable water use, groundwater in confined aquifers which has a total dissolved solids content of 10,000 mg/l or greater.

Closure permit means that permit required by activities which must cease operation pursuant to the provisions of section 166-195 of this article, the criteria for which are set forth under section 166-196 of this article.

Completed application means an application which includes all materials and documents which are necessary to support the application and which has been accepted as complete by the county water system.

County administrator means the county administrator of Pinellas County or the administrator's designee.

Designated public utility means that public utility which has been designated by federal, state, regional or local law, regulation, resolution, rule, ordinance or requirement as having jurisdiction to provide potable water or residential wastewater service to the property on which the nonresidential activity is located.

Discharge to groundwater means treated or untreated wastewater, stormwater leachate, leachate from a solid waste facility, or leaked product generated by the construction or operation of an installation and discharging directly or indirectly to groundwater.

Emergency hazardous situation means a situation which exists whenever there is an immediate and substantial danger to human health, safety, or welfare or to the environment.

EPA means the United States Environmental Protection Agency.

Facility means main structures, accessory structures and activities which store, handle, use or produce regulated substances. Where contiguous facilities exist and such facilities are separate in the nature of the businesses, they shall remain separate under this article.

FDEP means the Florida Department of Environmental Protection.

Generic substance list means those general categories of substances set forth in appendix A to Ordinance No. 90-2 and incorporated herein by reference. This list is equivalent to the regulated substances.

Groundwater means water that fills all the unblocked voids of underlying material below the ground surface, which is the upper limit of saturation, or water which is held in the unsaturated zone by capillarity.

Laboratory means a designated area or areas used for testing, research, experimentation, quality control, or prototype construction, but not used for repair or maintenance activities (excluding laboratory equipment), the manufacturing of products for sale, or pilot plant testing.

Major public community drinking water supply means those community water systems as defined in section 17-550.200(7), F.A.C., that are permitted by consumptive use permit to withdraw an average daily amount of 100,000 gallons or greater of groundwater.

New discharge means, for the purpose of the zone of protection, a discharge from a new installation, or a discharge for which a permit is required which is significantly different and causing a negative impact on groundwater, from the permit conditions as of the effective date of the zone of protection classification for the chemical, microbiological, physical quality, quantity, or point of discharge.

New installation means, for the purpose of the zone of protection, facilities located in areas receiving

protection through classification by the board of county commissioners within the zone of protection that have neither filed a complete permit application nor received an appropriate permit prior to the effective date of classification.

Nonresidential activity means any activity which occurs in any building, structure or open area which is not used primarily as a private residence or dwelling.

Open interval of a well means the uncased or screened length of the well within the saturated zone of an aquifer.

Operating permit means the permit required of certain activities under section 166-195 to operate, the criteria for which are set forth under section 166-196.

Person means any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, owner, lessee, tenant or any other entity whatsoever or any combination of such, jointly or severally.

Potable water means water that is intended for drinking, culinary or domestic purposes, subject to compliance with county, state or federal drinking water standards.

Public utility means any privately owned, municipally owned, county-owned, special district-owned, or state-owned system providing water or resident wastewater service to the public which has at least 15 service connections or regularly serves at least 25 individuals daily for at least 60 days of the year.

Regulated substances means those deleterious substances, contaminants, priority pollutants (in accordance with chapter 17-22, F.A.C.), and potable water quality primary and secondary standards parameters (in accordance with chapter 3, part 4, F.A.C., and appendices A and E), which, because of quality, concentration, or physical, chemical, including ignitability, corrosivity, reactiveness, synergistic, and toxicity; or infectious characteristics, radioactivity, mutagenicity, carcinogenicity, teratogenicity, bioaccumulative effect, persistence, or nondegradability in nature, or any other characteristic, may cause significant harm to human health and the environment, including surface water and groundwater, plants, and animals.

Spill means the unpermitted release or escape of a regulated substance directly or indirectly to soils, surface waters or groundwaters.

Underground facilities for transportation of wastewater of industrial chemical products means underground facilities for transportation of waste effluent of industrial chemical products, including piping, sewer lines, and ducts or other conveyances designed to transport industrial pollutants as defined in F.S. § 376.301(12), and contaminants as defined in F.S. § 403.031(1).

Underground storage facility means and includes any enclosed structure, container, tank or other enclosed stationary devices used for storage or containment of pollutants as defined in F.S. § 376.301(18) or any contaminant as defined in F.S. § 403.031(1). Nothing in this definition is intended to include septic tanks, enclosed transformers or other similar enclosed underground facilities.

Utility means a public utility (power company or telephone company) which serves the general public.

Variance means a grant of relief to a person or entity from the requirements of this article, which permits construction in a manner otherwise prohibited by this article where specific enforcement would result in inequitable hardship. The county administrator shall have the authority to grant variances.

Water table means the surface between the vadose zone and the groundwater, that surface of a body of unconfined groundwater at which the pressure is equal to that of the atmosphere.

Well means a pit or hole sunk into the earth to reach a resource of potable supply, such as water, to be used for domestic purposes by municipalities. Irrigation wells and privately owned wells for domestic consumption are not included in the scope of this article.

Wellfield means an area of land which contains more than one well for obtaining water.

Zone of protection means the total area contributing water to a well under a given set of circumstances. This area changes over time in response to changes in the water table or potentiometric surface, well pumpage, and other withdrawals in the vicinity. It is determined by the construction of a flow net, based on potentiometric surface contours.

Zone of protection map means the map at the scale determined by the county administrator showing the location on the ground of the outer limits of the zone of protection for present and future public potable water supply wells and wellfields of 100,000 gallons per day or more. This zone is described in section 166-194.

(Ord. No. 90-2, § 3, 1-30-90; Ord. No. 90-62, § 3, 7-24-90; Ord. No. 93-12, § 2, 2-16-93)

Cross reference— Definitions generally, § 134-2.

Sec. 166-192. - Authority.

(a)

This article is adopted in compliance with, and pursuant to, the local government comprehensive planning and land development regulation act, F.S. § 163.3161 et seq. This article is adopted pursuant to the constitutional and home rule powers of article VIII, Florida Constitution, F.S. ch. 125, and article II of the Pinellas County Home Rule Charter.

(b)

All provisions of this article shall be effective within the incorporated and unincorporated areas of the county, as delineated by a zone of protection map, and shall set restrictions, constraints and prohibitions to protect present and future public potable water supply wells and wellfields from degradation by contamination from regulated substances.

(Ord. No. 90-2, § 1, 1-30-90; Ord. No. 90-62, § 1, 7-24-90)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 166-193. - Purpose and intent.

(a)

In order to properly protect existing and future potable water supply sources within the zone of protection area, the board of county commissioners declares that the storage, handling, use, disposal, or production of hazardous or toxic substances in close proximity to public potable water supply wells is potentially harmful to the drinking water of the county, and that certain land uses and activities involving regulated or generic substances are hereby prohibited or regulated within the defined zone of protection area.

Therefore, the intent of this article is to protect and safeguard the health, safety, and welfare of the residents and visitors of the county by providing criteria for regulating and prohibiting the use, handling, production, disposal, and storage of certain regulated substances which may impair present and future public potable water supply wells and wellfields.

It is the intent of the board of county commissioners to augment the policies within the adopted comprehensive plan that protect the wells and wellfields through land use controls and environmental regulations. It is essential to protect the environmentally sensitive area adjacent to wells and wellfields from disruption and encroachment in order to preserve vital natural functions relating to water quality, water quantity and other elements of aquatic ecosystems.

(b)

It is the intent of the county to enter into interlocal agreements with Pasco County and Hillsborough County to exercise jointly any power, privilege or authority to protect from degradation all potable water wells within the zone of protection. The agreements shall be construed as accomplishing a joint use of powers subject to the terms and conditions stated in this article, in addition to any ordinance and regulations of Pasco County and/or Hillsborough County if the development proposal lies within their jurisdiction.

The agreement shall at a minimum include provisions for administration and enforcement of label development regulations within any area of the zone of protection and shall be undertaken by the jurisdiction within whose boundaries that area is located. With respect to the issuance of any development order or development permit within the zone of protection, the nonjurisdictional counties shall receive notice prior to any decision or determination on an application for development with adequate time for the nonjurisdictional counties to review and comment on the development permit application.

(c)

The generic substance list attached to Ordinance No. 90-2 and incorporated in this article as appendix A is provided for informational and regulatory purposes and may be amended from time to time by the board of county commissioners. Persons using, handling, producing or storing a substance on the generic list may be using, handling, producing or storing a regulated substance as defined by this article. Persons unsure as to whether they are subject to this article may wish to consult with the county water system.

(Ord. No. 90-2, § 2, 1-30-90; Ord. No. 90-62, § 2, 7-24-90)

Sec. 166-194. - Maps delineating zone of protection.

(a)

The zone of protection maps developed as described in subsection (b) are incorporated herein and made a part of this article. These maps shall be on file and maintained by the county administrator's designated departments. Any amendments, additions or deletions to such maps shall be approved by amendment to this article pursuant to the provisions established by F.S. § 125.66(5).

(b)

The zone of protection map is developed by the following procedure:

(1)

The historic water level data is obtained for each of the U.S. Geological Survey and county water system Floridan monitor wells shown on the zone of protection map and listed in appendix I.

(2)

The average water level is calculated for each well for the period of record available for each well.

(3)

Potentiometric surface contours are then constructed based on these average water levels.

(4)

A flow net is then constructed across the potentiometric contours by constructing flow lines perpendicular to potentiometric contours.

(5)

The zone of protection is delineated by extending a line along the convergence of those flow lines that enter the wells or wellfields (flow lines converge in areas of discharge and diverge in areas of recharge).

(6)

As additional Floridan monitor wells are constructed in the map area, this additional water level data will be incorporated into the zone of protection map. Accumulated annual water level data may be evaluated annually and adjustments to the zone of protection will be made as the data dictates.

(7)

Measurement of the zone around a wellfield will be established for the entire wellfield by calculating the zone of protection for the wellfield as a whole. In the case of unclustered wells, individual zones of protection around each well will be calculated.

(8)

Rebuttable presumption: Affected parties wanting to challenge the county's determination of the zone of protection may do so during the public hearings by generating more precise site-specific data concerning potentiometric levels that would allow more accurate calculations of the zone.

(9)

The county administrator may change the zone of protection based on reconfiguration of a wellhead or wellfield, changes in open interval, proper abandonment of a well pursuant to rule 17-522, F.A.C., or permitted increase in the permitted average daily pumping rate. Such changes in the zone of protection shall follow the requirements as described in subsection (c) of this section. The zone of protection may be established for newly approved/permitted well(s) or wellfield(s), after the appropriate hydrogeologic testing and impact analyses have been performed in accordance with Southwest Florida Water Management District permitting consumptive use from the wells or wellfields.

(c)

The zone of protection maps may be reviewed at least on an annual basis. However, failure to conduct such review shall not affect the validity of the existing approved map. The basis for updating such map may include, but is not limited to, the following:

(1)

Changes in the technical knowledge concerning the applicable aquifer.

(2)

Changes in pumping rates of wellfields.

(3)

Wellfield reconfiguration.

(4)

Designation of new wellfields.

(d)

In determining the location of properties and facilities within the zones depicted on the zone of protection map, the following rules shall apply:

(1)

Properties located partially within the zone of protection reflected on the applicable zone of protection maps shall be governed by the restrictions applicable to that zone.

(2)

Where a zone of protection contour passes through a facility, the entire facility shall be considered to be in the more restrictive zone.

(e)

The legal description of the area of the county zone of protection is as follows:

Commence at the intersection of the centerline at East Lake Road (C.R. 77) and the northern boundary line of Pinellas County; thence run easterly along said northern boundary line of Pinellas County to its intersection with the eastern boundary line of Pinellas County; thence run southerly along said eastern boundary line of Pinellas County to its intersection with the easterly extension of the Florida Power Corporation right-of-way, said intersection being 1290′+ north of the southeast corner of Section 12, Township 28 South, Range 16 East; thence westerly along the easterly extension of the centerline and the centerline of said Florida Power Corporation right-of-way to its intersection with the centerline of Tampa Road (S.R. 584); thence northwesterly along the centerline of Tampa Road (S.R. 584) to its intersection with the centerline of the aforementioned East Lake Road (C.R. 77); thence northerly along the centerline of East Lake Road (C.R. 77) to the point of beginning.

(Ord. No. 90-2, § 4, 1-30-90; Ord. No. 90-62, § 4, 7-24-90; Ord. No. 92-67, § 1, 10-27-92)

Sec. 166-195. - Conditions of permitting, planning, and zoning within zone of protection.

(a)

The use, handling, production, disposal, and storage of regulated substances associated with nonresidential activities is prohibited in the zone of protection, except as provided under the general exemptions and special exemptions provisions of this article (sections 166-200 and 166-201). All existing nonresidential activities within the zone of protection which store, handle, use, dispose of, or produce any regulated substance are prohibited from doing so unless they qualify as a general exemption, obtain a special exemption, or receive an operating permit from the county administrator. The owners or operators of such activities within the zone of protection shall be notified in writing, by certified mail, or hand delivery, within 90 days of the effective date of this article, as to the requirements to cease the use, handling, storage, disposal, and production of regulated substances. All existing nonresidential activities within the zone of protection which store, use, handle, or produce regulated substances shall file an application for an operating permit, or an operating permit with a general exemption application, or an operating permit with special exemption application, or a closure permit, within 90 days of receipt of notice from the county administrator. Such permit application shall be prepared and signed by a professional registered engineer and a geologist certified in the state, or either if the applicant can demonstrate to the county administrator that conditions will only require an engineer or a geologist. Within 30 days of receipt of such notice, the owner or operator shall file with the county administrator proof of retention of such engineer and geologist, or submit to the county administrator a written notice to obtain either an engineer or geologist.

(b)

Any nonresidential activity in the zone of protection which is allowed to continue or commence in accordance with the general exemptions or special exemptions set forth in sections 166-200 and 166-201 shall obtain an operating permit which shall indicate the special conditions to be instituted and the dates on which such conditions shall be instituted. No expansions, modifications or alterations which would increase the storage, handling, use or production of regulated substances shall be permitted in the zone of protection. An owner or operator that is denied a special exemption shall be issued a closure permit as part of the denial process. Any operating permit required in this article shall be filed with the applications for general exemption or special exemption.

(c)

All new nonresidential discharges, new nonresidential activities, and installations shall be prohibited subject to conditions including but not limited to the following:

(1)

No nonresidential installation shall discharge into groundwater, either directly or indirectly, any contaminant that causes a violation in the water quality standards and criteria for the receiving groundwater as established in chapter 17-3, part IV, F.A.C.

(2)

Discharges through natural or manmade conduits, such as wells and sinkholes, that allow direct contact with class G-1 and class G-2 groundwater are prohibited, except for projects designed to recharge aquifers with surface water of comparable quality, or projects designed to transfer water across or between aquifers of comparable quality for the purpose of storage or conservation, or residential stormwater discharging through

wet retention/detention ponds.

(3)

Industrial stormwater discharges to retention/detention ponds are prohibited.

(4)

New discharge to groundwater of industrial waste that contains hazardous constituents listed in the department of environmental protection's publication, G-1, Modified Hazardous Constituents List (December 1, 1986), which is hereby adopted and incorporated by reference, shall be prohibited.

(5)

There will be no new industrial land use zoning within the zone of protection.

(6)

Construction and operation of new sanitary landfills as defined by applicable state rules shall be prohibited. Operation of all existing sanitary landfills will be terminated within one year and a permanent leachate monitoring system installed to monitor movement of leachate.

(7)

Commercial or industrial septic tank disposal systems are prohibited in the zone of protection.

(8)

Construction of interstate highway system is prohibited for construction within one-half mile of public supply wells, unless stormwater drainage is collected and piped beyond the half-mile radius of the wellhead. There will be no stormwater retention within this half-mile radius around the zone of the wellhead.

(d)

New and existing nonresidential discharge to groundwater within the zone of protection shall comply with the primary and secondary standards at the end of the discharge pipe. Additionally, more stringent monitoring requirements than the existing state law may be implemented. More stringent monitoring requirements may include increased monitoring frequency, increased number of parameters, or increased number of monitoring wells. Such determinations will be made by the county on a case-by-case basis by considering soil conditions, quality and volume of the waste stream, and the point of discharge.

(1)

Stormwater discharge within the zone of protection: Direct and indirect discharge from new stormwater facilities serving an area ten acres or larger with a 40 percent impervious surface excluding building tops shall be required to monitor the discharge to groundwater according to section 17-28.700(6), F.A.C. Such facilities may be required to implement more stringent monitoring requirements which may include increased monitoring frequency, increased number of parameters, or increased number of wells. Such determination will be made by the county administrator on a case-by-case basis by considering soil conditions, quality and volume of the waste stream, and the point of discharge.

(2)

Commercial stormwater runoff will be required to have a double pond detention/retention system for new facilities. The first pond will be off line and lined to prevent leakage and be designed to hold the first inch of runoff. Sludge from the first pond will be disposed of in accordance with FDEP rules and regulations. The second retention pond will accept overflow from the detention pond. Existing facilities will be required to obtain an operating permit and perform groundwater quality monitoring for groundwater pollution.

Variance. In order to authorize any variance to the stormwater runoff requirements of this subsection (d)(2), the county administrator shall consider the following criteria:

a.

Special conditions: That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, including the nature of and to what extent these special conditions and circumstances may exist as direct results from actions by the applicant.

b.

No special privilege: That granting the variance requested will not confer on the applicant any special privilege that is denied by this article to other similar lands, buildings, or structures in the zone of protection.

c.

Unnecessary hardship: That literal interpretation of the provisions of this article would deprive the applicant of rights commonly enjoyed by other properties under the terms of this article.

d.

Minimum variance necessary: That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

e.

Purpose and intent compliance: That the grant of the variance will be in harmony with the general intent, purpose, and spirit of this article, and with the comprehensive plan adopted pursuant to state law.

f.

No detriment to public welfare: That such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

g.

Establishing conditions or safeguards: That in granting any variance, the county administrator may prescribe appropriate conditions and safeguards to ensure proper compliance with the general spirit, purpose, and intent of this article. Noncompliance with such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this article.

h.

Expiration: All variances granted by the County Administrator shall be deemed to automatically expire in the event a structure or use of land which is the subject of the variance has been discontinued.

(3)

New underground storage facilities within the zone of protection shall meet the following requirements:

a.

Double-walled tank and piping with a continuous leak detection system in between the walls; or

b.

An impervious secondary containment having monitoring well(s) or detector located therein; and

c.

For each of the above options, it is required that the facility install, maintain, and monitor a groundwater program approved by the County.

(4)

Existing underground storage facilities within the zone of protection not meeting the construction retrofit requirements of chapter 17-61, F.A.C., on the effective date of aquifer classification as class G-1 by the Board of County Commissioners shall be retrofitted in accordance with chapter 17-61, F.A.C., and shall also meet the requirements for new facilities under subsection (d)(3) of this section.

(5)

Existing underground storage facilities within the zone of protection meeting the construction retrofit requirements of chapter 17-61, F.A.C., on the effective date of aquifer classification within the zone of protection by the Board of County Commissioners are exempt from the requirements above, with the exception of being required to increase their groundwater monitoring programs. Nothing herein shall be construed to relieve facilities subject to chapter 17-61, F.A.C., requirements from complying with the requirements of that chapter.

(6)

New underground facilities for transportation of domestic raw wastewater within the zone of protection shall be constructed not to allow leakage of more than 25 gallons per inch of pipe diameter per mile per day into the soil or groundwater. These facilities, however, shall not cause violations of groundwater quality standards (as referenced in applicable state rules).

(7)

New underground facilities for transportation of chemical products within the zone of protection shall be constructed to ensure no leakage into the soil or groundwater.

(8)

Discharge to groundwater from the state department of environmental protection approved remedial

corrective actions for contaminated sites located within the zone of protection shall not be subject to the G-1 discharge criteria.

(9)

New discharge to groundwater of treated domestic waste effluent meeting domestic wastewater plant class I reliability; daily monitoring to assure proper treatment plant process control; and 24-hour-a-day attendance by a wastewater operator as required by chapter 17-16, F.A.C., and under the general supervision of a class A certified wastewater operator, shall be allowed to operate provided that the discharge from such plant shall meet the groundwater criteria as specified in section 17-520.420, F.A.C., prior to contact with groundwater (end of pipe). Treated domestic waste effluent discharge employing land application shall be restricted to slow-rate infiltration methods. At no time will an effluent disposal area be within 500 feet of potable supply wells.

(10)

New single-family residential septic tanks will be exempt from this article, provided they meet the minimum criteria of one unit per two acres.

(e)

A notice to cease, or a permit or an exemption issued under this article shall not relieve the owner or operator of the obligation to comply with any other applicable federal, state, regional or local regulation, rule, ordinance or requirement, nor shall such notice, permit, or exemption relieve any owner or operator of any liability for violation of such regulations, rules, ordinances or requirements.

(Ord. No. 90-2, § 5, 1-30-90; Ord. No. 90-62, § 5, 7-24-90; Ord. No. 93-12, § 2, 2-16-93)

Sec. 166-196. - Permits.

(a)

Compliance with article required. The permit conditions shall ensure compliance with all the prohibitions, restrictions, and requirements as set forth in this article. Such conditions may include, but are not limited to, monitoring wells, periodic groundwater analysis reports, and compliance schedules. Such conditions may also include requirements in a closure permit to reduce the risk in the interim of contamination of the groundwaters, taking into account cost, likely effectiveness and degree of risk to the groundwater.

(b)

Requirements for issuance of other permits:

(1)

No site plan approval, building permit, or certificate of occupancy for any nonresidential activity shall be issued by the County or any city located within the County that would allow development or construction in the zone of protection, that is contrary to the restrictions and provisions provided in this article. Permits issued in violation of this section confirm no right or privilege on the grantee.

(2)

The requirements and provisions of this article shall apply immediately on February 17, 1990, to all new nonresidential activities.

(3)

An existing activity is one for which a building permit had been issued by the appropriate jurisdiction prior to February 17, 1990, and which had not expired on or before February 17, 1990, or for which a completed building permit application had been filed and accepted with the appropriate jurisdiction prior to February 17, 1990. All other activities shall be deemed new.

(4)

Any application for a nonresidential or residential development greater than 25 units for a site plan approval, building permit or nonresidential development subject to review by an advisory planning body and approval by the local governing authority or Zoning Board of Appeals that includes property wholly or partially within the zone of protection of a wellfield shall include the following:

a.

Notification by the local governing authority of the location of the property in the zone of protection and a notarized letter from the applicant admitting acceptance of notification; notification shall be prepared by the County Administrator providing details of zones, prohibitions, and measures required for compliance; or

b.

Any application submitted for site plan approval or certification of occupancy for any use within the zone of protection shall require certification by the County Administrator that the use meets the applicable requirements of this article.

(5)

It shall be the duty of each local agency to screen all applications for the zone of protection site plans.

(6)

The County Administrator shall provide a list to all local agencies of potentially prohibited operations in the zone of protection.

(7)

Copies of building permits of residential activities larger than 25 units, all nonresidential projects, and all site plans, or nonresidential certificates of occupancy issued for the zone of protection shall be submitted to the County Administrator on a weekly basis.

(c)

Change of ownership. In the event there is a change of ownership, a new lease, or an assignment of a lease, a sublease or any other change in regard to the person conducting the operation regulated, the County Administrator shall be notified by the property owner upon payment of the appropriate application fee and completion of processing of an application. In the event of leasing of space, the lessee will obtain the permit, but the property owner will be liable for the on-site activities relative to the conditions of the permit. The

property owner will be notified by the County Administrator regarding the permit application or condition.

(d)

Issuance, fees, inspections.

(1)

An application which satisfied the requirements of the applicable zone of protection, section 166-195, and this section and, if applicable, section 166-194, shall be approved and a permit issued. In addition to the failure to satisfy these requirements, the County Administrator may deny a permit based on repeated violations of this article.

(2)

An operating permit shall remain valid provided the permittee is in compliance with the terms and conditions of the permit.

(3)

Permittees shall not be required to pay annual renewal fees until March 1, 1991. Beginning March 1, 1991, all current and future permittees are subject to an annual renewal license fee as adopted by the Board of County Commissioners.

(4)

The County Administrator shall have the right to make inspections of facilities at reasonable times to determine compliance with this article.

(5)

All of the facilities owned and/or operated by one person, when these structures and activities are located on contiguous parcels of property, even where there are intervening public or private roads, may be covered under one permit.

(e)

Requirements and liabilities.

(1)

Leakproof trays under containers, floor curbing or other containment systems to provide secondary liquid containment shall be installed. The containment shall be of adequate size and design (no less than 150 percent of container volume) to handle all spills, leaks, overflows, and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any regulated substance loss to the external environment. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented. The owner/operator may choose to provide adequate and appropriate liquid collection methods rather than sheltering only after approval of the design by the County Administrator. These requirements shall apply to all areas of use, production, and handling, to all storage areas, to loading and off-loading areas, and to aboveground and underground storage areas. The containment devices and liquid collection systems shall be certified in the operating permit application by a professional engineer

certified in the State.

(2)

Vacuum suction devices, absorbent scavenger materials or other devices approved by the County Administrator shall be present on-site or available within four hours in the zone of protection 24 hours per day and seven days per week by contract with a cleanup company approved by the County Administrator, in sufficient magnitude so as to control and collect the total quantity of regulated substances present. To the degree feasible, emergency containers shall be present and of such capacity as to hold the total quantity of regulated substances plus absorbent material. The presence of such emergency collection devices shall be certified annually in the operating permit applications for existing activities. Such certification for new activities shall be provided to the County water system prior to the presence of regulated substances on the site. Certification shall be provided by a professional registered engineer certified in the State.

(3)

An emergency plan shall be prepared and filed with the operating permit application indicating the procedures which will be followed in the event of spillage of a regulated substance so as to control and collect all such spilled material in such a manner as to prevent it from reaching any storm or sanitary drains or the ground.

(4)

A responsible person designated by the permittee who stores, handles, uses or produces the regulated substances shall check, on every day of operation, for breakage or leakage or any container holding the regulated substances. Electronic sensing devices may be employed as part of the inspection process, if approved by the County Administrator, and provided the sensing system is checked daily for malfunctions. The manner of daily inspection shall not necessarily require physical inspection of each container provided the location of the containers can be inspected to a degree which reasonably assures the County Administrator that breakage or leakage can be de-tected by the inspection. Monitoring records shall be kept, submitted quarterly, and made available to the County Administrator within 24 hours, upon request. Quarterly, each facility will be inspected, its monitoring procedures reviewed, and quality water samples taken.

(5)

Procedures shall be established for the quarterly in-house inspection and maintenance of containment and emergency equipment. Such procedures shall be in writing, a regular checklist and schedule of maintenance shall be established, and a log shall be kept of inspections and maintenance. Such logs and records shall be available for inspection by the County Administrator.

(6)

Any spill of a regulated substance shall be reported by telephone to the County health unit and designated public utility within one hour, and the County Administrator within one hour of discovery of the spill. Cleanup shall commence immediately upon discovery of the spill. A full written report including the steps taken to contain and clean up the spill shall be submitted to the County Administrator within 15 days of discovery of the spill.

(7)

The County water system will establish a schedule of raw water analysis if inspection of a facility indicates signs of contamination, in which case the County Administrator shall require a sampling schedule. The analysis shall be for all substances which are listed on the operating permit. The analytical reports shall be prepared by a state certified laboratory, certified for the applicable analyses. The analytical reports shall be reviewed by the County water system.

(8)

Groundwater monitoring wells shall be provided at the expense of the permittee in a manner, number and location approved by the County Administrator as shown in appendix G, exhibit A. Except for existing wells found by the County Administrator to be adequate for this provision, the required well or wells shall be designed by a professional registered engineer or a state certified geologist, and installed by a state-licensed water well contractor under the supervision of a professional registered engineer or a state certified geologist. On completion of well construction, a report will be submitted by the geologist or engineer to the County Administrator detailing final well construction geology and a map of the facility showing well location. Quarterly, water quality samples shall be taken by a state certified laboratory during the quarterly inspection of each facility. Analytical reports prepared by a certified laboratory of the quantity present in each monitoring well of the regulated substances listed in the activity's operating permit shall be filed at least annually, or more frequently as determined by the County Administrator, based upon site conditions and operations.

(9)

The County Administrator shall be notified in writing prior to the expansion, alteration or modification of a business or individual holding an operating permit. Such expansion, alteration, or modification may result from increased square footage of production or storage capacity, or increased quantities of regulated substances, or changes in types of regulated substances beyond those square footages, quantities, and types upon which the permit was issued. Excluded from notification prior to alteration or modification are changes in types of regulated substances used in a laboratory or laboratories designed as such in the currently valid permit and which are within the generic substances listed in such permit based upon the generic substance list incorporated in this article as exhibit A. Should a facility add new regulated substances, it shall notify the County Administrator on a quarterly basis of the types and quantities of such substances added and the location of the use, handling, storage, and production of such substances. Any such expansion, alteration or modification shall be in strict conformity with this article. Further, except as provided in this article, any existing operating permit shall be amended to reflect the introduction of any new regulated substances resulting from the change. However, the introduction of any new regulated substance shall not prevent the revocation or revision of any existing operating permit if, in the opinion of the County Administrator, such introduction substantially or materially modifies, alters or affects the conditions upon which the existing operating permit was granted or the ability to remain qualified as a general exemption, if applicable, or to continue to satisfy any conditions that have been imposed as part of a special exemption, if applicable. The County Administrator shall notify the permittee in writing within 60 days of receipt of the permittee's notice that the County Administrator proposes to revoke or revise the permit and stating the grounds therefor.

(10)

Reconstruction of any portion of a structure or building in which there is any substance or facility subject to the provisions of this article which is damaged by fire, vandalism, flood, explosion, collapse, wind, war or other catastrophe shall be in strict conformity with this article.

(11)

All existing nonresidential activities in the zone of protection which use, handle, store, dispose, or produce regulated substances shall file an application for an operating permit within 90 days or a closure permit, general exemption application or special exemption application within 90 days of the receipt of written notice from the County Administrator. Such permit application shall be prepared and signed by a professional registered engineer and a geologist certified in the State, or either at the option of the County Administrator if conditions dictate. Within 30 days of receipt of such notice, the owner or operator shall file with the County Administrator proof of retention of such engineer and geologist or submit to the County Administrator a written notice to obtain either an engineer or geologist, in accordance with FDEP statutes. If application is made for an operating permit, such a permit shall be issued or denied within 60 days of the filing of the completed application. If the application for an operating permit is denied, then the activity shall cease within one year of the denial and an application for a closure permit shall be filed within 120 days of the denial of the operating permit.

(f)

Operating permit applications. Operating permit applications, as a minimum, shall provide the following information:

(1)

A list of all regulated substances and substances on the generic substance list which are to be stored, handled, used, disposed of, or produced in the nonresidential activity being permitted, including their quantities.

(2)

A detailed description of the nonresidential activities that involve the storage, handling, use, disposal, or production of the regulated substances indicating the unit quantities in which substances are contained or manipulated.

(3)

A description of the containment, the emergency collection devices and containers and copy of the emergency plan that will be employed to comply with the restrictions required for the zone of protection.

(4)

A description of the daily monitoring activities that have been or will be instituted to comply with the restrictions for the zone of protection.

(5)

A description of the maintenance that will be provided for the containment facility, monitoring system, and emergency equipment required to comply with the restrictions of the zone of protection.

(6)

A description of the groundwater monitoring wells, including the latitude and longitude, location map, construction design, geology log and water quality analysis that have been or will be installed and the arrangements made or which will be made for certified quarterly analyses for specified regulated substances

in the zone of protection.

(7)

Evidence of arrangements made with the appropriate designated public utility for sampling analysis of the raw water from the potable water well.

(8)

An agreement to indemnify and hold the County harmless from any and all claims, liabilities, causes of action, or damages arising out of the issuance of the permit. The County shall provide reasonable notice to the permittee of any such claims.

(9)

The application for the operating permit shall be filed with the County Administrator within 90 days of receipt of written notification from the County Administrator of the requirement for the facility to obtain an operating permit. In the event of verification of groundwater contamination at a facility within the zone of protection, the Board of County Commissioners will have the option of requiring the bond or letter of credit with a corporate surety in the amount required by appendix B, incorporated in this article, to ensure that:

a.

The permittee will operate its nonresidential activities and/or closure of such nonresidential activities, as applicable, in accordance with the conditions and requirements of this article and permits issued under this article.

b.

Before a bond or letter of credit is accepted by the County Administrator as being in compliance with this section, the bond or letter of credit shall be reviewed and approved by the County Insurance and Risk Management Department and the County Attorney's Office and shall be filed with the Clerk of the Board of County Commissioners. A corporate bond shall be executed by a corporation authorized to do business in the State as a surety. A cash bond shall be deposited with the Clerk of the Board of County Commissioners, who shall give receipt therefor.

c.

Any person subject to regulation under this article shall be liable with respect to regulated substances emanating on or from the person's property for all costs of removal or remedial action incurred by the County and damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction or loss resulting from the release or threatened release of a regulated substance as defined in this article. Such removal or remedial action by the County may include, but is not limited to, the prevention of further contamination of groundwater, monitoring, containment, and cleanup or disposal of regulated substances resulting from the spilling, leaking, pumping, pouring, emitting or dumping of any regulated substance or material which creates an emergency hazardous situation or is expected to create an emergency hazardous situation.

(g)

Closure permit applications. Closure permit applications shall provide the following information:

(1)

A schedule of events to complete the closure of a facility that does or did store, handle, use, dispose, or produce regulated substances. At a minimum, the following actions shall be addressed:

a.

Disposition of all regulated substances and contaminated containers.

b.

Cleanup of the activity and environs to preclude leaching of unacceptable levels or residual regulated substances into the aquifer.

c.

Certification by a professional registered engineer or a geologist certified in the State that disposal and cleanup have been completed in a technically acceptable manner.

d.

An appointment for an inspection by the County Administrator.

e.

An agreement to indemnify and hold the County harmless from any and all claims, liabilities, causes of action, or damages arising out of the issuance of the permit. The County shall provide reasonable notice to the permittee of any such claims.

(2)

The issue of well reconfiguration shall be evaluated by the County Administrator and the affected public utility as an alternative to a closure permit during the permit application process.

(3)

The County water system shall be advised in writing of each closure permit application.

(h)

Fee schedule.

(1)

The fee for an operating permit under this article shall be as shown in appendix C, incorporated in this article. A late fee shall be charged if the application for a permit or renewal is late. The operating permit fee shall be used to defray the cost of monitoring compliance with this article.

(2)

The fee for a closure permit under this article regulation shall be as shown in appendix C.

(3)

The fee for a transfer of an operating permit or closure permit shall be in accordance with the fee schedule set out in appendix C to defray the cost of processing the transfer. Application for transfer permit is to be made within 60 days of transfer of ownership of the activity.

(4)

The fee schedule may be revised from time to time by resolution of the Board of County Commissioners.

(i)

Revocation or revision of permits, general exemption or special exemption.

(1)

Any permit issued under the provisions of this article shall not become vested in the permittee. The County Administrator will revoke any permit by first issuing a written notice of intent to revoke by certified mail, return receipt requested, or hand delivery, if he finds that the permit holder:

a.

Has failed or refused to comply with any of the provisions of this article, including but not limited to permit conditions and bond requirements in this article;

b.

Has submitted false or inaccurate information in his application;

c.

Has failed to submit operational reports or other information required by this article;

d.

Has refused lawful inspection; or

e.

Is subject to revocation.

(2)

The County Administrator may revise any permit by first issuing a written notice of intent to revise, sent by certified mail, return receipt requested, or hand delivery.

(3)

In addition to the provisions of subsections (i)(1) and (i)(2) of this section, within 30 days of any spill of a regulated substance in the zone of protection, the County Administrator shall consider revocation or revision

of the permit or revise the bond amount. Upon such consideration the County Administrator may issue a notice of intent to revoke or revise which shall be subject to the provisions of section 166-199, or elect not to issue such notice. In consideration of whether to revoke or revise the permit, the County Administrator may consider the intentional nature or degree of negligence, if any, associated with the spill, and the extent to which containment or cleanup is possible, the nature, number and frequency of previous spills by the permittee, and the potential degree of harm to the groundwater and surrounding wells due to such spill.

(4)

For any revocation or revision by the County Administrator of a special exemption or general exemption that requires an operating permit as provided under the terms of this article, the County Administrator shall issue a notice of intent to revoke or revise which shall contain the intent to revoke or revise both the applicable exemption and the accompanying operating permit.

(5)

The written notice of intent to revoke or revise shall contain the following information:

a.

The name and address of the permittee, if any, and property owner, if different.

b.

A description of the facility which is the subject of the proposed revocation or revision.

c.

Location of the spill, if any.

d.

Concise explanation and specific reasons for the proposed revocation or revision.

e.

A statement that "Failure to file a petition within 30 days after the date upon which permittee receives written notice by certified or registered letter to the lessor and landowner of the intent to revoke or revise shall render the proposed revocation or revision final and in full force and effect."

(6)

Failure of the permittee to file a petition shall render the proposed revocation or revision final and in full force and effect.

(7)

Nothing in this section shall preclude or be deemed a condition precedent to the County Administrator seeking a temporary or permanent injunction.

(Ord. No. 90-2, § 6, 1-30-90; Ord. No. 90-62, § 6, 7-24-90; Ord. No. 92-67, § 6, 10-27-92; Ord. No. 98-24, §

1, 2-10-98)

Sec. 166-197. - Powers and duties of county administrator.

(a)

The County Administrator or the administrator's designee shall have the power and duty to:

(1)

Administer and enforce the provisions of this article.

(2)

Investigate complaints, study and observe pollution conditions, and make recommendations as to the institution of action necessary to abate nuisances caused by pollution, and as to prosecution of any violation of this article.

(3)

Make appropriate surveys, tests, and inspections of property, facilities, equipment, and processes operating under the provisions of this article to determine whether the provisions of this article are being complied with; interact with the state department of environmental protection, and make recommendations for methods by which pollution may be reduced or eliminated. Inspections shall be conducted in accordance with subsection (b) of this section.

(4)

Maintain, review, and supervise all operating records required to be filed with the county administrator by persons operating facilities subject to the provisions of this article.

(5)

Render all possible assistance and technical advice to persons owning and/or operating regulated facilities, except that the county administrator and/or his employees shall not design the facility systems for any person.

(6)

Perform such other administrative duties as may be assigned by the board of county commissioners.

(7)

Issue or deny permits.

(b)

Inspections shall be conducted as follows:

(1)

Any duly authorized representative of the county administrator may, at any reasonable time, enter and inspect for the purpose of ascertaining the state of compliance with this article, any property, premises, or place,

except a building which is used exclusively for a private residence, on or at which a regulated facility is located or is being constructed or installed or where records which are required under this article are kept.

(2)

Any duly authorized representative may, at reasonable times, have access to and copy any records required under this article; inspect any monitoring equipment or method; sample for any hazardous material which the owner or operator of such source may be discharging or which may otherwise be located on or underlying the owner's or operator's property; and obtain any other information necessary to determine compliance with permit conditions or other requirements of this article.

(3)

No person shall refuse reasonable entry or access to any authorized representative of the county administrator who requests entry for purposes of inspection and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with any such inspection. The owner or operator of the premises shall receive a report, if requested, setting forth all facts found which relate to compliance status.

(4)

Install and sample monitor wells in facilities suspected of causing groundwater pollution. All costs associated with these activities will be borne by the facility if they are proved to be the source of pollution, or the facility is in noncompliance with its operating permit.

(Ord. No. 90-2, § 7, 1-30-90)

Sec. 166-198. - Protection of future wellfields.

The prohibitions and restrictions set forth in this article and in regulations promulgated pursuant hereto shall apply to any sites officially designated by the board of county commissioners as future wellfields. Such prohibitions and restrictions shall become effective upon approval by the board of county commissioners of the zone of protection maps for the designated future wellfield. Prior to final action by the board of county commissioners in designating a future wellfield or approving the zone of protection map for those wellfields, all property owners and discernable operating activities within the area affected shall receive notice pursuant to the provisions established by F.S. § 125.66(5).

(Ord. No. 90-2, § 8, 1-30-90)

Sec. 166-199. - Appeals.

(a)

Any applicant or permittee affected by a decision of the county administrator in the enforcement or interpretation of any of the terms or provisions of this article may appeal such decision to the board of county commissioners. Such appeal shall be taken by filing written notice thereof with the clerk of the board of county commissioners, within ten days after notice of the decision of the county administrator.

(1)

Upon receipt of a timely filed appeal, the clerk to the board of county commissioners shall schedule and properly notice a public hearing to be held before the board of county commissioners as soon as practicable.

(2)

At the public hearing, the board of county commissioners may consider the record developed in proceedings before the county administrator, as well as all testimony and evidence presented at the public hearing.

(3)

The board of county commissioners shall make its determination based upon this record in light of the standards and factors outlined in this article and such other factors as the board of county commissioners may deem relevant.

(4)

An applicant or permittee denied relief may seek judicial review of the board of county commissioners' determination by the timely filing of an action in a court of competent jurisdiction.

(b)

Any person may appeal to the board of county commissioners for the following reasons:

(1)

To appeal the county administrator's permit conditions, denial of a permit, general exemption or nondisclosure of a trade secret.

(2)

To appeal an intent to revoke or revise an operating permit and a general or special exemption.

(3)

To request a special exemption. When requesting special exemption, written petitions for relief shall be filed with the clerk of the board of county commissioners and the factual basis for the relief requested. Such petitions shall include all materials and documents which are necessary to support the specific relief requested. Except in the case of an application for special exemption, a written request for relief shall be filed with the clerk of the board of county commissioners within 20 days after the date upon which the petitioner receives a permit, or written notice of an intent to revoke or revise his permit, general exemption, or that trade secret protection has been denied. Failure to file within 20 days shall constitute a waiver of the person's right to an administrative hearing. The filing of a petition authorized by this section shall stay all proceedings with respect to the matters that are contained in the petition until there is a final decision of the board of county commissioners as provided in this section.

(c)

Hearing date:

(1)

All appeals and applications shall be heard within 45 days of the date from which the petition and supporting data are filed with the clerk of the board of county commissioners. An extension of time for the hearing may be granted by the board for good cause shown.

(2)

Notice of hearing shall be served upon the applicant or permittee and property owner, if different, by hand delivery or by certified mail, return receipt requested, no less than ten days prior to the hearing. When the owner or responsible individuals are not present or are avoiding service of the notice of hearing, service shall be accomplished by posting copies of the notice of hearing in a conspicuous place on the premises of the facility that is the subject of the appeal.

(d)

The notice of hearing provided for in this section shall contain the following information:

(1)

Name and address of the petitioner and property owner, if different;

(2)

Description of the facility;

(3)

Ordinance section (of this article) or regulation section alleged to have been the basis of the denial or proposed revocation or revision;

(4)

Time, date and place of the hearing;

(5)

A statement that "Failure to attend may result in an order being issued adverse to your interest";

(6)

A statement that all parties shall be given the opportunity to present witnesses and evidence in support of their position; and

(7)

A statement reflecting the requirements of F.S. ch. 286, regarding a verbatim record of the proceedings.

(e)

In computing the period of time within which an appeal must be taken from the permit conditions, denial of a permit, general exemption or application for nondisclosure or from intent to revoke or revise a permit, general exemption or special exemption, the day of receipt of notice of such denial or intent to revoke or revise shall not be included. In computing the period of time in which the board of county commissioners must set a hearing date, the date on which the clerk of the board receives the written petition and accompanying information shall not be included. In computing the period within which notice shall be provided prior to the hearing, the date of the hearing shall not be included. The last day of any period of time

provided in this article shall be counted, unless it is a Saturday, Sunday or a legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or a legal holiday. Intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation when any period of time prescribed in this article is less than ten days; where such period is ten days or greater, Saturday, Sunday and legal holidays shall be included.

(f)

Hearing procedure. The procedure for hearing of appeals under this article shall be as follows:

(1)

All testimony shall be under oath and shall be recorded.

(2)

If there is a proper notice of hearing as provided in subsection (c)(2) of this section, the hearing may proceed in the absence of the alleged petitioner and property owner, if different.

(3)

Irrelevant, immaterial, or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence shall be admissible in a trial in the courts of the state. Any part of the evidence may be received in written form. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

(4)

Documentary evidence may be received in the form of a copy or excerpt if the original is not readily available.

(5)

The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.

(6)

Each party shall have the following rights:

a.

To be represented by counsel;

b.

To call and examine witnesses;

c.

To introduce exhibits;

d.

To cross examine opposing witnesses on any relevant matter, even though the matter was not covered under direct examination;

e.

To impeach any witness, regardless of which party called the witness to testify;

f.

To rebut the evidence.

(7)

Any interested party or person whose substantial interests are affected may make application, and upon good cause shown, may be allowed by the board of county commissioners to intervene in a pending proceeding.

(8)

In an appeal of an intent to revoke or revise a special exemption or general exemption that also requires an operating permit under the terms of this article, the appeal of both the intent to revoke or revise the applicable exemption and the accompanying permit shall be consolidated into one hearing.

(g)

At all hearings under this article, the board of county commissioners shall hear and consider all facts material to the appeal or application for special exemption and shall thereafter issue a decision based on the competent and substantial evidence presented at the hearing. Such decision may affirm, reverse or modify the action or proposed action of the county administrator.

(h)

The decision of the board of county commissioners, as applicable, shall be the final administrative action on behalf of the county administrator and the county. Any person who is a party to the proceeding before the board of county commissioners, if applicable, may appeal to the circuit court of the county in accordance with applicable Florida Appellate Rules.

(Ord. No. 89-69, § IX, 12-19-89; Ord. No. 90-62, § 7, 7-24-90; Ord. No. 92-67, § 7, 10-27-92)

Sec. 166-200. - General exemptions.

(a)

Facilities and activities qualifying for a general exemption include public utilities, commercial lawn maintenance businesses that use regulated substances, parks, maintenance of office facilities, and retail sales.

(1)

A general exemption application and operating permit in compliance with the provisions of section

166-195(d) shall be required for any nonresidential activity claiming a general exemption under this section and shall be filed with the county administrator.

(2)

Such application shall contain a concise statement by the applicant detailing the circumstances upon which the applicant believes would entitle him to an exemption.

(3)

A fee as listed in exhibit C shall be filed with the application to defray the costs of processing such application.

(4)

Within 30 working days of receipt of an application for general exemption, the county administrator shall inform the applicant whether such application contains sufficient information for a proper determination to be made. If the application is found to be insufficient, then the county administrator shall provide to the applicant a written statement by certified mail or hand delivery requesting the additional information required. The applicant shall inform the county administrator within ten working days of the date of the written statement of his intent to furnish the information. The applicant has 30 days to furnish the required information after so informing the county administrator. The county administrator shall have 90 working days from either the rendering of a sufficiency determination or receipt of additional information making an application sufficient to make a decision.

(b)

Existing fire, police, emergency medical services and county emergency management center facilities are required to obtain an operating permit and general exemption.

(c)

Utilities as defined in this article shall be exempt from the zone of protection prohibitions as set forth in section 166-195(c). However, an operating permit and special exemption shall be obtained pursuant to section 166-195(d) for the refueling facilities within the zone of protection.

(d)

The transportation of any regulated substance through the zone of protection shall be exempt from the provisions of this article, provided the transporting motor vehicle is in continuous transit. The transport of such substances through existing permanent pipelines is also exempt, provided that the currently authorized use or uses are not changed and provided that leak detection and monitoring as approved by the county administrator are employed. No general exemption or operating permit application is required except that an operating permit is required to establish the leak detection and monitoring requirements for such existing pipelines.

(e)

The use in a residential vehicle, commercial lawn service vehicle or residential lawn maintenance equipment of any regulated substance solely as fuel in that vehicle or equipment fuel tank or as lubricant in that vehicle

or equipment shall be exempt from the provisions of this article. No general exemption or operating permit application is required.

(f)

The commercial or residential application on residential lawn or commercial landscaping of those regulated substances used as pesticides, herbicides, fungicides, and rodenticides in recreation, agriculture, pest control and aquatic weed control activities shall be exempt from the provisions of this article, provided that:

(1)

In the zone of protection, the application is in strict conformity with the use requirement as set forth in the substances' EPA registries and as indicated on the containers in which the substances are sold.

(2)

In the zone of protection, the application is in strict conformity with the requirements as set forth in F.S. chs. 482 and 487, and chapters 5E-2 and 5E-9, Florida Administrative Code.

(3)

In the zone of protection, the application of any of the pesticides, herbicides, fungicides, and rodenticides shall be flagged in the records of the certified operator supervising the use. The certified operator shall provide specific notification in writing to the applicators under his supervision that they are working at a site located in the zone of protection for which particular care is required. Records shall be kept of the date and amount of these substances applied at each location and such records shall be available for inspection at reasonable times by the county administrator.

(4)

In the zone of protection, the pesticides, herbicides, fungicides, and rodenticides for lawn, golf courses or agricultural application shall not be handled during application in a quantity exceeding 700 gallons of formulation.

(5)

All nonresidential applicators of pesticides, herbicides, fungicides, and rodenticides who apply those substances within the zones of protection shall obtain an operating permit covering all application operations under one permit using these materials and shall comply with all the requirements of section 166-195.

This exemption applies only to the application of pesticides, herbicides, fungicides, and rodenticides.

(g)

Retail sales establishments in the zone of protection that store and handle regulated substances for resale in their original unopened containers shall be exempt from the prohibition in the zone of protection provided that those establishments obtain an operating permit pursuant to the provisions of section 166-195.

(h)

Office uses, including the use of regulated substances for the maintenance and cleaning of office buildings in

volumes less that ten gallons, shall be exempt from the provisions of this article. No general exemption or operating permit applications are required.

(i)

The activities of constructing, repairing or maintaining any facility or improvement on lands within the zone of protection shall be exempt from the provisions of this article, provided that all contractors, subcontractors, laborers, material men and their employees when using, handling, storing or producing regulated substances in the zone of protection use those applicable best management practices set forth in appendix D, incorporated in this article. No general exemption or operating permit applications are required.

(j)

Residential development greater than 25 units shall be required to file a general exemption application and an operating permit application with the county administrator; however, the annual renewal application is not required.

(Ord. No. 89-69, § X, 12-19-89; Ord. No. 90-62, § 8, 7-24-90; Ord. No. 92-67, §§ 8, 9, 10-27-92)

Sec. 166-201. - Special exemptions.

(a)

An affected person in the zone of protection may petition the board of county commissioners for a special exemption from the prohibitions and monitoring requirements set out in section 166-195. In order to obtain such an exemption such person must demonstrate by a preponderance of competent, substantial evidence that:

(1)

Special or unusual circumstances and adequate technology exist to isolate the facility or activity from the potable water supply.

(2)

In granting the special exemption, the board of county commissioners may prescribe any additional appropriate conditions and safeguards which are necessary to protect the wellfield.

(b)

Activities claiming special exemption with adequate technology to isolate the facility or activity from the potable water supply and protect the wellfield must submit:

(1)

A special exemption application claiming special or unusual circumstances and adequate protection technology shall be filed with the county administrator. It shall be signed by the applicant and by a professional engineer and certified geologist registered in the state.

(2)

Such application shall contain a concise statement by the applicant detailing the circumstances which the applicant feels would entitle him to an exemption pursuant to subsection (b)(1) of this section.

(3)

A nonrefundable fee as listed in exhibit C shall be filed with the application to defray the costs of processing such application.

(4)

The application for special exemption shall contain but not be limited to the following elements:

a.

A description of the situation at the site requiring isolation from the wellfield, including:

1.

A list of the regulated substances in use at the site;

2.

A site plan of the facility including all storage, piping, dispensing, shipping, etc., facilities;

3.

What operations at the facility involve regulated substances which must be isolated from the wellfields;

4.

The location of all operations involving regulated substances;

5.

A sampling and analysis of the groundwater on the site of the activity seeking a special exemption shall be performed to the satisfaction of the county to determine if any regulated substances are already present which constitute a threat to the water supply;

6.

An analysis of the affected well showing whether or not such well is already contaminated by any regulated substances and the extent of such contamination;

7.

A hydrogeologic assessment of the site which shall address, at a minimum, soil characteristics and groundwater levels, directional flow, and water quality and which shall be performed by a registered geologist, certified by the state.

b.

A technical proposal to achieve the required isolation, including:

1.

Components to be used and their individual functions;

2.

Systems tying the components together;

3.

A discussion and documentation, such as published technical articles, substantiating the performance and reliability of the components individually and the system as a whole; if the system has not been field tested, a discussion and laboratory test documentation to substantiate the proposed performance and reliability of the system;

4.

Details of the specific plans to install the system at the site.

c.

Testing procedures: If the proposed system does not have a proven history of successful in-field operation, it may still be proposed using proven components. A test plan for the system as installed shall be provided to prove that the proposed system works in the field.

d.

A technical proposal for backup detection of regulated substances that may elude the isolation system and escape to outside a perimeter to be established by the county administrator. Such proposal shall include emergency measures to be initiated in case of escape of regulated substances.

e.

Criteria for success: Site-specific, system performance criteria shall be proposed to ascertain the success of the system. Such criteria shall include but shall not be limited to:

1.

Performance;

2.

Reliability;

3.

Level of maintenance;

4.

Level of sensitivity to regulated substances;

5.

Effect of rain, flood, power failure or other natural disaster.

f.

Precautions in event of failure: The applicant shall provide information on the on-site availability of substance removal technologies sufficient to remediate any introduction of regulated substances into the water table at the site. Where water is removed from on-site wells during the remedial process, a plan shall be proposed for the disposal of such water.

g.

A closure plan shall be provided in the event the system does not prove successful in the testing required by subsection (b)(4)c of this section.

h.

Any other reasonable information deemed necessary by the county water system due to site-specific circumstances.

(5)

Within 30 working days of receipt of an application for special exemption, the county administrator shall inform the applicant whether such application contains sufficient information for a proper determination to be made. If the application is found to be insufficient, then the county administrator shall provide to the applicant a written statement by certified mail or hand delivery requesting the additional information required. The applicant shall inform the county administrator within ten working days of the date of the written statement of his intent to furnish the information. The applicant has 30 days to furnish the required information or have the application processed as it stands. At the end of such 30-day period, the county administrator shall have 14 days to inform the board of county commissioners of such application and shall transfer all information accompanying the application to the board of county commissioners, who shall then proceed with the hearing procedures as provided under section 166-199.

(c)

Granting special exemptions:

(1)

Any special exemption to this article granted by the board of county commissioners shall be subject to the applicable conditions of sections 166-195 and 166-196 and any other reasonable and necessary special conditions imposed by the board of county commissioners. An operating permit shall be issued by the department with the applicable conditions of sections 166-195 and 166-196 and any other reasonable and necessary special conditions imposed by the board of county commissioners. Such special exemptions shall be subject to revocation or revision by the department for violation of any condition of such special exemption by first issuing a written notice of intent to revoke or revise by certified mail, return receipt requested, or hand delivery. Upon revocation or revision, the activity will immediately be subject to the enforcement provisions of this article.

(2)

Special exemptions for the zone of protection are for existing nonresidential facilities only. No new nonresidential activity shall be permitted into the zone of protection after February 17, 1990, if the new nonresidential facility stores, handles, produces, disposes of, or uses any regulated substance.

(Ord. No. 89-69, § XI, 12-19-89; Ord. No. 90-62, § 9, 7-24-90; Ord. No. 92-67, § 7, 10-27-92)

Sec. 166-202. - Trade secrets.

The department shall not disclose any trade secrets of the permittee under this article that are exempted from such disclosure by federal or state law; provided, however, that the burden shall be on the permittee to demonstrate entitlement to such nondisclosure. Decisions by the county administrator as to such entitlement shall be subject to challenge by the permittee by filing a petition with the county administrator pursuant to section 166-199.

(Ord. No. 89-69, § XII, 12-19-89; Ord. No. 90-62, § 10, 7-24-90)

Secs. 166-203—166-240. - Reserved.

ARTICLE V. - WATER AND NAVIGATION REGULATIONS[5]

Footnotes:

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Editor's note—Ord. No. 11-12, § 2, adopted April 26, 2011, amended Art. V in its entirety to read as herein set out. Former V, §§ 166-241—166-364, pertained to water and navigation control authority regulations. See the Code Comparative Table for full derivation.

DIVISION 1. - GENERALLY

Sec. 166-241. - Title.

The regulations set out in this article may be known and cited as the "Pinellas County Water and Navigation Regulations."

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-242. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative hearing means a public hearing held for the purpose of discovering facts in reference to an application under this article and for the purpose of providing a forum for affected parties to express their concerns. Such hearing shall be conducted by the staff of the department designated by the county administrator to implement the article.

Aesthetics or natural beauty refers primarily to the natural beauty of the waters of the county and shall be interpreted as seen from within or upon the waters of the county.

Beach means that area of unconsolidated material that extends landward from the mean low water line to the place where there is a marked change in material or physiographic form, or to the line of permanent upland vegetation (usually the effective limit of storm waves).

Board means the Pinellas County Board of County Commissioners, or its designated representative.

Board of adjustment means and refers to the board established pursuant to section 138-111 of the Pinellas County Land Development Code.

Boat lift means a device for lifting boats out of the water for storage over the water. Boat lifts shall be inclusive of all post and floating lift systems but exclusive of davits where the davit base is not within the waters of the county.

Building means any structure which has enclosing walls and was built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

Clerk means the clerk to the Pinellas County Board of County Commissioners, or his or her designated representative.

Coastal construction control line (CCCL) means the county coastal construction control line as depicted on the state department of natural resources, division of beaches and shores, August 1974, aerial map, including any updates or amendments.

Commercial dock, class A means any dock, pier, wharf, or mooring field used in connection with a hotel, motel or restaurant and where the slips are not rented, leased or sold, but utilized as an enhancement to the principal function of the basic facility.

Commercial dock, class B means any dock, pier, wharf, or mooring field used in connection with a social or fraternal club or organization, and where use of the facility is restricted to the membership thereof.

Commercial dock, class C means any dock, pier, wharf, or mooring field constructed and maintained by a local municipality, the county or any state or federal agency.

Commercial dock, class D means any dock, pier, wharf, or mooring field where the primary function is the collection of revenue for profit. This classification shall include all commercial marinas, boatyards and commercial boat docking facilities.

Construction means new work, repairs, replacements, and extensions to structures.

County means Pinellas County, Florida, or any employee or agent thereof.

County administrator means the county administrator for the county or his or her designated representative.

Dock means any structure, including a pier, wharf, loading platform, tie pole, mooring buoy, dolphin, accessory structure, or boat lift which is constructed on piling, over open water, or which is supported by flotation on the waters of the county.

Dredging means excavation, by any means, in the waters of the county.

Filling means the deposition, by any means, of materials in the waters of the county.

Floating dock means any dock supported by flotation devices.

Florida Building Code means that code as adopted by the State of Florida, as that code may be amended over time.

Listed species means those flora and fauna listed by the state or the federal government as endangered, threatened, or as species of special concern.

Lumber sizes means nominal sizes.

Mitigation means the creation of habitat in compensation for the adverse impacts associated with a permitted activity.

Multiuse private dock means any dock to be owned in common or used by the residents of an apartment house (more than two units), condominium, cooperative apartment, mobile home park or zero lot line attached structures. Docks serving both commercial and residential uses shall fall under the appropriate commercial dock category.

Navigable waters means and includes all tidal waters, such fresh waters as are in fact navigable, and swamp and overflow lands.

Navigation means the maneuvering of watercraft within the waters of the county, including ingress to and egress from an upland property.

New development means and includes new construction and remodeling of existing structures.

Person means any natural person, firm, corporation, county, municipality, township, or any other public agency, but shall not include the State of Florida or Pinellas County when used in this article.

Private dock means any dock which will be used by an individual owner, his family and friends, and at which the property is zoned residential, single-family; or shall mean any single structure dock facility which provides dockage for a duplex type residential unit. This definition is not intended to include docks servicing zero lot line attached units.

Project means any development, redevelopment, construction, repair, or other activity which occurs in whole or in part within the jurisdiction of the county.

Property line means those lines described in the legal description of the applicant's deed.

Protective barrier means a physical structure limiting access to a designated area and composed of wooden and/or other suitable materials which gives reasonable assurance of compliance with the intent of this article.

Public hearing means an advertised hearing before the board or board of adjustment, open to the public, for the purpose of presenting the facts of an application and for the purpose of providing a forum through which affected parties may make their concerns known to the board or board of adjustment.

Repair permit means the permit for the repair or replacement of a previously permitted dock.

Restoration means the designed creation of desirable habitat.

Riprap means the hardening of shorelines by a means other than the installation or repair of seawalls.

Seawall means any hardening of the shore by the installation of a vertical wall where such structure is toed in within the waters of the county. This definition specifically excludes upland retaining walls located outside of the waters of the county.

Setback means a buffer area of a size to be determined on an individual basis within which no change to existing conditions may be made without a specific permit.

Survey means a one inch equal to 200 feet scale aerial and 1:10 to 1:60 scale drawing signed and sealed by a state registered land surveyor (P.L.S.) which accurately locates either designated stands of mangroves or designated individual trees in addition to other site characteristics (such as topography, mean high water, property lines, and upland trees) required for the review of the application.

Tie piles means and includes dolphin, batter, sister, or mooring piles which are placed to provide anchorage, mooring, structural support, or space for a ship or boat.

Utility means those public and private services such as telephone, power, sanitary sewer, potable water, etc.

Waters of the county means and includes:

(1)

All those waters having a measurable salinity at some point during the tidal cycle and lying within the legal boundaries of the county;

(2)

The following lakes: Tarpon, Seminole, St. George, Chautauqua (Township 28 South, Range 16 East), Salt, Leisure, Taylor, and Walsingham; or

(3)

All those areas associated with (1) or (2) above, which are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation specifically adapted to life in saturated conditions, as listed in the Florida Administrative Code. These waters include, but are not limited to, rivers, estuaries, bays, swamps, marshes, sloughs, bayous, and open waters, whether such waters are on private or public lands and whether such waters are manmade or natural. Where vegetation would not normally be expected due to other environmental factors, such as in the high energy zone of marine beaches, the limits of the waters of the county shall be determined by the coastal erosion control line. Where a coastal erosion control line has not been established, the limits of the waters of the county shall be set by a reasonable alternative.

All other words, terms, and phrases used in this article shall be defined according to their commonly accepted meanings.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-243. - Authority for article.

This article is adopted in compliance with and pursuant to Article II, Section 2.04(v) of the Pinellas County Charter.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-244. - Violations and penalties.

(a)

Any person who shall violate the provisions of this article or any conditions imposed as a part of a permit issued pursuant to this article may be punished as provided in section 134-8.

(b)

In addition to the penalties provided in subsection (a), any violation of the provisions of this article may be punished as provided for in article VIII, chapter 2 of the Pinellas County Code.

(c)

In addition to the penalties provided in this section, any violation of the provisions of this article or any conditions made a part of the permit issued pursuant to this article may constitute grounds for revocation of that permit.

(d)

In addition to other penalties provided in this section, the county attorney may institute or participate in any appropriate civil or administrative action or proceeding to declare, prevent, restrain, correct or abate any violation, or threat thereof, of any provision of this article. The county may also seek civil remedies pursuant to Laws of Fla. ch. 90-403, as amended, the "Pinellas County Environmental Enforcement Act" (compiled in chapter 58, article II of the Pinellas County Code).

(e)

In addition to other penalties provided in this section, the county may require restoration, mitigation, or enhancement in order to ameliorate the adverse impacts of unpermitted or improperly conducted activities.

(f)

The county administrator may withhold the issuance of other certificates, licenses, or permits on related developments or projects where violations of this article are outstanding until the violations of this article have been abated.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-245. - Purpose and intent.

(a)

It is the intent of the board to exercise the special power granted to the county in Article II, Section 2.04(v) of the Pinellas County Charter. It is the further intent of the board to implement the regulations set out in this article throughout the waters of the county, except where otherwise stated in this article.

(b)

It is the intent of the board to protect, through sound management and the judicious issuance of permits, the natural resources and scenic beauty of the county.

(c)

It is the intent of the board to regulate all dredge and fill activity within the waters of the county in order to minimize the adverse impacts of these activities on the natural resources and scenic beauty of the county.

(d)

It is the intent of the board to regulate the placement of seawalls within the waters of the county in order to minimize the adverse effects of these structures as well as assure the protection of upland lands from the erosive action of the waters of the county.

(e)

It is the intent of the board to regulate the construction of commercial and private docking facilities within the waters of the county in order to minimize the adverse impacts of such activities upon the natural resources and scenic beauty of the county.

(f)

It is the intent of the board to protect those species listed as endangered, threatened, or as species of special concern by federal and state agencies.

(g)

It is the intent of the board to apply this article in a manner sensitive to both the property rights of the applicant and the rights of the citizens of the county to enjoy the benefits of their natural resources.

(h)

It is the intent of the board that the provisions of this article be liberally construed in order to effectively carry out its purpose of protecting the public's interest and preserving natural resources.

(i)

The purposes of this article are hereby declared and found to be good and valid public and county purposes.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-246. - Interpretation; conflicting provisions.

In interpreting and applying the provisions of this article, such provisions shall be held to be the minimum requirements for the promotion of the public health, safety, morals and general welfare of the citizens of the county. It is not intended by this article to interfere with, abrogate or annul any lawful easements, covenants or other agreements between parties; provided, however, that where this article imposes a greater restriction upon the use of structures, premises or lands within the waters of the county than are imposed or required by other resolutions, rules, regulations or other lawful easements, covenants or agreements, the provisions of this article shall control.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-247. - Territory embraced.

Pursuant to the jurisdiction given to the county by benefit of Article II, Section 2.04(v), Pinellas County Charter, this article shall be applicable throughout the county, including both incorporated and unincorporated areas of the county.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-248. - Exemptions.

(a)

Waters of the county shall be limited around freshwater lakes to include only those vegetated areas, per the definition of waters of the county, which immediately fringe the lake. It is specifically intended that the tributaries to such lakes not be included in such definition unless such tributaries are navigable waters.

(b)

Waters of the county shall not be interpreted to include stormwater retention ponds.

(c)

Dock owners and licensed marine contractors shall be allowed to repair docks that have been damaged by a natural disaster (act of God, heavy winds and/or seas), in the same configuration of the original permitted dock, without applying for an additional permit when this subsection is invoked by the county. This subsection shall not apply in instances where the destroyed or damaged dock was not originally permitted by the county. The county shall be notified by the owner of the dock of such damage within 90 days of the occurrence of such damage in order for this subsection to be in force. The county shall also be notified upon completion of the repair and the dock shall be inspected by county staff.

(d)

The requirements contained in section 166-251 may not apply where the construction activity is to be conducted by the property owner. Persons undertaking activities authorized by a permit issued pursuant to this article are advised that contractor licensing requirements in the county are administered by the Pinellas County Construction Licensing Board.

(e)

Licensed class A general contractors or licensed marine contractors may install or repair tie poles, sister poles, batter poles and dolphin poles without having first obtained a permit, provided that such permit is applied for within 15 days of the activity. Such installation is conducted at the contractor's risk and may be required to be removed or relocated if the permit is not approvable.

(f)

Application for the repair of multiuse private or commercial docks to be made in the same configuration and to the same material specifications as were originally permitted by the county will not require the signature and seal of a state registered civil engineer.

(g)

The placement of cables or pipes via directional drilling techniques which does not result in any disturbance of waters of the county is exempt from the requirement to obtain a dredge and fill permit.

(h)

Federal and state projects are exempt from the requirement to obtain a permit under this article. This exemption does not include those projects where the federal or state government solely provides funds for projects undertaken by other entities.

(i)

Signs, buoys, and markers posted pursuant to the State of Florida Uniform Waterways Markers program do not require a separate permit under this article.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-249. - Administration.

(a)

The administration and enforcement of this article is vested in the county administrator, or his or her designee.

(b)

The county administrator shall have the authority to issue all permits pursuant to this article without the further consent of the board and without the need for administrative or public hearings. Those permits requiring variance approval by the board or board of adjustment shall be subject to the administrative and public hearing process set forth in this article. However, the county administrator shall have the option of bringing any application for a permit under this article before the board for final action.

(c)

County staff shall coordinate all permit review activities under this article and shall conduct administrative hearings.

(d)

All applications, revised applications, requests for permit extension and associated fees under this article must be submitted through the clerk.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-250. - Enforcement procedure.

(a)

All projects under this article will be subject to a final inspection by the county to assure compliance with the conditions of the permit.

(b)

The county shall be notified when dredge, fill, or commercial and multiuse dock construction commences and upon the completion thereof. The county shall be notified upon completion of a private dock structure.

(c)

The applicant, contractor, and/or agent will be notified by the county, in writing, of any discrepancies discovered during any inspection within ten working days. The responsible party shall have ten working days from the date of notice to correct such discrepancies.

(d)

Any person may report a violation of this article to the county.

(e)

Any designee of the county administrator shall have the authority to investigate violations of this article.

(f)

Investigations of violations of this article may be based upon statements of the complainant or upon inspections performed by county personnel.

(g)

In conducting investigations of violations of this article, departmental inspectors shall have the authority, where otherwise lawful, to inspect property, obtain the signed statements of prospective witnesses, photograph violations, and do such other gathering of evidence as is necessary for the complete investigation of a violation of this article.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-251. - Contractor's requirements.

(a)

All construction activity involving docks or boardwalks must be conducted by a contractor possessing a valid class A general contractor's license or a marine contractor's license issued by the Pinellas County Construction Licensing Board. All such contractors and any contractor performing dredge and fill activities shall maintain applicable workers' compensation and general liability insurance as required by state and federal law, including but not limited to the provisions of the Longshoremen's and Harbor Worker's Compensation Act, or the Jones Act. The county may require proof of such coverage at any time.

(b)

It shall be a violation of this section to cancel any required insurance after presenting proof of such coverage to the county and obtaining a permit, unless the contractor actually performs the construction activity covered by such permit with the appropriate insurance coverage in effect.

(c)

It shall be a violation of this section for a property owner to procure any permit under this article with the intent to aid or abet a contractor that does not meet the requirements set forth in subsection (a) above in performing the permitted construction, alteration or repair.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-252. - Reserved.
Sec. 166-253. - Building permits.

(a)

It shall be the responsibility of the municipality if within municipal limits or the county if within unincorporated areas to set construction standards and issue building permits for seawalls. New seawalls placed within the waters of the county shall require a fill permit from the county.

(b)

Dock permits issued by the county will be for the structure only and do not include an approval or permit for other installations requiring plumbing or electrical facilities.

(c)

Nothing in this section is to imply that an improperly conducted activity such as the improper placement of a seawall or riprap is not a violation of this article.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-254. - Protection of adjacent habitat.

Projects conducted within the unincorporated county are subject to all other county regulations and ordinances. Where projects are conducted in areas where the habitat management and landscaping provisions of this chapter are in effect, those habitat protection requirements will be enforced. Certain habitats will require protective barriers prior to permit issuance. The county administrator shall make provisions necessary to issue the permit pursuant to this article and the habitat management and landscape permits simultaneously where applicable. The provisions of this section may be expanded, at the discretion of the county administrator, to account for consistency with other county ordinances where applicable.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-255. - Signs and fences on submerged lands.

The posting of signs and placing of fences upon the submerged lands of the county will be considered an obstruction to navigation. Such signs or fences shall only be permitted if an application is submitted to the county and the issuance of a permit for such installation is approved at public hearing before the board.

(Ord. No. 11-12, § 2, 4-26-11)

Secs. 166-256—166-280. - Reserved.
DIVISION 2. - PERMITS GENERALLY

Sec. 166-281. - Permit required; review of applications.

(a)

It shall be a violation of this article for any person to undertake activities regulated by this article without a permit from the county.

(b)

The board and its staff shall consider, in its review of permit applications under this article, the following criteria. If any of the following questions are answered in the affirmative, the application shall be denied or modified:

(1)

Would the project have a detrimental effect on the use of such waters for navigation, transportation, recreational or other public purposes and public conveniences?

(2)

Would the project restrict the free use of the waterways and navigable waters?

(3)

Would the project have a material adverse effect upon the flow of water or tidal currents in the surrounding waters?

(4)

Would the project have a material adverse effect upon erosion, erosion control, extraordinary storm drainage, shoaling of channels, or would be likely to adversely affect the water quality presently existing in the area or limit progress that is being made toward improvement of water quality in the area?

(5)

Would the project have a material adverse effect upon the natural beauty and recreational advantages of the county?

(6)

Would the project have a material adverse effect upon the conservation of wildlife, marine life, and other natural resources, including beaches and shores, so as to be contrary to the public interest?

(7)

Would the project have a material adverse effect upon the uplands surrounding or necessarily affected by such plan or development?

(8)

Would the project have a material adverse effect on the safety, health and welfare of the general public?

(9)

Would the project be inconsistent with adopted state plans (e.g., manatee protection, SWIM plans), county and municipal comprehensive plans, other formally adopted natural resource management plans, or any other county ordinances or regulations?

(c)

If an application for a permit for any activity regulated under this article is denied, the county shall provide written notice to the applicant. Such notice shall provide citations to the applicable portions of this article under which the permit is denied.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-282. - Criteria for approval of permits.

(a)

It shall be the burden of the applicant for a permit under this article to provide data and testimony to show the effect of the proposed plan and development on the criteria in subsection 166-281(b).

(b)

Permits are required for dredging or filling (section 166-356), seawall installation (section 166-359), dock construction (section 166-321), dock repair (section 166-322), after-the-fact dock construction (section 166-323), dock construction within Lake Tarpon and Lake Seminole (section 166-324), boardwalks (section 166-325), and associated habitat impacts (section 166-254).

(c)

The county shall have the option of requiring the analysis of alternative designs where such alternatives have the potential to reduce environmental impacts or navigational impacts. It shall be the burden of the applicant to prove that alternatives do not result in lesser impacts than the proposed design. An analysis of alternatives may be submitted at the time of application at the option of the applicant.

(d)

The use of alternative designs, such as the use of multiuse private docks in lieu of single-family private docks, may be required where the assessment of cumulative impacts indicates that such cumulative impacts would violate the general provisions under subsection 166-281(b).

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-283. - Mitigation and enhancement.

(a)

The county may consider proposals for mitigation in the review of permit applications under this article. The replacement requirements for legally impacted wetlands shall be defined on a square footage basis and shall use, as a minimum, one acre (or portion thereof) created for each acre adversely impacted. Each acre (or portion thereof) shall contain sufficient wetland replants to reestablish the wetland habitat with 85 percent coverage within three years.

(b)

Any proposal for mitigation under this article must be signed by a registered environmental professional (National Association of Environmental Professionals), a registered professional ecologist (Ecological Society of America), landscape architect, or other suitable recognized professional.

(c)

The county may require the enhancement of the local habitat where such enhancement may be reasonably expected to enhance the natural functions of the local ecosystem and where such enhancement will not place an undue hardship upon the applicant under this article.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-284. - Criteria for issuance.

(a)

In all cases, the county shall consider consistency with the comprehensive plans of the county and local municipality, if applicable, in the review of permit applications. The county shall also consider adherence to this article, the information received as a part of the application, the information gathered by staff during field or literature reviews, or information supplied during the administrative and public hearings in the issuance or denial of permits under this article.

(b)

The board, board of adjustment, or county staff shall have the right to modify, amend, or alter any application brought before it, including at public hearing when, based on the criteria to be considered, modification or alteration of the permit would be necessary to bring such application into conformance with the provisions of this article.

(c)

In order to provide protection for those habitats having a high degree of ecological value, proposed projects shall be specifically reviewed for adverse impacts to vegetated wetland areas; vegetative, terrestrial, or aquatic habitats critical to the support of listed species in providing one or more of the requirements to sustain their existence, such as range, nesting or feeding grounds; habitats which display biological or physical attributes which would serve to make them rare within the confines of the county, such as natural marine habitats, grass flats suitable as nursery feeding grounds for marine life, or established marine soil suitable for producing plant growth of a type useful as nursery or feeding grounds for marine life; designated preservation areas such as those identified in the comprehensive land use plan, national wildlife refuges, bird sanctuaries, manatee sanctuaries; natural reefs and any such artificial reef which has developed an associated flora and fauna which have been determined to be approaching a typical natural assemblage structure in both density and diversity; oyster beds; clam beds; known sea turtle nesting sites; commercial or sport fisheries or shell fisheries areas; habitats desirable as juvenile fish habitat.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-285. - Special conditions.

(a)

Upon issuance of any permit under this article, special conditions may be imposed for such permit. These conditions should include any item which can be reasonably expected to enhance the probability that the proposed activity will be conducted in compliance with the intent of this article. Those conditions may include, but are not limited to, field inspections by county staff, reports, monitoring, bonding, easements, guaranteed survival of nonaffected and/or replanted vegetation, protective barriers, setbacks, protective earthwork, replants, signage, restoration and/or mitigation. Conditions may also be applied in order to assure consistency with the county and municipal comprehensive plans.

(b)

It shall be unlawful for any person to deviate from the specific conditions of the permit as set forth by this article without the prior approval of the county.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-286. - Reserved.
Sec. 166-287. - Notice of public hearing.

(a)

The clerk shall mail to all property owners, as listed in the property appraiser's files, within a 500-foot radius of the project, a notice of the pending application to be heard by the board or board of adjustment. The clerk may send notices to other interested parties upon receipt of a written request. The notice shall contain the parcel identification number and/or address of the property, a brief description of the project, and the date of the administrative and public hearings.

(b)

The county may also provide notice by posting such notice on the subject property.

(c)

The public hearing process shall include an administrative hearing, conducted by staff of the county and held at least two weeks prior to the public hearing before the board or board of adjustment.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-288. - Appeals.

(a)

Permits under this article shall not be effective until 30 days after approval and, if a petition for hearing is filed, until such petition is heard and determined.

(b)

Any person, including the state, aggrieved by the county's findings of fact and determination under this article, may, within 30 days of such findings and determination, petition for a hearing, stating in such petition the grounds upon which the county has erred in its findings and wherein such person is aggrieved by such

findings. The board may, in its discretion, grant or deny such hearing.

(c)

Any person, including the state, who is aggrieved by the board's ruling on the petition for hearing, shall have the right to have the entire cause reviewed by the Circuit Court of the Sixth Judicial Circuit of the State in and for the county as provided by law for other appeals to the circuit court.

(d)

Appeals of variances granted or denied by the board of adjustment shall be as set forth in section 138-120.

(e)

Failure to file an appeal as provided in this section shall constitute acceptance of the permit and its conditions.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-289. - Acceptance of permit.

Failure to request a hearing or otherwise file a written appeal of a permit or any general or specific condition thereof which is issued under this article within 30 days of issuance shall constitute acceptance of the permit and any conditions by the applicant and other affected parties.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-290. - Expiration of permits; extension or revision.

(a)

All permits issued under this article shall expire one year from the date of issuance.

(b)

In the event that the project is not completed within one year of the date of the issuance of a permit under this article, the county shall authorize a one-year extension upon written request to the county. A second one-year extension shall be granted upon written request if the project is not completed by the end of the second year. The county may authorize two additional one-year extensions upon written request to the county and for good reason shown. Extensions shall be requested within 90 days before or after the permit expiration date.

(c)

Applications for revisions to permits issued pursuant to this article shall only be accepted within one year of the original issuance of the permit unless the applicant can demonstrate that the project has been under active review by another government agency and that the revision is a requirement of said agency.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-291. - Variances.

(a)

The board may review and decide whether to grant variances to all permitting criteria under this article. Additionally, the board of adjustment shall have the authority to review and decide whether to grant variances to subsections 166-333(b)(1), 166-333(b)(2), and 166-334(b)(1) of this article.

(b)

The county administrator, or his or her designee, may grant variances to subsections 166-283(a), 166-283(b), 166-321(f), 166-321(g), 166-321(l), 166-321(m), 166-324(1), 166-324(4), 166-324(5), 166-324(7), 166-333(a)(2), 166-333(a)(3), 166-333(a)(4), and 166-333(a)(7).

(c)

In deciding whether to grant a variance, the board, board of adjustment or county administrator shall consider the criteria set forth in section 138-113, Pinellas County Land Development Code, as applicable, and any variance issued shall be subject to the following:

(1)

A variance shall be necessary prior to the issuance of a permit for any project that does not comply with the criteria of this article. The granting of any variance shall not be deemed as automatic approval for any such permit.

(2)

A variance in construction materials or the minimum construction specifications may be approved by the county when, based on acceptable engineering criteria, such materials are equivalent to, or better than, that which is specified in this article.

(3)

In granting any variance, appropriate conditions, time limits, and safeguards, may be prescribed.

(4)

Variances shall not be deemed to set precedence for other applications should they be either standard applications or those requiring variances.

(d)

On all proceedings held before the board of adjustment, the county shall review the application and file a report on each item. Such reports shall be received by the board of adjustment prior to final action on any item and shall be part of the record of the application.

(e)

All public hearings conducted by the board of adjustment shall be noticed pursuant to section 166-287. An applicant's failure to appear at such public hearing may be sufficient cause to deny the requested variance.

(f)

Review of a decision of the board of adjustment shall be as provided in section 138-120.

(g)

Reapplications for variances granted or denied by the board of adjustment shall be as provided in section 138-121.

(h)

Any variance granted by the board of adjustment pursuant to this article shall be effective in perpetuity unless revoked or modified as provided in section 138-122.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-292. - Fees.

(a)

All fees and deposits required under this article for applications, permit extensions, and public hearings shall be set by the board by resolution on an annual basis. Fees shall be sufficient to cover the cost of the review, public notice, and issuance or extension of the permit.

(b)

The permit fees for all docks shall be based upon the square footage of the deck which lies on or over the waters of the county.

(c)

After-the-fact dock applications and permits will be subject to increased fees as set by the board annually by resolution.

(d)

Fees will be levied upon the contractor, or owner if the structure is self-built, and shall be paid to the clerk.

(e)

A waiver of permit application fees for governmental agencies shall be administratively granted.

(f)

A waiver of permit application fees for the placement of riprap against an existing seawall shall be administratively granted.

(g)

A waiver of permit application fees for projects conducted solely for environmental enhancement or environmental restoration shall be administratively granted.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-293. - Posting.

All permits issued under this article shall be prominently and openly posted in close proximity to the work allowed by the permit for the duration of the permit or until the work is complete.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-294. - Revocation of permits.

For any noncompliance with or for violations of its terms, any permit issued under this article may be revoked by the county after notice of the intent to do so has been furnished by the county and opportunity afforded within 30 days for the permit holder to request administrative and public hearings.

(Ord. No. 11-12, § 2, 4-26-11)

Secs. 166-295—166-320. - Reserved.

DIVISION 3. - DOCKS AND SIMILAR STRUCTURES

Sec. 166-321. - Dock permit requirements and restrictions.

(a)

No person shall construct any dock or other obstruction to navigation within the waters of the county without having first obtained a permit for such construction from the county.

(b)

Live-aboard facilities shall not be permitted without the appropriate infrastructure and solid waste facilities to support equivalent residential units.

(c)

The county, based on the location of natural resources, encourages, and may require, the use of a single mooring facility at apartments, condominiums, zero lot line attached units, and cooperative apartments, or where cumulative impacts would invoke subsection 166-282(e).

(d)

All multiuse and commercial dock installations must be consistent with the zoning of the adjacent upland riparian property.

(e)

Boat lifts shall not be permitted where the installation of such lifts can reasonably be expected to have an adverse impact on the natural resources in the immediate vicinity of the installation.

(f)

In tidal waters, all docks shall have at least 18 inches of water depth at the slip at mean low tide and shall have a continuous channel with a minimum of 18 inches of water depth at mean low tide to allow access to the structure from open waters.

(g)

In nontidal waters, all docks shall have at least 18 inches of water depth at the slip, as measured from ordinary low water, and shall have a continuous channel with a minimum of 18 inches of water depth at ordinary low water to allow access to the structure from open water.

(h)

In accordance with the comprehensive plan coastal management element, the county shall use the following criteria in the review of commercial and multiuse private dock structures:

(1)

Adequate water depth to accommodate the proposed boat use.

(2)

Preference shall be given to the expansion of suitable existing facilities rather than new construction.

(3)

Located in areas where there is adequate flushing of the basin to prevent stagnation and water quality deterioration.

(4)

No adverse impact on archaeological or historic sites as defined by state and local comprehensive plans.

(5)

Reasonable access to a large navigable water body.

(6)

Sufficient upland area to accommodate all needed utilities and support facilities, such as parking spaces, restrooms, dry storage, etc.

(7)

Capacity of the surrounding roadways to handle boating traffic to and from the facility.

(8)

Compatible land uses.

(9)

Adequate wastewater treatment capacity in accordance with state standards.

(10)

Commercial and multiuse private dock facility development shall be consistent with the special requirements for developing in the following areas:

a.

Aquatic preserves.

b.

Outstanding Florida Waters.

c.

Class II waters.

d.

Areas approved or conditionally approved by the state department of environmental protection for shellfish harvesting.

e.

Other highly productive and/or unique habitats as determined by the state department of environmental protection based on vegetation and/or wildlife species.

(i)

No commercial or multiuse private dock shall be constructed or expanded in areas determined by the state department of environmental protection to be critical to the survival of the West Indian Manatee.

(j)

No new or substantial improvement to a commercial dock shall be approved until a hurricane plan for the project has been established. This requirement may be waived on projects for which the county deems a hurricane plan unnecessary.

(k)

No docking facility will be permitted on the open sandy beaches of the Gulf of Mexico.

(l)

No dock, boardwalk or pier will be permitted to be constructed parallel to the shoreline or seawall within the littoral zone between the mean high water line and the mean low water line.

(m)

No roofed structure other than covered boat slips and no vertical walls will be allowed.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-322. - Dock repair permits.

(a)

Repairs to docks, or replacements thereof, together with associated mooring piles, will require a repair permit from the county if the construction is done in the same configuration as the originally issued permit. If no original permit can be identified, a new permit is required.

(b)

Repairs to or replacements of permitted boat lifts shall not require a permit under this article from the county unless pilings are to be replaced. Such boat lifts are to be reconstructed without enclosed sides.

(c)

Repairs to or replacement of deck boards only do not require a permit under this article from the county. This exemption does not apply to any support structure such as stringers, caps or floaters and all deck boards must meet the minimum construction criteria of subsection 166-332(7).

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-323. - After-the-fact dock permits.

Any person who undertakes to construct a dock without obtaining the required permit from the county shall have ten days from the date of written notice from the county to file an application for an after-the-fact permit, or to remove the unpermitted structure. Such after-the-fact application must comply with all the terms and conditions of this article. In the event that the unpermitted structure has been constructed, even in part, by any person holding a valid license, the county shall copy the written notice of violation to the Pinellas County Construction and Licensing Board. Such notice shall constitute a complaint to the Pinellas County Construction and Licensing Board.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-324. - Special dock restrictions for Lake Tarpon and Lake Seminole.

The following restrictions apply to Lake Tarpon and Lake Seminole:

(1)

No new dock and/or tie pole installation shall be allowed to penetrate into the waters of Lake Tarpon or Lake Seminole further than 100 feet from the ordinary high water line as controlled by the U.S. Army Corps of Engineers outfall weir located on the Lake Tarpon outfall canal, or the weir located at the southern terminus of Lake Seminole (Park Boulevard).

(2)

Dilapidated docks shall be reconstructed in a manner which is in compliance with the provisions of this article.

(3)

No more than one private dock structure can be constructed per residential property under common ownership, provided it complies with the other sections of this article. Mooring space including boat lifts and davits for two boats may be provided. The county may require boat lifts or davits to minimize adverse impacts to the natural resources of the lakes or to the navigational opportunities of the lakes.

(4)

No more than one multiuse private dock or commercial dock can be constructed per 1,250 feet of lakefront property under common ownership, mooring space to be provided at the rate of two mooring spaces per each 100 feet of lakefront, except that, for property under common ownership of less than 1,250 feet of lakefront footage, one dock may be constructed with a minimum number of moorings not to exceed one space per 50 feet or fraction thereof of lakefront ownership (25 slips maximum per 1,250 feet of lakefront owned). Additional docks may be allowed at the rate of one dock per each 1,250 feet or fraction thereof of lakefront property owned. Mooring spaces shall be provided at the rate of two per 100 feet of waterfront. The dock shall be placed within the 1,250-foot increment. The space between dock structures (on waterfront in excess of 1,250 feet) shall equal or exceed 25 feet times the combined amount of mooring spaces at each structure.

(5)

No building shall be permitted to be constructed over the waters of Lake Tarpon or Lake Seminole. Covered boat lifts without side walls may be permitted.

(6)

No docks shall be allowed within the Lake Tarpon outfall canal.

(7)

All docks within Lake Tarpon shall have at least 2½ feet of water depth at the slip as measured from ordinary low water (elevation 2.6 NGVD), except those within canals, which shall have at least 1½ feet of water depth at the slip as measured from ordinary low water.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-325. - Boardwalks and observation platforms on commercial and multiuse properties.

Commercial and multiuse boardwalks, observation platforms, elevated nature trails and other such structures located within the waters of the county and not intended for use as a dock facility shall not be required to comply with the criteria of subsections 166-321(f), (g), (h), (i), (j), (k) and (l); however, the structures shall be required to be built in such a manner as to deter or restrict the structure for boating use. Such requirements may include, but are not limited to, double railing, no lower landings, ladders, superelevated decks, signage, etc.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-326. - Disrepaired or dilapidated docks.

If any dock within the waters of the county falls into disrepair so as to become a dangerous structure involving risks to the safety and well-being of the community or individual members thereof, such structure must either be removed or repaired so as to conform with the requirements of this article. Upon determination by the county that any dock has become a dangerous structure, written notice thereof shall be given to the owner of record of the riparian upland property. Such party so informed shall have a maximum of three days from the date of the notice within which to secure the area and respond to the county indicating the intent regarding the dilapidated structure. Such party shall have an additional 60 days to remove the structure or apply for a permit to repair such structure to conform with the requirements of this article. The entire

structure must be brought into conformance with the requirements of this article.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-327. - Application information.

(a)

All applications under this article are to be filed with the clerk. Processing fees shall be paid at the time of application.

(b)

Prior to the issuance of a permit under this article, the applicant must show that the proposed activity is consistent with the county comprehensive plan or municipal comprehensive plan, as applicable.

(c)

Prior to a final determination on an application under this article, the applicant may be requested to supply any other information necessary to promote sound judgment in the issuance, modification or nonissuance of a permit.

(d)

All applications under this article shall expire after a 90-day period of inactivity.

(e)

All applications under this article must include a statement outlining the intended use of the project facility.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-328. - Private dock application information.

(a)

All applications for private dock permits must be submitted to the clerk on approved application forms.

(b)

All applications for permits for docks to be located within a municipal limit must have municipal approval prior to submission to the county, except for after-the-fact applications, which may be submitted to the county and municipality simultaneously.

(c)

Where required, notarized statements of no objection signed by the adjacent property owners must be provided on the permit drawing accompanying the application for a private dock.

(d)

Adequate water depth at the slip and to navigable waters must be evidenced on applications for the expansion

of existing dock facilities or the creation of new dock facilities.

(e)

The following information is required for applications for private dock permits:

(1)

The application form adopted by the county, properly filled out and signed.

(2)

A detailed statement describing the upland land use and activities (i.e., commercial marina, multiuse, condominium, restaurant, private single-family, etc.).

(3)

Satisfactory evidence of title or extent of interest of the applicant to the riparian upland ownership or submerged ownership with a copy of the trustee's deed in chain of title.

(4)

A copy of the state department of environmental protection permit application, where applicable.

(5)

A copy of the U.S. Army Corps of Engineers permit application, where applicable.

(6)

An affidavit attesting to the dates any existing structures were built, and a copy of any prior authorization or permit for the structures, where applicable.

(7)

Permit sketches clearly depicting the proposed project. The sketches and application package must include the following:

a.

Three copies of black and white drawings of the proposed project drawn to an appropriate scale (from 1:10 to 1:60, lettering to be 0.10 inch high or greater).

b.

The drawings must clearly show the following:

1.

Name of waterway.

2.

North arrow and graphic scale.

3.

Existing shoreline, limits of the waters of the county, and the mean high water line (or ordinary high water) based on NGVD.

4.

Sufficient water depths in the affected areas.

5.

Locations of existing structures.

6.

Linear footage of riparian shoreline.

7.

All drawings and legal descriptions pertaining to proof of ownership submitted as part of an application for a permit from the county must contain the required signature and seal of a registered professional land surveyor in accordance with F.S. § 472.031(1).

8.

Location of the proposed activity, including half section, township, range, affected water body, and a vicinity map, preferably a reproduction of the appropriate portion of the United States Geological Survey quadrangle map.

(8)

Proper fee as set by the board.

(9)

A completed copy of the disclosure form provided by the county.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-329. - Multiuse private dock application information.

The following information is required for applications for multiuse private docks:

(1)

All information required under section 166-328.

(2)

Except for applications for tie poles and previously approved lifts, all applications for multiuse private and

commercial docks shall have the signature and seal of a state registered professional engineer affixed to the plans submitted for approval.

(3)

Information shall be submitted, prepared by a state registered civil engineer, attesting to the fact that adequate flushing exists and that the project will not cause stagnation or water quality degradation.

(4)

The following additional information is required:

a.

A detailed statement describing the proposed activity and how it affects the waters of the county.

b.

A copy of the Southwest Florida Water Management District permit application, where applicable.

c.

Permit sketches must be signed and sealed by a state registered professional engineer.

(5)

Location of the proposed activity, including half section, township, range, affected waterbody, and a vicinity map, preferably a reproduction of the appropriate portion of the United States Geological Survey quadrangle map.

(6)

A 1:200 scale aerial photo of the area showing the location of the property therein.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-330. - Commercial dock application information.

The following information is required for applications for commercial docks:

(1)

All information required under sections 166-328 and 166-329.

(2)

An approved hurricane plan unless waived per subsection 166-321(j).

(3)

Any other information necessary to meet the criteria of this article.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-331. - Permitting criteria for docks.

The county shall use the criteria as contained in sections 166-281(b) and 166-284 in the issuance of dock permits. If any of the nine questions are answered in the affirmative, the application shall be denied or modified.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-332. - Minimum construction specifications for all dock construction.

The following minimum construction specifications shall be required for all dock construction:

(1)

All piling shall be of precast class IV concrete, as specified by Florida Department of Transportation, Standard Specifications for Road and Bridge Construction, 1986 edition, or latest revision or superseding publication, 3,500 pounds per square inch or better in 28 days, or of Southern pine piles conforming in physical quality to American Society for Testing and Materials Specifications D 25-55, which have been treated in conformance with American Wood Preservers Association Standard C-3 with chromated copper arsenate (CCA, type A, B, or C) in accordance with American Wood Preservers Association Standard P-5, and which have minimum butt size of nine inches diameter and tip sizes of six inches diameter.

(2)

When Southern pine piles treated with chromated copper arsenate, type A, B, or C, are used, analysis by assay extraction in accordance with American Wood Preservers Association Standard A-2 may be required to show a minimum retention and distribution of solid preservative of 2.5 p.c.f. in the zone zero to 1.5 inches from the surface and 1.5 p.c.f. in the zone 1.5 to 2.0 inches from the surface. In no event shall penetration be less than six feet into the submerged bottom. If impenetrable material is encountered, the county must be contacted to seek a variance to this minimum penetration requirement.

(3)

All concrete piling shall be at least eight inches square in cross section. Concrete pilings shall incorporate at least four no. 5 steel rods (five-eighths inch diameter) epoxy coated running the entire length thereof, and tied or welded in the form of a three-inch to four-inch square cage. All steel reinforcing rods shall be covered by at least two inches of concrete.

(4)

Tie piling shall project above the surface of the water or land only as high as may be reasonably necessary for use and application; in no case shall this be higher than ten feet above mean high water. All such piling shall be either concrete or Southern pine piling treated in conformance with American Wood Preservers Association Standard C-3 with chromated copper arsenate (CCA) type A, B, or C, and as approved by the county.

(5)

All metal fastenings shall be hot-dip galvanized or better.

(6)

All other timber shall be pressure treated.

(7)

Spacing of pile bents shall not exceed 12 feet on-center. For timber decked dock construction, the second bent shall not exceed 14 feet in front of the beginning of the dock. The first bent of piling shall be located no further than two feet from the mean high water or the seawall. Outside stringer systems shall be doubled two-inch by eight-inch pressure treated timber or greater. Five-eighths inch diameter galvanized bolts or greater are to be used for attachment of stringers to piling. Intermediate stringers shall be single two-inch by eight-inch or greater, with a maximum three feet zero inches on-center spacing. Decking shall be two-inch by six-inch, or greater, pressure treated lumber. All pile bents shall have pile caps, two inches by eight inches, bearing stringers to support deck joists on main dock and only on docks with wood pilings. All intersections (stringers) shall be bolted.

(8)

All floating private docks to be constructed in the waters of the county must have a minimum of 20 pounds per square foot flotation.

(9)

Covered boat lifts:

a.

All roof designs must conform to the Florida Building Code applicable to the type of construction being used to cover the lift.

b.

Catwalks constructed in conjunction with boat lifts, will have stringers bolted to piling.

c.

Vertical side walls for boat lifts are prohibited.

(10)

The intersection of the main dock and finger piers will be constructed by the installation of a pile under the finger pier at the intersection, or by an approved bolted connection; in no case will nailed connection be used.

(11)

Where, because of space restrictions, double stringers are abutted against the seawall, pile caps shall be installed. Such pile caps are to be doubled two inches by eight inches and bolted at each pile.

(12)

Wave break devices, when necessary, shall be designed to allow for maximum water circulation and shall be

built in such a manner as to be part of the dock structure or tie poles.

(13)

Docks shall be constructed to allow for maximum light penetration. Special restrictions may be applied where natural resources are present on a case by case basis.

(14)

Where appropriate, structures shall provide for passage of pedestrian traffic by elevation or design so as not to obstruct normal pedestrian traffic on lands along the shoreline. The dock or pier shall be constructed in a manner that would minimize harm to natural resources.

(15)

Walkways to dockhead intersections not supported directly by piles under the connection must be diagonally bolted through the intersecting stringers (minimum triple two-inch by eight-inch dock head stringers) or the use of a two-inch by four-inch by one-fourth-inch galvanized angle bracket or larger must be utilized.

(16)

Catwalks supported by a single pile at each bent and cantilevered structures shall be no wider than 30 inches.

(17)

Applicants are encouraged to use environmentally sustainable building practices.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-333. - Design criteria for private docks.

(a)

Design criteria for all private docks shall be as follows:

(1)

All criteria contained in section 166-332 shall also apply to private docks.

(2)

No building shall be permitted to be constructed over the waters of the county.

(3)

No dock structure or tie pole shall be allowed to project into the navigable portion of a waterway more than 25 percent of such waterway.

(4)

No dock shall extend waterward of the seawall, mean or ordinary high water line more than 300 feet.

(5)

A dock shall not be designed or constructed to accommodate more than two boats for permanent mooring. No more than one structure shall be located at a private residential site.

(6)

Docks for the joint use of adjacent waterfront property owners may be centered on the extended common property line without being in variance to the setback requirements.

(7)

No portion of a docking facility shall encroach closer than 150 feet to the centerline of the Intracoastal waterway.

(8)

Personal watercraft lifts shall not be considered a boat slip and as such are exempt from the depth criteria of these rules. In addition, open grated personal watercraft lifts without outer piling shall not be considered when calculating dock dimensions or setbacks.

(b)

The following additional design criteria shall apply only to those private docks in the unincorporated areas of the county:

(1)

Private docks to be constructed in the waters of the county shall be constructed so that the length of the dock shall not extend from the mean high water line or seawall of the property further than one-half the width of the property at the waterfront. This requirement may be waived by the county provided that signed statements of no objection from both adjacent waterfront property owners have been submitted.

(2)

Private docks and boat lifts must be constructed within the center one-third of the applicant's waterfront property or 50 feet from the adjacent property, whichever is less restrictive. This requirement may be waived by the county, provided that signed statements of no objection from the property owners encroached upon have been submitted.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-334. - Design criteria for commercial and multiuse private docks.

(a)

Design criteria for all commercial and multiuse private docks shall be as follows:

(1)

All criteria contained in subsections 166-333(a)(1), (2), (3), (4), (7) and (8) shall also apply to commercial

and multiuse private docks.

(b)

The following additional criteria shall apply only to commercial and multiuse private docks in the unincorporated areas of the county:

(1)

Docking facilities constructed in the waters of the county shall be constructed so that the width of such facilities shall not exceed 75 percent of the width of the property at the waterfront and shall be further constructed so that the length of the facility shall not extend from the mean high water line or seawall of the property further than 75 percent of the width of the property at the waterfront. All docking facilities must be so located that no portion of the proposed facility is closer to either adjacent extended property line than ten percent of the property width at the waterfront. Multiuse private and commercial docks abutting adjacent waterfront residential property must be set back a minimum of one-third of the applicant's waterfront property width from the adjacent waterfront residential property. This requirement may be waived by the county provided that signed statements of no objection from the affected property owners have been submitted.

(Ord. No. 11-12, § 2, 4-26-11)

Secs. 166-335—166-355. - Reserved.

DIVISION 4. - DREDGING AND FILLING; SEAWALLS

Sec. 166-356. - Dredge and fill—Permit required.

(a)

No person shall undertake any dredging or filling in the waters of the county without first obtaining a permit from the county.

(b)

There shall be in no case any dredging seaward of a bulkhead line for the sole and primary purpose of providing fill for any area landward of a bulkhead line.

(c)

There shall be no drilling for oil or gas wells, excavation for minerals, except the dredging of dead oyster shells as approved by the department of environmental protection, and no erection of any structures unless such activity is associated with activity authorized by this article.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-357. - Same—Application information.

All dredge and fill applications submitted to the county shall consist of the following:

(1)

The application form adopted by the county, properly filled out and signed.

(2)

Approval of the municipal authority if within any corporate limits, except for after-the-fact applications, which may be submitted to the county and municipality simultaneously.

(3)

A completed copy of the disclosure form provided by the county.

(4)

Location of the proposed activity, including half section, township, range, affected water body, and a vicinity map, preferably a reproduction of the appropriate portion of the United States Geological Survey quadrangle map.

(5)

A detailed statement describing the proposed activity and how it affects the waters of the county.

(6)

A detailed statement describing the upland land use and activities (i.e., commercial marina, multiuse, condominium, restaurant, private single-family, etc.).

(7)

An aerial photo of the area showing the location of the property therein.

(8)

Satisfactory evidence of title or extent of interest of the applicant to the riparian upland ownership or submerged ownership with a copy of the trustee's deed in chain of title.

(9)

A copy of the state department of environmental protection permit application, where possible.

(10)

A copy of the Southwest Florida Water Management District permit application, where applicable.

(11)

A copy of the U.S. Army Corps of Engineers permit application, where applicable.

(12)

A copy of the state department of transportation authorization or permit, where applicable.

(13)

An affidavit attesting to the dates any existing structures were built, and a copy of any prior authorization or permit for the structure or excavation, if applicable.

(14)

Permit sketches, signed and sealed by a state registered professional engineer, as follows:

a.

Four copies of black and white drawings of the proposed project drawn to an appropriate scale (from 1:10 to 1:60, lettering to be 0.10 inch high or greater).

b.

The drawings must clearly show the following:

1.

Name of waterway.

2.

North arrow and graphic scale.

3.

Existing shoreline, limits of the waters of the county, and the mean high water line (or ordinary high water) based on NGVD.

4.

Sufficient water depths in the affected areas.

5.

Proposed dredge and/or fill areas with proper dimensions (cross sections and profiles are required in addition to plan view).

6.

Locations of existing structures and reference points.

7.

Location and plan of spoil site, if applicable, along with detail of site.

8.

Linear footage of riparian shoreline.

9.

Cubic yardage of material, removed or placed within, and landward of, the waters of the county.

10.

All drawings and legal descriptions pertaining to proof of ownership submitted as part of an application for a permit from the county must contain the required signature and seal of a registered professional land surveyor in accordance with F.S. § 472.031(1).

(15)

Legal description of dredge and/or fill and spoil areas.

(16)

Any other information necessary to meet the criteria of this article.

(17)

Proper fee as determined by the board.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-358. - Same—Permitting criteria.

The county shall use the criteria as contained in sections 166-281(b) and 166-284 in the issuance of dredge and fill permits. If any of the nine questions are answered in the affirmative, the application shall be denied or modified.

The county shall also consider, in its review of dredge and fill permit applications, the following five criteria. A minimum of one affirmative response is required.

(1)

Is the dredging and/or filling connected with a public navigation or transportation project?

(2)

Is the dredging and/or filling necessary for erosion control or the protection of upland riparian property?

(3)

Is the dredging and/or filling necessary to improve ingress and egress with respect to upland riparian property?

(4)

Will such filling be accomplished by the use of material brought in from sources other than from the dredging of lands regulated by the county?

(5)

Is dredging and/or filling necessary to enhance the quality or utility of the submerged lands or the public

health, safety and welfare generally?

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-359. - Seawalls—Placement restrictions.

Placement of seawalls shall be governed by the following restrictions:

(1)

New seawalls placed within the waters of the county shall require a dredge and fill permit from the county. The construction permit for the seawall shall be obtained from the local government.

(2)

Existing seawalls may be repaired or replaced without a dredge and fill permit from the county. Replacement seawalls can be placed no further than one foot in front of the face of an existing seawall. The construction permit for the replacement or repair of a seawall shall be obtained from the local government.

(3)

Seawalls shall not be placed upon a shoreline which generally supports wetland vegetation. Exceptions may be authorized by the county where the project site lies between two existing seawalls, where the length of the new seawall is less than 100 feet, and where the project qualifies for an administrative permit.

(4)

The county may require the installation of riprap at the base of new seawalls, replacement seawalls, or where more than 25 percent of the face of the seawall is to be repaired.

(5)

Riprap shall be utilized in lieu of seawalls, where possible, as a protection to existing upland properties. All riprap must consist of clean concrete or natural rock and must generally range in size from six inches to three feet in diameter. Riprap is to be placed on a slope no steeper than two to one (horizontal to vertical).

(6)

The use of seawalls or riprap to increase the usable upland area of properties shall not be allowed, the provisions of subsection (3) of this section notwithstanding.

(7)

Stabilization by the use of vegetation shall be required in lieu of shoreline hardening wherever possible.

(8)

It shall be the burden of the applicant to show that the vegetative option of shoreline stabilization is not viable.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-360. - Same—Permit application information.

All criteria in sections 166-327, 166-357 and 166-359 shall apply to applications for a seawall permit.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-361. - Same—Placement criteria.

The criteria for placement of seawalls shall be the same as those found in sections 166-281(b) and 166-284. In addition, no seawall shall be approved unless it is proven by the applicant that no other alternative is reasonable.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-362. - Same—Design criteria.

All seawalls, bulkheads, and retaining walls constructed or altered, projected or prolonged, on or adjacent to waters of the county, other than those of the Gulf of Mexico, shall be of concrete, aluminum, or wood construction in compliance with the following minimum standards:

(1)

Concrete seawalls.

a.

All seawalls, retaining walls and bulkheads may be of concrete, utilizing the tongue and groove, or other approved method of sheet pile-type construction, with poured-in-place concrete cap and tieback anchors. The concrete shall have a minimum test strength of 3,500 psi at 28 days, and all reinforcing steel shall be covered with a minimum of two inches concrete.

b.

The concrete sheet piling shall have a minimum thickness of 55/8 inches and contain vertical steel reinforcement equivalent in cross-sectional area to one no. 4 deformed reinforcing bar spaced at eight inches on-center. Each slab shall have two no. 4 steel hairpins extending into the cap a minimum of three inches.

c.

The poured-in-place concrete cap shall not be less than 9½ inches in thickness, nor less than 16 inches in width.

d.

The cap shall contain continuous horizontal steel reinforcement equivalent in cross-sectional area to four no. 4 deformed reinforcing bars. All splices shall be lapped not less than 40 diameters; provided, however, that the steel shall not be continuous through expansion joints. Expansion joints shall normally be provided every 40 feet.

e.

All tieback rods shall be steel and have a cross-sectional area equal to, or greater than, a no. 8 reinforcing bar. All such rods shall be spaced not more than ten feet on-center and shall have two or more coats of an approved protection material. The length of all tie rods shall be equal to, or greater than, two times the height of the seawall slab projecting above the ground line. In no case shall the tie rods be of shorter length than 12 feet.

f.

All anchors shall be poured-in-place concrete, containing not less than 4.5 cubic feet of concrete, and have not less than 4.5 square feet of vertical surface perpendicular to the alignment of the tie rod. Each anchor shall contain vertical and horizontal steel reinforcement equivalent in cross-sectional area to two no. 4 deformed reinforcing bars per square foot, in each direction.

g.

The penetration of each seawall slab into firm ground shall be equal to 0.67 times the height of the wall above the ground line, or 0.4 times the total length of the slab, whichever is greater. In no case shall the seawall slab be of shorter length than eight feet.

h.

The elevation for all seawalls, bulkheads and retaining walls fronting on the bay shall be equal to or greater than elevation 5.0 feet USCGS datum mean sea level.

(2)

Aluminum seawalls.

a.

Aluminum seawalls shall not have an exposed height of more than five feet.

b.

Sheet piles shall be fabricated from aluminum alloy 6061-T6, conforming to ASTM designation B209 alloy 6061-T6 for chemical composition; also having a minimum thickness of 0.125 inch and minimum tensile strength of 35,500 psi. Corrugations shall have nominal nine-inch pitch, and nominal 2.5-inch depth. The penetration into firm ground shall be equal to 0.67 times the height of the wall above the ground line, or 0.4 times the total length of the sheet, whichever is greater. In no case shall the total sheet be less than six feet in length. Where sheet lengths required are more than 8.5 feet, and when soil conditions, surcharges and other factors exceed the scope of these standard specifications, a special design shall be submitted, signed and sealed by a state registered professional engineer.

c.

Cap and joint extrusion shall be fabricated from aluminum alloy 6063-T6, conforming to ASTM designation B221 alloy 6063 for chemical composition; and shall have a minimum thickness of 0.15 inch and a minimum tensile strength of 30,000 psi. The cap shall be a minimum of six inches wide and 5.75 inches deep.

d.

Anchor rods and deadman anchor plates shall be fabricated from aluminum alloy 6061-T6, conforming to ASTM designation B221 alloy 6061 for chemical composition; and shall have a minimum thickness of anchor plates of 0.10 inch and minimum tensile strength of 38,000 psi. The anchor plates shall not be less than 1.5 by 2.5 feet equipment with a three-inch by 2.25-inch backing channel 0.25-inch thick and 1.5 feet long. Anchor plates shall be placed with the top at least two feet below the elevation of the wall cap. The anchor rods shall be not less than 0.75 inch in diameter and equipped with a rod sleeve, nut and curved washer where it passes through the cap. Anchor rods shall be installed continuously along the wall at a maximum spacing of 6.5 feet. The normal length shall be 12 feet. One tieback system shall be constructed at each end of the wall, and thereafter one tieback system shall be constructed six feet six inches on-center throughout. All tie rods shall be pretensioned after placement of backfill around anchor plates, but before final backfill of sheeting. Such pretensioning shall not tend to move the sheets or anchors. Tie rods shall be placed in the coping so that the anchor pull brings the coping in direct contact with a bayside corrugation of the wall sheeting.

e.

Surcharge from fill behind the wall shall be controlled by limiting the slope to a maximum of ten degrees, and prohibiting objects other than landscaping to be located closer than five feet from the wall cap. The minimum standards described above assume sandy soil with an angle of repose of 30 degrees for soil against the wall. They also assume that the environment is not highly alkaline or acidic. If conditions require a design in excess of the limitations specified in this subsection, the wall shall be of concrete construction in accordance with subsection (1) of this section.

f.

If the aluminum material is brought in contact with mortar or concrete, a coating of clear methacrylate lacquer shall be applied to the aluminum contact surface to prevent corrosion. There shall be no dissimilar metals or metal systems bonded to the wall.

(3)

Wooden seawalls.

a.

All wood shall be rough cut Southern pine pressure treated with a minimum retention and distribution of solid preservative chromated copper arsenate (CCA); salt water 2.5 CCA Round piles will be a minimum of nine inches in diameter or square posts six inches by six inches, minimum. Boards used must be two inches by eight inches minimum, rough cut Southern pine, pressure treated. The wall must penetrate the ground by 50 percent of its total length. Piles or posts are to be placed eight feet on-center. All steel used must be hot-dipped galvanized. A single tieback rod shall be installed at every post or pile through the wall whalers and piles or posts with the connection being through a three-inch by three-inch by one-fourth-inch hot-dipped galvanized steel plate and bolted. A single two-inch by eight-inch board will be used as a cap. A strip of tarpaper is to be installed underneath the capboard. Filter fabric material will be placed vertically between the back of the wall and soil or backfill.

b.

All tieback rods shall be hot-dipped galvanized or epoxy-coated PVC encased steel and have a cross-sectional area equal to, or greater than, a no. 8 reinforcing bar. All such rods shall be spaced on eight-foot

centers. The ends shall be threaded. They must pass through the wall, whaler and piling or post and fastened with a three-inch by three-inch by one-fourth-inch hot-dipped galvanized steel plate and bolted three inches below the top of the piling or post.

c.

All anchors shall be poured-in-place concrete, three feet eight inches by 12 inches by 18 inches, containing not less than 4.5 cubic feet of concrete, and have not less than 4.5 square feet of vertical surface perpendicular to the alignment of the tie rod. Each anchor shall contain vertical and horizontal steel reinforcement equivalent in cross-sectional area to two no. 4 deformed reinforcing bars per square foot in each direction. All steel reinforcement shall be epoxy coated.

d.

Southem pine piles conforming in physical quality to American Society for Testing and Materials specifications D 25-55, which have been treated in conformance with American Wood Preservers Association Standard C-3 with chromated copper arsenate type A, B, or C, in accordance with American Wood Preservers Association Standard P-5, and which have minimum butt size of nine inches diameter and tip sizes of six inches diameter. When Southern pine piles treated with chromated copper arsenate type A, B, or C are used, analysis by assay extraction in accordance with American Wood Preservers Association Standard A-2 may be required to show a minimum retention and distribution of solid preservative of 2.5 p.c.f. in the zone zero to 1.5 inches from the surface and 1.5 p.c.f. in the zone 1.5 inches to 2.0 inches from the surface.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-363. - Same—Fronting the Gulf of Mexico.

All seawalls, bulkheads or retaining walls constructed, altered, projected or prolonged on the Gulf of Mexico shall be of masonry construction in compliance with the following minimum standards:

(1)

All seawalls and bulkheads shall be of concrete, utilizing the tongue and groove, or other approved method of sheet pile type construction with poured-in-place concrete cap and tieback anchors. The concrete shall have a minimum test strength of 3,500 psi at 28 days, and all reinforcing steel shall be covered with a minimum of 2½ inches of concrete.

(2)

The concrete sheet piling shall have a minimum thickness of 7½ inches and contain vertical steel reinforcement equivalent in cross-sectional area to no. 6 deformed reinforcing bars spaced at six inches on-center. Each slab shall have two no. 6 steel hairpins extending into the cap a minimum of three inches. All reinforcing steel shall be epoxy coated.

(3)

The poured-in-place concrete cap shall not be less than 12 inches in thickness, nor less than 18 inches in width.

(4)

The cap shall contain continuous horizontal steel reinforcement equivalent in cross-sectional area to four no. 5 deformed epoxy-coated reinforcing bars. All splices shall be lapped not less than 40 diameters; provided, however, that the steel shall not be continuous through expansion joints. The cap shall also contain not less than four no. 2 stirrups that encircle the horizontal steel, spaced equally, 12 inches on centers. Expansion joints shall normally be provided every 40 feet.

(5)

All tieback rods shall be steel and have a cross-sectional area equal to, or greater than, a no. 9 reinforcing bar. All such rods shall be spaced not more than ten feet on-center and shall be encased in concrete with a minimum coverage of three inches. The length of all tie rods shall be equal to, or greater than, two times the height of seawall slab projecting above the ground line. In no case shall the tie rods be of shorter length than 16 feet.

(6)

Tieback anchors shall be poured-in-place concrete, containing not less than 7.5 cubic feet of concrete, and have not less than 7.5 square feet of vertical surface perpendicular to the alignment of the tie rod. Each anchor shall contain horizontal steel reinforcement equivalent in cross-sectional area to four no. 4 deformed epoxy-coated reinforcing bars and be provided with no. 2 steel stirrups, 12 inches on centers.

(7)

The penetration of each seawall slab into firm ground shall be equal to, or greater than, 0.5 times the total length of the slab. In no case shall the seawall slab be of shorter length than 12 feet.

(8)

The elevation for all seawalls, bulkheads and retaining walls fronting on the Gulf of Mexico shall be equal to, or greater than, elevation 6.0 feet USCGS datum mean sea level.

(Ord. No. 11-12, § 2, 4-26-11)

Sec. 166-364. - Standards for seawall construction.

(a)

The Standard Specifications of the Florida State Department for Road and Bridge Construction, dated edition of 1986, or latest revision or superseding publication, shall govern seawall construction, covering materials and workmanship where applicable.

(b)

The minimum standards in the seawall design criteria assume sandy soil with an angle of repose of 30 degrees for soil against the wall.

(c)

No tiebacks shall be cut or removed in connection with the construction of facilities other than seawalls, or otherwise, without making provisions in some manner to secure the stability of the installation, and such plans shall be approved by the building director prior to the cutting or removing of any tiebacks.

(Ord. No. 11-12, § 2, 4-26-11)

Secs. 166-365—166-390. - Reserved.

Sec. 166-391. - Petitions for specific dredging improvements.

(a)

Following the approval of the appropriate local government, petitions may be accepted for specific dredging improvements. The entire cost of the dredging provided for under this section shall be assessed against the properties specially benefited by such improvements. Such assessments shall be directly proportionate to the benefits of the property. The county is given all necessary authority to promulgate rules and regulations relating to the establishment of criteria in determining allocation of costs against property specially benefited and the establishment of procedures relating to the preparation, confirmation and filing of assessment rolls, including the methods of payment of such assessments.

(b)

By a written petition, the owners of 60 percent of the waterfront footage of the real estate described in said petition as contiguous and bounding or abutting upon the proposed waterway improvement project area may request the county to make such improvements to said waterway. The petition shall also request the county to assess the entire cost of such improvements, or such portion thereof as the board may designate, against the abutting property owners specially benefited thereby. The county, upon finding that the petition is sufficient in form, substance and execution, may be resolution order the improvement to be made and may assess against the property specially benefited by such improvement that portion of the cost which the county has designated.

(c)

The special improvement projects provided for under this section may be initiated by the board at any time without the filing of a petition by affected landowners following review and comment by the appropriate local government. Such action shall be evidenced by a resolution ordering the dredging project. The resolution shall state the nature and location of the improvement together with that portion of the cost thereof to be assessed against the benefited property and that portion, if any, to be paid by the county.

(d)

If the improvements be ordered, the county shall prepare plans, specifications and an estimate of the cost of constructing the improvements together with an estimate of incidental expenses, including preliminary and other surveys, inspections and superintendence of work, preparation of plans, specifications and estimates, printing and publishing of notices and proceedings, authorization of bonds, interest during the period of construction, legal services, engineering and fiscal fees, abstracts and any other expenses necessary or proper in connection therewith.

(e)

Before taking action on any petition filed hereunder, the county may require deposits sufficient to cover all incidental expenses, which shall be used to reimburse the county for all incidental expenses incurred, regardless of whether the improvements are made. If any money remains on deposit after such incidental expenses have been paid, it shall be refunded on a pro rata basis.

(Ord. No. 11-12, § 2, 4-26-11)

Secs. 166-392—166-420. - Reserved.

ARTICLE VI. - SURFACE WATER MANAGEMENT

DIVISION 1. - GENERALLY

Sec. 166-421. - Definitions.

When used in this ordinance, the following terms shall have the following meanings, unless the context clearly requires otherwise:

Annual surface water rate resolution means the resolution described in section 166-506 hereof, approving a surface water roll for a specific fiscal year.

Assessed property means all parcels of real property included on the surface water roll that receive a benefit from the surface water improvements and surface water management services.

Board means the Board of County Commissioners of Pinellas County, Florida.

Capital cost means all or any portion of the expenses that are properly attributable to the acquisition, construction, design, installation, reconstruction, renewal or replacement (including demolition, environmental mitigation and relocation) of surface water improvements under generally accepted accounting principles and including reimbursement to the county for any moneys advanced for capital cost and interest on any interfund or intrafund loan for such purposes.

Clerk means the Clerk of the Circuit Court for Pinellas County, Florida or the ex-officio clerk of the board.

Comprehensive plan means the most recent version of the comprehensive plan adopted by the board pursuant to Chapter 163, Part II, Florida Statutes.

County means Pinellas County, Florida.

County administrator means the chief administrative officer of the county or such person's designee.

Developed property means property that has been developed with impervious or semi-impervious area including, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas and other surfaces which similarly impact the natural infiltration or runoff patterns which existed prior to development.

Drainage basin means a part of the earth's surface that contributes stormwater runoff to a drainage system, which consists of diffuse surface waters, together with all natural or artificial tributary surface streams and/or bodies of impounded surface water.

ERU means "equivalent residential unit," the standard unit used to express the stormwater burden expected to be generated by each parcel of property.

Final surface water rate resolution means the resolution described in section 16-505 hereof, which shall confirm, modify or repeal the initial surface water rate resolution and which shall be the final proceeding for the imposition of the initial surface water assessment and surface water fee.

Fiscal year means the period commencing on October 1 of each year and continuing through the next

succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the county.

Government property means property owned by the United States of America, the State of Florida, a county, a special district, a municipal corporation, or any of their respective agencies or political subdivisions.

Initial surface water rate resolution means the resolution described in section 166-501 hereof, which shall be the initial proceeding for the imposition of the surface water assessment and surface water fee.

Maximum rate means the maximum rate of the assessment or fee established by the final surface water rate resolution or any subsequent annual surface water rate resolution.

Mitigation credit means a credit applied to a surface water assessment or surface water fee for a developed property in consideration of the on-site management of the stormwater burden as a consequence of the location of a mitigation facility or in consideration of discharge to a private stormwater system or for the conveyance and/or treatment of stormwater or as otherwise required by law.

Mitigation facility means a manmade facility or structure on the site of a developed property which, by its design and function, retains or detains stormwater on-site and thus generates less volume of stormwater from the site or produces stormwater runoff at a lower rate and/or with less pollutants than would be the case in the absence of such facilities or structure.

Obligations mean a series of bonds or other evidence of indebtedness including but not limited to, notes, commercial paper, capital leases or any other obligations of the county issued or incurred to finance any portion of the capital cost of a surface water improvement and secured, in whole or in part, by proceeds of the surface water improvement assessments or surface water fee.

Ordinance means this surface water utility ordinance as amended from time to time.

Pledged revenue means, as to any series of obligations, (A) the proceeds of such obligations, including investment earnings, (B) proceeds of the surface water improvement assessments and surface water fees pledged to secure the payment of such obligations, and (C) any other legally available non-ad valorem revenue pledged to secure the payment of such obligations, as specified by the resolution authorizing such obligations.

Preliminary surface water rate resolution means the resolution described in section 166-506 hereof initiating the annual process for updating the annual surface water roll and directing the reimposition of surface water assessments and surface water fees.

Project cost means (A) the capital cost of a surface water improvement, (B) the transaction cost associated with the obligations to finance the surface water improvement, (C) interest accruing on such obligations for such period of time as the board deems appropriate, (D) the debt service reserve fund or account, if any, established for the obligations which financed the surface water improvement, and (E) any other costs or expenses related thereto.

Property appraiser means the Pinellas County Property Appraiser.

Stormwater means any surface runoff and drainage of water from land surfaces, including the surfaces of buildings and other hardened surfaces on the land.

Surface water means waters on the surface of the Earth, contained in bounds created naturally or artificially,

including the Gulf of Mexico, bays, bayous, sounds, estuaries, lagoons, lakes, ponds, impoundments, rivers, streams, springs, creeks, branches, sloughs, tributaries, and other watercourses.

Surface water assessment means either a surface water improvement assessment, a surface water service assessment, or both.

Surface water fee means a fee reasonably related to service provided by the county to government property to fund all or any portion of the surface water service cost for government property at a just, fair, reasonable, and equitable rate based upon such property's stormwater burden, the reasonable relationship to benefits received, and the reasonable cost of providing surface water management services or surface water improvements to such property. The surface water fee imposed against government property is not a special assessment; it is a regulatory fee imposed for the surface water management service provided to government property as developed property by the county's surface water utility.

Surface water improvement means land, capital facilities and improvements acquired or provided to detain, retain, convey or treat stormwater and other surface waters within the county that have been impacted by stormwater from developed property.

Surface water improvement area means one or more drainage basins, or any portion or portions thereof, as identified in the initial surface water rate resolution or a subsequent preliminary surface water rate resolution, encompassing those parcels of property specially benefited by the construction, reconstruction or installation of all or any portion of a surface water improvement that removes, detains, retains or treats, in whole or in part, the stormwater burden expected to be generated by the physical characteristics and use of the assessed property. Each surface water improvement area will include either (A) the property which is hydrologically connected, directly or indirectly, to the surface water improvement, or (B) all property located within a hydrologically defined area in which the county constructs one or more surface water improvements pursuant to a watershed management plan to correct existing deficiencies with respect to a specific level of service and provide a consistent level of surface water management.

Surface water improvement assessment means a special assessment imposed by the board within a surface water improvement area to fund the capital cost or the debt service and related cost of obligations issued to finance the project cost of a surface water improvement.

Surface water management service means (A) management and administration of the county's surface water utility; (B) surface water program engineering; (C) drainage basin planning; (D) surface water improvements to be acquired or constructed within a reasonable time horizon without the issuance of any debt or borrowing; (E) operating and maintaining the county's capital facilities for surface water management, including extraordinary maintenance; (F) billing and collection of surface water assessments and surface water fees, including customer information and educational services and reserves for statutory discounts; and (G) legal, engineering and other consultant services.

Surface water master plan means a combination of policy documents adopted by the board which identifies the levels of service for water quality and quantity management in the county, based upon the criteria in the comprehensive plan and applicable state and federal law, and the methods for prioritizing expenditures within the county. The surface water master plan includes, but is not limited to, the surface water element of the comprehensive plan and the related provisions of the County Code.

Surface water roll means the property roll relating to surface water improvements or surface water management services approved by a final surface water rate resolution or an annual surface water rate

resolution pursuant to section 166-502 hereof.

Surface water service area means the geographic area described in the initial surface water rate resolution or a subsequent preliminary surface water rate resolution that encompasses all parcels within the county which specially benefit from the surface water management service.

Surface water service assessment means a special assessment imposed by the county within the surface water service area to fund the surface water service cost.

Surface water service cost means the estimated amount for any fiscal year of all expenditures and reasonable reserves that are properly attributable to the surface water management service provided within the surface water service area under generally accepted accounting principles, including, without limiting the generality of the foregoing, reimbursement to the county for any moneys advanced for the surface water management service, and interest on any interfund or intrafund loan for such purpose.

Surface water utility means the entity established by section 166-451 hereof to implement the surface water management program of the county.

Surface water utility coordinator means the county's surface water utility manager or such other person as designated by the county administrator.

Tax collector means the Pinellas County Tax Collector.

Tax roll means the real property ad valorem tax assessment roll maintained by the property appraiser for the purpose of the levy and collection of ad valorem taxes.

Transaction cost means the costs, fees and expenses incurred by the county in connection with the issuance and sale of any series of obligations, including but not limited to (A) rating agency and other financing fees; (B) the fees and disbursements of bond counsel; (C) the underwriters' discount; (D) the fees and disbursements of the county's financial advisor; (E) the costs of preparing or printing the obligations and the documentation supporting issuance of the obligations; (F) the fees payable in respect of any municipal bond insurance policy; and (G) any other costs of a similar nature incurred in connection with issuance of such obligations.

Uniform Assessment Collection Act means F.S. §§ 197.3632 and 197.3635, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

Watershed management plan means a plan that is developed by the county for each drainage basin or hydrologic subarea thereof in which surface water improvements are proposed and that provides for implementation of the surface water master plan.

(Ord. No. 13-14, § 1.01, 6-18-13)

Sec. 166-422. - Interpretation.

Unless the context indicates otherwise, words importing the singular number include the plural number and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this ordinance; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this ordinance. Words of any gender include the correlative words of the other genders, unless the context

indicates otherwise.

(Ord. No. 13-14, § 1.02, 6-18-13)

Sec. 166-423. - General findings.

It is hereby ascertained, determined, and declared that:

(a)

Pursuant to Article VIII, section 1(g), Florida Constitution, F.S. §§ 125.01 and 125.66, and the Pinellas County Charter, the county has all powers of local self-government to perform county functions and render county services except when prohibited by law, and such power may be exercised by the enactment of legislation in the form of county ordinances.

(b)

Pursuant to section 2.04(g) of the Pinellas County Home Rule Charter, the county has the special and necessary power to provide for the design, construction, and maintenance of major drainage systems in both the unincorporated and all incorporated areas of the county.

(c)

Florida Statutes, § 403.0893, specifically authorizes and encourages the county to provide surface water management services and create stormwater programs and adopt surface water charges sufficient to plan, construct, operate and maintain stormwater and surface water management systems.

(d)

The purpose of this ordinance is to (1) provide procedures and standards for the imposition of surface water assessments and surface water fees under the constitutional and statutory power of the county; (2) authorize a procedure for the funding of surface water management services, facilities, or programs providing special benefit and reasonably related to assessed property within the surface water service area; (3) authorize a procedure for the funding of surface water improvements providing special benefit and reasonably related to assessed property within a surface water improvement area; (4) legislatively determine the special benefit provided to assessed property from the surface water utility; and (5) provide procedures and standards to determine the fair, equitable, and reasonable charge for the surface water fees charged to government property to fund the regulation of surface water management services provided to such properties and surface water improvements serving such properties.

(e)

The Florida Legislature has mandated that local governments in the State of Florida, including the county, have the responsibility for developing mutually compatible stormwater management programs consistent with the rules and regulations of the Florida Department of Environmental Protection and the water management districts and the stormwater management programs established and maintained by other local governments.

(f)

The county is responsible for the management and maintenance of the county's surface water management

system which has been developed for the purpose of collection, storage, treatment, and conveyance of stormwater and the management and treatment of associated surface waters. The county has, pursuant to Chapter 163, Florida Statutes, adopted the Surface Water Management Element of the Pinellas County Comprehensive Plan which sets forth goals that make it necessary and essential to construct improvements and extensions to the existing stormwater system so the collection, storage, treatment, and conveyance of stormwater and associated surface waters within the county adequately protects the health, safety, and welfare of the citizens. The creation and maintenance of the surface water utility is designed to implement the surface water management element and other municipal, federal and state policies mandating stormwater management programs by local governments.

(g)

Through the National Pollutant Discharge Elimination System Stormwater permitting program, the U.S. Environmental Protection Agency, as implemented by the Florida Department of Environmental Protection, has mandated the county to implement and fund a comprehensive surface water management program to reduce the contamination to surface waters of stormwater runoff and prohibit illicit discharges.

(h)

The surface water assessments and surface water fees authorized herein are consistent with the authority granted in F.S. § 403.0893. That statutory provision is additional and supplemental authority to the constitutional and statutory power of self-government granted to the county.

(i)

The county maintains a system of stormwater and surface water management facilities, including but not limited to inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities, and other components as well as natural waterways. Those elements of the county stormwater and surface water management system that provide for the collection, storage, treatment, and conveyance of stormwater and the treatment and conveyance of associated surface waters are of benefit and provide services to all developed property within the county.

(j)

The public health, safety, and welfare are adversely affected by poor water quality and flooding resulting from inadequate stormwater and surface water management practices. All developed property either uses the stormwater management system or benefits from the provision and operation of the surface water management services.

(k)

The cost of operating and maintaining the stormwater and surface water management system and providing surface water management services in accordance with existing permits and the financing of existing and future repairs, replacements, improvements, and extensions thereof should, to the extent practicable, be allocated in relationship to the benefits enjoyed, services received, or burden caused therefrom.

(l)

Property owners within the county are eligible for flood insurance through the National Flood Insurance Program (NFIP), which enables these property owners to acquire federally backed flood insurance protection.

To ensure that this coverage is available, the county is required to meet the minimum FEMA requirements for participation in the NFIP and failure to meet these requirements could result in flood insurance being either unavailable or prohibitively expensive to property owners within the county.

(m)

New and dedicated funding for the stormwater and surface water management program of the county is needed to maintain compliance with state and federal requirements, for participation in the NFIP, and the levy of surface water assessments and surface water fees is the most equitable method of providing this funding.

(Ord. No. 13-14, § 1.03, 6-18-13)

Sec. 166-424. - Legislative determinations of special benefit and reasonable apportionment.

It is hereby ascertained and declared that the surface water utility, the surface water management services and the surface water improvements provide a special benefit to the assessed property based upon the following legislative determinations:

(1)

The surface water utility and the services and facilities provided thereby possess a logical relationship to the use and enjoyment of developed property by treating and controlling contaminated stormwater generated by improvements constructed on developed property.

(2)

Substantially all of the stormwater burden managed, controlled and treated by the surface water utility is generated by developed property and the amount of stormwater generated by property in its natural state that is managed, controlled and treated by the surface water utility is inconsequential.

(3)

The creation and maintenance of the surface water utility is designed to implement federal and state policies mandating stormwater and surface water management programs by the county and to ensure that county property owners can participate in the NFIP.

(4)

The special benefits provided by the surface water management services and surface water improvements to all developed property include, but are not limited to: (1) the provision of surface water management services and the availability and use of surface water improvements by the owners and occupants of developed property to properly and safely detain, retain, convey and treat stormwater discharged from developed property; (2) stabilization of or the increase of developed property values; (3) increased safety and better access to developed property; (4) rendering developed property more adaptable to a current or reasonably foreseeable new and higher use; (5) alleviation of the burdens caused by stormwater runoff and accumulation attendant with the use of developed property; and (6) fostering the enhancement of environmentally responsible use and enjoyment of the natural resources within the surface water service area and surface water improvement area.

(5)

The surface water fee as authorized to be calculated herein and charged to assessed property bears a reasonable relationship to the cost of providing surface water management services, including the stormwater generated by government property as developed property.

(Ord. No. 13-14, § 1.04, 6-18-13)

Secs. 166-425—166-450. - Reserved.

DIVISION 2. - SURFACE WATER UTILITY

Sec. 166-451. - Established.

There is hereby established a surface water utility, which shall be the operational means of implementing the surface water master plan and otherwise carrying out the functional requirements of the county's surface water management system, to construct, acquire, and maintain surface water improvements and provide surface water management services. The surface water utility shall provide administration and management services in the operation and maintenance of the county's capital facilities for stormwater and surface water management; the implementation of the county's comprehensive surface water management system; the preparation of watershed management plans and the implementation of the surface water utility; and the repair, replacement, improvement and extension, of the county's capital facilities for stormwater and surface water management. The surface water utility shall place emphasis on the achievement of maximum efficiency through identifying programs and funding sources which are complementary to other regional, state and federal programs. The surface water utility coordinator shall be responsible for administration of the surface water utility.

(Ord. No. 13-14, § 2.01, 6-18-13)

Sec. 166-452. - Surface water utility fund.

The board intends to fund the cost of providing services and capital facilities for surface water management through surface water assessments and surface water fees. The board has further concluded that periodic determination of revenues earned and expenses incurred in connection with the provision of services and capital facilities for surface water management will enhance accountability and management control of the county's surface water utility and will facilitate implementation of the board's funding policy for surface water management. Accordingly, there shall be established a surface water utility fund. From an accounting perspective, the surface water utility fund shall be established as a "special revenue fund." Proceeds of the surface water service assessment and surface water fees associated therewith shall be used for payment of the surface water service cost. Proceeds of the surface water improvement assessments and surface water fees associated therewith shall be used for payment of the capital cost of surface water improvements and the payment of debt service on obligations issued to finance surface water improvements.

(Ord. No. 13-14, § 2.02, 6-18-13)

Secs. 166-453—166-475. - Reserved.

DIVISION 3. - SURFACE WATER CHARGES

Sec. 166-476. - Surface water service charges.

(a)

The board is hereby authorized to impose surface water service assessments and surface water fees against

property located within a surface water service area, as subsequently created in an initial surface water rate resolution or preliminary surface water rate resolution.

(b)

The surface water service cost may be assessed against developed property located within a surface water service area at a rate based upon the benefit accruing to such property from the surface water management service provided by the county, measured by the number of ERUs attributable to each parcel or classification of property.

(c)

Notwithstanding the foregoing, if the board specifically determines that any portion of a surface water service area receives a distinct special benefit from any component of the surface water management service that is materially different in kind or degree from the special benefit received by other portions of a surface water service area, the surface water service cost related to such component shall be assessed against the portion of the surface water service area receiving the distinct special benefit.

(Ord. No. 13-14, § 3.01, 6-18-13)

Sec. 166-477. - Surface water improvement charges.

(a)

The board is hereby authorized to impose surface water improvement assessments and surface water fees against property located within a surface water improvement area, as subsequently created in an initial surface water rate resolution or preliminary surface water rate resolution, to fund all or any portion of the capital cost or the debt service and related cost of obligations issued to finance the project cost of a surface water improvement identified in any watershed management plan.

(b)

Surface water improvement assessments to fund the capital cost or the debt service and related cost of obligations issued to finance the project cost of each surface water improvement may be imposed against all parcels of property within a surface water improvement area at a rate based upon the benefit accruing to such property from the surface water improvement, measured by the number of ERUs attributable to each parcel or classification of property.

(c)

If surface water improvement assessments are imposed to fund the debt service and related cost of obligations issued to finance the project cost of a surface water improvement, the surface water improvement assessment may include the amount required to fund any amounts withdrawn during the prior fiscal year from any debt service reserve account established for obligations and the amount of any principal of and interest on obligations that has become due and remains unpaid.

(Ord. No. 13-14, § 3.02, 6-18-13)

Secs. 166-478—166-500. - Reserved.

DIVISION 4. - IMPLEMENTATION PROCEDURES

Sec. 166-501. - Initial surface water rate resolution.

(a)

The initial proceeding for imposition of a surface water assessment and surface water fee shall be the board's adoption of an initial surface water rate resolution.

(b)

The initial surface water rate resolution shall (1) describe the surface water improvement or surface water management service proposed for funding; (2) estimate the capital/project cost or surface water service cost; (3) describe with particularity the proposed method of apportioning the capital/project cost or surface water service cost among the parcels of property located within the surface water improvement area or surface water service area, as applicable, such that the owner of any parcel of property can objectively determine the amount of the charge; and (4) include specific legislative findings that recognize the equity provided by the apportionment methodology and specific legislative findings that recognize the special benefit provided by the surface water improvement or surface water management service.

(c)

At its option, the board may adopt separate initial surface water rate resolutions for the surface water service assessment and each surface water improvement assessment.

(Ord. No. 13-14, § 4.01, 6-18-13)

Sec. 166-502. - Surface water roll.

(a)

The surface water utility coordinator shall prepare, or direct the preparation of, a preliminary surface water roll that contains the following information:

(1)

A summary description of each parcel of property (conforming to the description contained on the tax roll) subject to the surface water assessment or surface water fee;

(2)

The name of the owner of record of each parcel as shown on the tax roll, if available;

(3)

The number of ERUs attributable to each parcel;

(4)

The estimated maximum surface water improvement assessment to become due in any fiscal year for each ERU and each tax parcel;

(5)

The estimated maximum annual surface water service assessment to become due in any fiscal year for each ERU and each tax parcel; and

(6)

The estimated maximum surface water fee to become due in any fiscal year for each ERU and each tax parcel.

(b)

Copies of the initial surface water rate resolution and the preliminary surface water roll shall be on file in the office of the surface water utility coordinator and open to public inspection. The foregoing shall not be construed to require that the surface water roll be in printed form if the amount of the surface water assessment for each parcel of property can be determined by use of a computer terminal available for use by the public.

(c)

In the event a surface water fee is imposed against government property, the surface water utility coordinator shall prepare a separate surface water roll for government property in conformance with subsection (a) above.

(Ord. No. 13-14, § 4.02, 6-18-13)

Sec. 166-503. - Notice by publication.

(a)

Upon completion of the surface water roll, the surface water utility coordinator shall publish, or direct the publication of, once in a newspaper of general circulation within the county a notice stating that at a meeting of the board on a certain day and hour, not earlier than 20 calendar days from such publication, which meeting shall be a regular, adjourned, or special meeting, the board will hear objections of all interested persons to the final surface water rate resolution which shall establish the rate of assessment and approve the aforementioned surface water roll.

(b)

The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include (1) a geographic depiction of the property subject to the surface water assessment and surface water fee; (2) a brief and general description of the services, facilities, or programs to be provided; (3) the rate of assessment including a maximum rate in the event one was adopted in the initial surface water rate resolution; (4) the procedure for objecting provided in section 166-505 hereof; (5) the method by which the surface water assessment and surface water fee will be collected; and (6) a statement that the surface water roll is available for inspection at the office of the surface water utility coordinator and all interested persons may ascertain the amount to be assessed against a parcel of assessed property at the office of the surface water utility coordinator.

(Ord. No. 13-14, § 4.03, 6-18-13)

Sec. 166-504. - Notice by mail.

(a)

In addition to the published notice required by section 166-503, the surface water utility coordinator shall provide notice, or direct the provision of notice, of the proposed surface water assessment and surface water fee by first class mail to the owner of each parcel of property subject to the surface water assessment and surface water fee.

(b)

Such notice shall include (1) the purpose of the surface water assessment and surface water fee; (2) the rate to be levied against each parcel of property, including a maximum rate in the event one was adopted; (3) the number of ERUs applied to determine the surface water assessment and surface water fee; (4) the number of such ERUs contained in each parcel of property; (5) the total revenue to be collected by the county from the surface water assessment and surface water fee; (6) a statement that failure to pay the surface water assessment or surface water fee will cause a tax certificate to be issued against the property or foreclosure proceedings to be instituted, either of which may result in a loss of title to the property; (7) a statement that all affected owners have a right to appear at the hearing and to file written objections with the board within 20 days of the notice; and (8) the date, time, and place of the hearing.

(c)

The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Notice shall be mailed at least 20 calendar days prior to the hearing to each owner at such address as is shown on the tax roll, notice shall be deemed mailed upon delivery thereof to the possession of the United States Postal Service. The surface water utility coordinator may provide proof of such notice by affidavit. Failure of the owner to receive such notice due to mistake or inadvertence shall not affect the validity of the surface water roll nor release or discharge any obligation for payment of a surface water assessment or surface water fee imposed by the board pursuant to this article.

(Ord. No. 13-14, § 4.04, 6-18-13)

Sec. 166-505. - Adoption of final surface water rate resolution.

(a)

At the time named in such notice or to such time as an adjournment or continuance may be taken by the board, the board shall receive any written objections of interested persons and may then, or at any subsequent meeting of the board, adopt the final surface water rate resolution which shall (1) create any surface water improvement or service areas; (2) confirm, modify, or repeal the initial surface water rate resolution with such amendments, if any, as may be deemed appropriate by the board; (3) establish the maximum rate, if desired by the board and set the rate to be imposed in the upcoming fiscal year; (4) approve the initial surface water roll, with such amendments as it deems just and right; and (5) determine the method of collection.

(b)

The adoption of the final surface water rate resolution by the board shall constitute a legislative determination that all parcels assessed derive a special benefit from the services, facilities, or programs to be provided or constructed and a legislative determination that the surface water assessments and surface water fees are fairly and reasonably apportioned among the properties that receive the special benefit. All written objections to the final surface water rate resolution shall be filed with the surface water utility coordinator at or before

the time or adjourned time of such hearing. The final surface water rate resolution shall constitute the annual surface water rate resolution for the initial fiscal year in which surface water assessments and surface water fees are imposed or reimposed hereunder.

(Ord. No. 13-14, § 4.05, 6-18-13)

Sec. 166-506. - Annual adoption procedures.

(a)

Annually, during the budget adoption process, the board shall determine whether to reimpose a surface water assessment and surface water fee for each fiscal year following the initial fiscal year. If the board elects to reimpose a surface water assessment and surface water fee, the procedures in this section shall be followed.

(b)

The initial proceedings for the reimposition of an annual surface water assessment and surface water fee shall be the adoption of a preliminary rate resolution by the board (1) containing a brief and general description of the services, facilities, or programs to be provided; (2) determining the surface water service cost or capital/project cost to be assessed for the upcoming fiscal year; (3) establishing the estimated rate for the upcoming fiscal year; (4) establishing or increasing a maximum rate, if desired by the board; (5) authorizing the date, time, and place of a public hearing to receive and consider comments from the public and consider the adoption of the annual surface water rate resolution for the upcoming fiscal year; and (6) directing the surface water utility coordinator to (a) update the surface water roll, (b) provide notice by publication and first class mail to affected owners in the event circumstances described in subsection (f) of this section so require, and (c) directing and authorizing any supplemental or additional notice deemed proper, necessary or convenient by the county.

(c)

At the public hearing established in the preliminary surface water rate resolution or to which an adjournment or continuance may be taken by the board, the board shall receive any oral or written objections of interested persons and may then, or at any subsequent meeting of the board, adopt the annual surface water rate resolution, which shall (1) establish the rate to be imposed in the upcoming fiscal year and (2) approve the surface water roll for the upcoming fiscal year with such adjustments as the board deems just and right. The surface water roll shall be prepared in accordance with the method of apportionment set forth in the initial surface water rate resolution, or any subsequent preliminary surface water rate resolution, together with modifications, if any, that are provided and confirmed in the final surface water rate resolution or any subsequent annual surface water rate resolution.

(d)

Nothing herein shall preclude the board from providing annual notification to all owners of assessed property in the manner provided in sections 166-503 and 166-504 hereof or any other method as provided by law.

(e)

The board may establish or increase a maximum rate in an initial surface water rate resolution or preliminary surface water rate resolution and confirm such maximum rate in the annual surface water rate resolution in the event notice of such maximum rate has been included in the notices required by sections 166-503 and

166-504 hereof.

(f)

In the event (1) the proposed surface water assessment or surface water fee for any fiscal year exceeds the rates adopted by the board, including a maximum rate, if any, that were listed in the notices previously provided to the owners of assessed property pursuant to sections 166-503 and 166-504 hereof, (2) the purpose for which the surface water assessment or surface water fee is imposed or the use of the revenue from the surface water assessment or surface water fee is substantially changed from that represented by notice previously provided to the owners of assessed property pursuant to sections 166-503 and 166-504 hereof, (3) assessed property is reclassified or the method of apportionment is revised or altered resulting in an increased surface water assessment or surface water fee from that represented by notice previously provided to the owners of assessed property pursuant to sections 166-503 and 166-504 hereof, or (4) a surface water roll contains assessed property that was not included on the surface water roll approved for the prior fiscal year, notice shall be provided by publication and first class mail to the owners of such assessed property as provided by law. Such notice shall substantially conform with the notice requirements set forth in sections 166-503 and 166-504 hereof and inform the owner of the date, time, and place for the adoption of the annual surface water rate resolution. The failure of the owner to receive such notice due to mistake or inadvertence, shall not affect the validity of the surface water roll nor release or discharge any obligation for payment of a surface water assessment or surface water fee imposed by the board pursuant to this ordinance.

(g)

As to any assessed property not included on a surface water roll approved by the adoption of the final surface water rate resolution or a prior year's annual surface water rate resolution, the adoption of the succeeding annual surface water rate resolution shall be the final adjudication of the issues presented as to such assessed property (including, but not limited to, the determination of special benefit and fair apportionment to the assessed property, the method of apportionment and assessment, the rate, the establishment or increase of a maximum rate, the surface water roll, and the levy and lien of the surface water assessments and fees), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the board action on the annual surface water rate resolution. Nothing contained herein shall be construed or interpreted to affect the finality of any surface water assessment or surface water fee not challenged within the required 20-day period for those charges previously imposed against assessed property by the inclusion of the assessed property on a surface water roll approved in the final surface water rate resolution or any subsequent annual surface water rate resolution.

(h)

The surface water roll, as approved by the annual surface water rate resolution, shall be delivered to the tax collector as required by the Uniform Assessment Collection Act, or if the alternative method described in sections 166-562 or 166-564 hereof is used to collect the surface water assessments or surface water fees, such other official as the board by resolution shall designate. If the surface water assessment or surface water fee against any property shall be sustained, reduced, or abated by the court, an adjustment shall be made on the surface water roll.

(Ord. No. 13-14, § 4.06, 6-18-13)

Sec. 166-507. - Effect of surface water assessment resolutions.

The adoption of the final surface water rate resolution or annual surface water rate resolution shall be the final adjudication of the issues presented (including, but not limited to, the apportionment methodology, the rate, the adoption of the surface water roll and the levy and lien of the surface water assessments and surface water fees), unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of board adoption of the final surface water rate resolution. The surface water assessments and surface water fees for each fiscal year shall be established upon adoption of the annual surface water rate resolution. The surface water roll, as approved by the final surface water rate resolution or annual surface water rate resolution, shall be delivered to the tax collector, or such other official as the board, by resolution, deems appropriate.

(Ord. No. 13-14, § 4.07, 6-18-13)

Secs. 166-508—166-530. - Reserved.

DIVISION 5. - ADMINISTRATION

Sec. 166-531. - Lien of surface water assessments.

(a)

Upon adoption of the annual surface water rate resolution for each fiscal year, surface water assessments to be collected under the Uniform Assessment Collection Act shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, titles and claims, until paid. The lien shall be deemed perfected upon adoption by the board of the annual surface water rate resolution and shall attach to the property included on the surface water roll as of the prior January 1, the lien date for ad valorem taxes.

(b)

Upon adoption of the final surface water rate resolution, surface water assessments to be collected under the alternative method of collection provided in section 166-562 hereof shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, titles and claims, until paid. The lien shall be deemed perfected on the date notice thereof is recorded in the Official Records of Pinellas County, Florida.

(Ord. No. 13-14, § 5.01, 6-18-13)

Sec. 166-532. - Revisions to surface water charges.

If any surface water assessment or surface water fee made under the provisions of this ordinance is either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the board is satisfied that any such surface water assessment or surface water fee is so irregular or defective that the same cannot be enforced or collected, or if the board has failed to include any property on the surface water roll that should have been so included, the board may take all necessary steps to impose a new surface water assessment or surface water fee against any such property, following as nearly as may be practicable, the provisions of this ordinance and in case such second surface water assessment or surface water fee is annulled, the board may obtain and impose other surface water assessments or surface water fee until a valid surface water assessment or surface water fee is imposed.

(Ord. No. 13-14, § 5.02, 6-18-13)

Sec. 166-533. - Procedural irregularities.

Any irregularity in the proceedings in connection with the levy of any surface water assessment or surface water fee under the provisions of this ordinance shall not affect the validity of the same after the approval thereof, and any surface water assessment or surface water fee as finally approved shall be competent and sufficient evidence that such surface water assessment or surface water fee was duly levied, that the surface water assessment or surface water fee was duly made and adopted, and that all other proceedings adequate to such surface water assessment or surface water fee were duly had, taken and performed as required by this ordinance; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby. Notwithstanding the provisions of this section, any party objecting to a surface water assessment or surface water fee imposed pursuant to this ordinance must file an objection with a court of competent jurisdiction within the time periods prescribed in section 166-507 of this ordinance.

(Ord. No. 13-14, § 5.03, 6-18-13)

Sec. 166-534. - Correction of errors and omissions.

(a)

No act of error or omission on the part of the board, surface water utility coordinator, property appraiser, tax collector, clerk, or their respective deputies, employees or designees, shall operate to release or discharge any obligation for payment of any surface water assessment or surface water fee imposed by the board under the provisions of this ordinance.

(b)

The number of ERUs attributed to a parcel of property may be corrected at any time by the surface water utility coordinator. Any such correction which reduces a surface water assessment or surface water fee shall be considered valid from the date on which the surface water assessment or surface water fee was imposed and shall in no way affect the enforcement of the surface water assessment or surface water fee imposed under the provisions of this ordinance. Any such correction which increases a surface water assessment or surface water fee or imposes a surface water assessment or surface water fee on omitted property shall first require notice to the affected owner in the manner described in section 166-504 hereof, providing the date, time and place that the board will consider confirming the correction and offering the owner an opportunity to be heard.

(c)

After the surface water roll has been delivered to the tax collector in accordance with the Uniform Assessment Collection Act, any changes, modifications or corrections thereto shall be made in accordance with the procedures applicable to errors and insolvencies for ad valorem taxes.

(Ord. No. 13-14, § 5.04, 6-18-13)

Sec. 166-535. - Interim surface water charges.

(a)

An interim surface water assessment or surface water fee may be imposed against all property, for which a mobile home tie-down permit or building permit is issued after adoption of the annual surface water rate resolution. If imposed, the amount of the interim surface water assessment or surface water fee shall be calculated upon a monthly rate, which shall be one-twelfth of the annual rate for such property computed in accordance with the annual surface water rate resolution for the fiscal year for which the interim surface water assessment or surface water fee is being imposed. Such monthly rate shall be imposed for each partial and full calendar month remaining in the fiscal year. In addition to the monthly rate, the interim surface water assessment or surface water fee shall also include an estimate of the subsequent fiscal year's surface water assessment or surface water fee if the tax parcel will not be assessed as developed property on the tax roll for that year.

(b)

No mobile home tie-down permit or building permit shall be issued until full payment of the interim surface water assessment or surface water fee is received by the county if an interim charge is imposed. Issuance of the mobile home tie-down permit or building permit without the payment in full of the interim surface water assessment or surface water fee shall not relieve the owner of such property of the obligation of full payment. Any interim surface water assessment or surface water fee not collected prior to the issuance of the mobile home tie-down permit or building permit may be collected pursuant to the Uniform Assessment Collection Act as provided in section 166-561 of this ordinance or by any other method authorized by law.

(c)

If imposed, any interim surface water assessment shall be deemed due and payable on the date the mobile home tie-down permit or building permit was issued and shall constitute a lien against such property as of that date. Said lien shall be equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved and shall be deemed perfected upon the issuance of the mobile home tie-down permit or building permit.

(d)

In the event a building permit expires prior to the substantial commencement of the construction activities for which it was issued, and the applicant paid the interim surface water assessment or surface water fee at the time the building permit was issued, the applicant may within 90 days of the expiration of the building permit apply for a refund of the interim surface water assessment or surface water fee. Failure to timely apply for a refund of the interim surface water assessment or surface water fee shall waive any right to a refund.

(e)

The application for refund shall be filed with the surface water utility coordinator and contain the following:

(1)

The name and address of the applicant;

(2)

The location of the property and the tax parcel identification number for the property which was the subject of the building permit;

(3)

The date the interim surface water assessment or surface water fee was paid;

(4)

A copy of the receipt of payment for the interim surface water assessment or surface water fee; and

(5)

The date the building permit was issued and the date of expiration.

(f)

After verifying that the building permit has expired and that the construction has not been substantially commenced, the county shall refund the applicable portion of the interim surface water assessment or surface water fee paid.

(g)

A building permit which is subsequently issued for a building on the same property which was subject of a refund shall pay the interim surface water assessment or surface water fee as required by this section.

(Ord. No. 13-14, § 5.05, 6-18-13)

Sec. 166-536. - Authorization for exemptions and hardship assistance.

(a)

The board, in its sole discretion, shall determine whether to provide exemptions from payment of a surface water assessment or surface water fee for government property or property whose use is wholly or partially exempt from ad valorem taxation under Florida law.

(b)

The board, in its sole discretion, shall determine whether to provide a program of hardship assistance to county residents who are living below or close to the poverty level and are at risk of losing title to their homes as a result of the imposition of a surface water assessment or surface water fee.

(c)

The board shall designate the funds available to provide any exemptions or hardship assistance. The provision of an exemption or hardship assistance in any one year shall in no way establish a right or entitlement to such exemption or assistance in any subsequent year and the provision of funds in any year may be limited to the extent funds are available and appropriated by the board. Any funds designated for exemptions or hardship assistance shall be paid by the county from funds other than those generated by the surface water assessment or surface water fee.

(d)

Any shortfall in the expected surface water assessment or surface water fee proceeds due to any hardship

assistance or exemption from payment of the surface water assessments or surface water fees required by law or authorized by the board shall be supplemented by any legally available funds, or combination of such funds, and shall not be paid for by proceeds or funds derived from the charges. In the event a court of competent jurisdiction determines any exemption or reduction by the board is improper or otherwise adversely affects the validity of the surface water assessment or surface water fee imposed for any fiscal year, the sole and exclusive remedy shall be the imposition of an assessment or fee upon each affected property in the amount of the surface water assessment or surface water fee that would have been otherwise imposed save for such reduction or exemption afforded to such property by the board.

(Ord. No. 13-14, § 5.06, 6-18-13)

Secs. 166-537—166-560. - Reserved.

DIVISION 6. - COLLECTION

Sec. 166-561. - Method of collection of surface water assessments.

Unless directed otherwise by the board, surface water assessments shall be collected pursuant to the Uniform Assessment Collection Act, and the county shall comply with all applicable provisions thereof. Any hearing or notice required by this ordinance may be combined with any other hearing or notice required by the Uniform Assessment Collection Act.

(Ord. No. 13-14, § 6.01, 6-18-13)

Sec. 166-562. - Alternative method of collection of surface water assessments.

In lieu of using the Uniform Assessment Collection Act, the county may elect to collect the surface water assessment by any other method which is authorized by law or under an alternative collection method provided by this section.

(a)

The county shall provide surface water assessment bills by first class mail to the owner of each affected parcel of property, other than government property. The bill or accompanying explanatory material shall include (1) a brief explanation of the surface water assessment, (2) a description of the ERU calculation used to determine the amount of the assessment, (3) the number of ERUs attributed to the parcel, (4) the total amount of the parcel's surface water assessment for the appropriate period, (5) the location at which payment will be accepted, (6) the date on which the surface water assessment is due, and (7) a statement that the surface water assessment constitutes a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments.

(b)

A general notice of the lien resulting from imposition of the surface water assessments shall be recorded in the Official Records of Pinellas County, Florida. Nothing herein shall be construed to require that individual liens or releases be filed in the official records.

(c)

The county shall have the right to appoint or retain an agent to foreclose and collect all delinquent surface water assessments in the manner provided by law. A surface water assessment shall become delinquent if it is

not paid within 30 days from the date any installment is due. The county or its agent shall notify any property owner who is delinquent in payment of his or her surface water assessment within 60 days from the date the surface water assessment was due. Such notice shall state in effect that the county or its agent will initiate a foreclosure action and cause the foreclosure of such property subject to a delinquent surface water assessment in a method now or hereafter provided by law for foreclosure of mortgages on real estate, or otherwise as provided by law.

(d)

All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the county may be the purchaser to the same extent as an individual person or corporation. The county may join in one foreclosure action the collection of surface water assessments against any or all property assessed in accordance with the provisions hereof. All delinquent property owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the county and its agents, including reasonable attorney fees, in collection of such delinquent surface water assessments and any other costs incurred by the county as a result of such delinquent surface water assessments including, but not limited to, costs paid for draws on a credit facility and the same shall be collectible as a part of or in addition to, the costs of the action.

(e)

In lieu of foreclosure, any delinquent surface water assessment and the costs, fees and expenses attributable thereto, may be collected pursuant to the Uniform Assessment Collection Act; provided however, that (1) notice is provided to the owner in the manner required by law and this ordinance, and (2) any existing lien of record on the affected parcel for the delinquent surface water assessment is supplanted by the lien resulting from certification of the surface water roll to the tax collector.

(Ord. No. 13-14, § 6.02, 6-18-13)

Sec. 166-563. - Responsibility for enforcement.

The county and its agent, if any, shall maintain the duty to enforce the prompt collection of surface water assessments and surface water fees by the means provided herein. The duties related to collection of surface water assessments and surface water fees may be enforced at the suit of any holder of obligations in a court of competent jurisdiction by mandamus or other appropriate proceedings or actions.

(Ord. No. 13-14, § 6.03, 6-18-13)

Sec. 166-564. - Collection of surface water fees.

(a)

If surface water fees are imposed against government property, the county shall provide surface water fee bills by first class mail to the owner of each affected parcel of government property. The bill or accompanying explanatory material shall include (1) a brief explanation of the surface water fee, (2) a description of the ERUs used to determine the amount of the surface water fee, (3) the number of ERUs attributed to the parcel, (4) the total amount of the parcel's surface water fee for the appropriate period, (5) the location at which payment will be accepted, and (6) the date on which the surface water fee is due.

(b)

Surface water fees imposed against government property shall be due on the same date as all surface water assessments and, if applicable, shall be subject to the same discounts for early payment.

(c)

A surface water fee shall become delinquent if it is not paid within 30 days from the date any installment is due. The county shall notify the owner of any government property that is delinquent in payment of its surface water fee within 60 days from the date the surface water fee was due. Such notice shall state in effect that the county will initiate a mandamus or other appropriate judicial action to compel payment.

(d)

All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any mandamus or other action as described herein shall be included in any judgment or decree rendered therein. All delinquent owners of government property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the county, including reasonable attorney fees, in collection of such delinquent surface water fees and any other costs incurred by the county as a result of such delinquent surface water fees including, but not limited to, costs paid for draws on a credit facility and the same shall be collectible as a part of or in addition to, the costs of the action.

(e)

As an alternative to the foregoing, a surface water fee imposed against government property may be collected on the bill for any utility service provided to such government property. The board may contract for such billing services with any utility not owned by the county.

(Ord. No. 13-14, § 6.04, 6-18-13)

Secs. 166-565—166-590. - Reserved.

DIVISION 7. - GENERAL PROVISIONS

Sec. 166-591. - Applicability.

This ordinance and the county's authority to impose surface water assessments and surface water fees pursuant hereto shall be effective in the unincorporated areas of the county.

(Ord. No. 13-14, § 7.01, 6-18-13)

Sec. 166-592. - Alternative method.

This ordinance shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence.

(Ord. No. 13-14, § 7.02, 6-18-13)

Sec. 166-593. - Severability.

The provisions of this ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this ordinance shall not be affected thereby.

(Ord. No. 13-14, § 7.03, 6-18-13)

Chapter 170 - MISCELLANEOUS PROVISIONS[1]
Footnotes:
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Charter reference— General powers of county, § 2.01.

State Law reference— General powers of chartered counties, Fla. Const. art. VIII, § 1(g).

ARTICLE I. - IN GENERAL

Sec. 170-1. - Full disclosure of ownership of property to be rezoned, of contract for sale, of options to purchase; continuation of zoning hearings; penalty.

(a)

Definitions. For the purpose of this section, certain terms are defined as follows:

Applicant means any person seeking by application the rezoning of real property lying within the boundaries of the county.

Authority means the board of county commissioners or the appropriate board or commission within a municipality having the power or responsibility for zoning or rezoning property within its respective jurisdiction.

(b)

Full disclosure of ownership of property sought to be rezoned. No authority shall rezone nor shall it consider an application for rezoning of real property within its jurisdiction until such time as the applicant therefor has fully disclosed all persons having any ownership interests in the property sought by application to be rezoned and whether such ownership interests are contingent or absolute.

(c)

Full disclosure of contracts for sale. No authority shall rezone nor shall it consider an application for rezoning of real property within its jurisdiction until such time as the applicant therefor has fully disclosed whether or not there exists at the time of rezoning any contract for sale on such property and if so the names of all parties to such contract and whether such contract is conditional or absolute.

(d)

Full disclosure of options to purchase. No authority shall rezone nor shall it consider an application for rezoning of real property within its jurisdiction until such time as the applicant therefor has fully disclosed whether or not there exists at the time of rezoning any options to purchase on such property and if so the

names of all parties to such contract.

(e)

Continuation of zoning hearings. Any scheduled and advertised public hearing for the zoning or rezoning of real property shall be held on the date advertised. Those persons present to give testimony shall be allowed to give that testimony and the testimony shall be recorded in the public record. The board or authority holding such public hearing shall determine by majority vote whether an overriding public good will be served by the continuance of a final decision on the matter being considered. If such determination is affirmatively made, a continuance for a specific period of time may be granted and the public hearing shall be completed on the date certain stated at the time such continuation is granted.

(f)

Penalty. Violations of this section are punishable as provided in section 134-8.

(g)

Areas embraced. All territory within the legal boundaries of the county, including all incorporated and unincorporated areas, shall be embraced by the provisions of this section unless specifically deleted by municipal ordinance.

(Ord. No. 74-15, §§ 1—6, 8, 11-19-74)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Cross reference— Change of zoning boundaries or classifications, § 138-76 et seq.

Sec. 170-2. - Notification of school board prerequisite to approval of plats, development site plans and requests for zoning changes pertaining to residential zoning of five or more acres.

Whenever a plat, development site plan, or request for a zoning change pertaining to residential zoning involving a tract of land of five or more acres is submitted to a municipality or county government for approval, said municipality or county government shall mail or deliver a copy thereof to the district school board. Within 15 days after receiving the copy of any one of the above proposals, the district school board shall notify the municipality or county government of its reaction to said proposal. No plat, development site plan, or request for zoning change pertaining to residential zoning involving a tract of land of five or more acres contemplated by this section shall be approved until said 15-day period has elapsed.

(Laws of Fla. ch. 74-590, § 1)

Editor's note— The act contained in the above section retains its status as a special act. See charter § 5.02. The source of the section is stated in the history note following the section. Unless stated otherwise, the presence of more than one act in a history note indicates that the section is derived from the first listed act as amended by the other acts listed in the history note. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes and session laws, and expression of numbers in text has been used. The catchline has been added or adjusted as necessary to accurately reflect the contents of the sections. Textual references to other sections of the same act or to other acts found in this Code are altered so as to reference this Code. The internal numbering or lettering scheme within sections has been made consistent with the scheme used in this

Code; however, deleted paragraphs are reserved to maintain sequence. Sections providing for legal status (i.e., severability sections, repealers and effective dates) have been deleted. Additions for clarity are indicated by brackets.

Cross reference— Change of zoning boundaries or classifications, § 138-76 et seq.; site development and platting, ch. 154.

Sec. 170-3. - Showing sidewalks on site plans.

(a)

Requirement that public sidewalks be shown on site plans submitted to the county for site plan approval. All preliminary or final site plans submitted for review shall be required to show public sidewalks on or adjacent to all public streets. The minimum standards for construction and location of the sidewalks will be defined in the subdivision regulations for the county which are extant at the time of site plan approval. The director of public works may approve the location of sidewalks within an easement for sidewalks adjacent to street rights-of-way if there are physical impediments to location within the street right-of-way.

(b)

Requirement that sidewalks as shown on the approved site plan be constructed. A certificate of occupancy will not be granted for any building included on an approved site plan until after completion of the construction of the sidewalks shown on the site plan.

(c)

Exception to the terms of this section. The county administrator shall have the ability to grant a waiver to the requirement of this section that sidewalks be constructed.

(d)

Areas embraced. All territory within the legal boundaries of the county, excluding all incorporated areas, shall be embraced by the provisions of this section.

(Ord. No. 80-18, §§ 1—4, 5-20-80)

Sec. 170-4. - Identification of residential and nonresidential structures.

(a)

Definitions. For the purpose of this section, the following terms shall have the meanings given in this subsection. The word "shall" is always mandatory and not merely directory.

Nonresidential structure means any structure used primarily for nonresidential purposes and includes businesses, stores, commercial structures, industrial structures, schools, churches and government buildings.

Residential structure means any structure used primarily for residential purposes and includes houses, apartments, condominiums and mobile homes.

Strip store means two or more business or commercial structures with adjoining walls that have rear doors or exits.

(b)

Residential structure requirements. All owners of residential structures shall conspicuously display on the front of such structure the proper address number of the property. All such numbers shall be at least three inches in height. Apartments, condominiums and other residential structures with multiple units shall only be required to display their particular unit numbers on or near their door in the same manner.

(c)

Nonresidential structure requirements. All owners of nonresidential structures shall conspicuously display on the front of such structure the proper address number of that property. In addition, all owners of nonresidential structures with rear doors or exits shall conspicuously display on the rear of such structure the proper address number of that property. All such numbers shall be at least three inches in height. Multiple-unit structures within office centers, industrial parks, shopping plazas, and other nonresidential structures shall only be required to display their particular unit numbers on or near their front and rear doors in the same manner.

(d)

Strip store requirements. In addition to compliance with the provisions of subsection (c) of this section, all owners of strip store business structures having rear doors or exits shall conspicuously display on or near such rear door or exit the name of the business. All such names shall be at least three inches in height.

(Ord. No. 87-52, §§ 1—4, 8-4-87)

Cross reference— Building numbering, § 22-121 et seq.

Sec. 170-5. - Fraudulently obtaining building moratorium variance.

(a)

Any person, organization, society, association, corporation and/or any agent or representative thereof is hereby prohibited from making any false, fraudulent or deceitful statement or misrepresentation of facts to be included within any application, document, or evidence presented in an effort to obtain a hardship variance from any existing building moratorium, as filed with the appropriate agency.

(b)

Upon sworn affidavits being presented to the director of the building department of any violation of this section, such director shall immediately suspend any and all building permits and/or any certificate of occupancy on the structure(s) for which the permit was issued. Such sworn affidavits and all evidence shall then be forwarded to the state attorney of the sixth judicial circuit and other enforcement officers for prosecution. Upon final conviction of violating this section, such permit(s) previously suspended shall be permanently revoked by the building director. In the absence of conviction or prosecution such permits shall be reinstated.

(c)

All territory within the legal boundaries of the county, including all incorporated and unincorporated areas, shall be embraced by the provisions of this section.

(Ord. No. 73-10, §§ 1, 2, 4, 10-9-73)

Charter reference— Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Cross reference— Buildings and building regulations, ch. 22.

Secs. 170-6—170-35. - Reserved.
ARTICLE II. - RESERVED

Secs. 170-36—170-100. - Reserved.
ARTICLE III. - RESERVED[2]

Footnotes:
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Editor's note—Ord. No. 15-21, § 2, adopted May 19, 2015, repealed Art. III, §§ 170-101—170-108, 170-131—170-133 and 170-156—170-179, which pertained to flood damage prevention. See the Code Comparative Table for complete derivation. See also Ch. 158 for provisions pertaining to flood damage prevention.

Secs. 170-101—170-190. - Reserved.
ARTICLE IV. - ACCESS MANAGEMENT SYSTEM FOR ARTERIAL AND COLLECTOR ROADS[3]
Footnotes:
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Cross reference— Roads and bridges, ch. 98.

State Law reference— State Highway System Access Management Act, F.S. § 385.18 et seq.

DIVISION 1. - GENERALLY

Sec. 170-191. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Access means any driveway or other point of access such as a street, road or highway that connects to the general street system. Where two public roadways intersect, the secondary roadway shall be considered the access.

Arterial roads means those streets and highways intended to serve moderate to large traffic volumes traveling relatively long distances. Requirements for speed and level of service are usually quite high. Access to arterials should be well controlled and, in general, limited to collector streets and highways. Arterials are used to surround neighborhoods and connect widely separated rural and suburban communities. The arterial system should form a continuous network designed for a free flow of through traffic.

Collector roads means roadways that are intended to serve as the connecting link for local streets and highways and to provide intra-neighborhood transportation. The traffic characteristics generally consist of

relatively short trip lengths, moderate speeds and volumes. Access to collectors should be restricted to local streets and highways and major traffic generators. Collectors should penetrate neighborhoods without forming a continuous network, thus discouraging through traffic which is better served by arterials. The collector system is discontinuous and unevenly distributed throughout the planning area. It is primarily a residentially oriented system which filters traffic from local streets before their capacity is exceeded and conducts it to arterial facilities or local generators such as shopping centers, schools or community centers.

County means Pinellas County, including both incorporated and unincorporated areas.

County administrator means the county administrator or his designee.

Facilities means "road," as defined by F.S. ch. 334, as well as pipelines and appurtenances for water, sewer and storm sewer.

Installation means any permanent equipment, facility, barrier, sign, pavement, driveway (including related drainage), refuse container, or other structure that is placed within, on, under, or over the right-of-way, other than utilities.

Local roads means all roadway facilities not on one of the higher systems. They serve primarily to provide direct access to abutting land and access to the higher order systems. Local streets offer the lowest level of mobility and usually contain no bus routes. Service to through traffic movement is usually discouraged.

Permittee means the owner of the adjacent real estate to the installation. He may be represented by an authorized agent.

Person means any individual, corporation, or other legal entity, whether public or private, except only Pinellas County.

Right-of-way means lands owned or controlled by the county, whether in fee simple or easement, that are used for a street, road, drainage or other public purpose.

Right-of-way permit means the permit issued by the county for work to be performed within, on, above, or under the right-of-way.

Surety means a surety bond, letter of credit or other acceptable guaranty as the board of county commissioners shall determine adequate to guarantee completion or maintenance of all proposed improvements within the public right-of-way.

Utility means lines for the transmission of water, sewer, gas, electricity, telephone, television or similar services, whether underground or overhead.

(Ord. No. 90-13, § 4, 2-20-90; Ord. No. 92-68, §§ 4, 18, 10-27-92; Ord. No. 96-60, § 1, 7-16-96)

Cross reference— Definitions generally, § 134-2.

Sec. 170-192. - Penalty for violation of article.

Violations of this article are punishable as provided in section 134-8.

(Ord. No. 92-68, § 16, 10-27-92)

Sec. 170-193. - Authority.

(a)

This article is adopted in compliance with, and pursuant to, the local government comprehensive planning and land development regulation act, F.S. § 163.3161 et seq., and chapter 9J-5, Florida Administrative Code.

(b)

This article is adopted pursuant to the constitution and home rule powers of Fla. Const. art. VIII, article II of the Pinellas County Home Rule Charter, F.S. ch. 125 and F.S. §§ 337.401, 336.02, 335.182 and 339.175.

(Ord. No. 90-13, § 2, 2-20-90; Ord. No. 92-68, §§ 2, 18, 10-27-92)

Sec. 170-194. - Purpose and intent.

(a)

It is the purpose of this article to establish standards for the regulation and control of vehicular access to county roadways within the county. The requirements contained in this article are designed to provide for the efficient and safe operation of the collector and arterial roadway system, to protect the public investment in the roadway facilities, to enhance the operating conditions and assist in achieving and maintaining adopted level of service standards, and to implement growth management policies relating to access management. This article will ensure that all connections to the roadway system conform with county and state standards.

(b)

It is the purpose of this article to regulate and control construction in public rights-of-way, and to create uniform procedures for issuance of permits for work performed within the right-of-way in order to protect the public health, safety and general welfare of the residents of the county.

(Ord. No. 90-13, § 3, 2-20-90; Ord. No. 92-68, §§ 3, 18, 10-27-92; Ord. No. 96-60, § 2, 7-16-96)

Sec. 170-195. - Area embraced.

(a)

The areas embraced by this article shall be all county rights-of-way, whether or not within municipal boundaries.

(b)

This article is not applicable to installations that are already properly placed within the rights-of-way unless they are relocated or modified, but shall apply to those to be placed within the right-of-way after February 29, 1982.

(Ord. No. 90-13, § 5, 2-20-90; Ord. No. 92-68, §§ 5, 18, 10-27-92)

Sec. 170-196. - Inspections, enforcement, stop work orders.

(a)

The county may conduct inspections to determine compliance with the provisions of this article.

(b)

The county administrator or his designee is authorized to enforce the provisions of this article, all other current and applicable county ordinances, the right-of-way permit, and to initiate enforcement proceedings, including the issuance of citations in accordance with F.S. § 125.69.

(c)

Work on any installation within the right-of-way that is being done contrary to the provisions of this article, or the terms and conditions of the right-of-way permit, may be ordered to be immediately stopped under the following conditions:

(1)

In an emergency situation that may have a serious effect on health or safety.

(2)

When irreversible or irreparable harm may result in the reasonable opinion of the county administrator or his designee, and immediate cessation of the activity is necessary to protect the public and the right-of-way.

Notice shall be given by the county administrator or his designee in writing to the owner, agent, or the person performing the work, and shall state the conditions under which work may be resumed. Verbal notice shall be sufficient in emergency situations and shall be followed by written notice.

(Ord. No. 90-13, § 15, 2-20-90; Ord. No. 92-68, §§ 15, 18, 10-27-92; Ord. No. 96-60, § 3, 7-16-96)

Sec. 170-197. - Appeals and variances.

Appeals from adverse decisions regarding permitting, enforcement, or interpretations of this article shall be sought by utilizing the provisions of section 154-6. Variances from the provisions of this article are to be sought by following the provisions of section 154-4.

(Ord. No. 90-13, § 11, 2-20-90; Ord. No. 92-68, §§ 11, 18, 10-27-92; Ord. No. 96-60, § 4, 7-16-96)

Sec. 170-198. - General access standards.

(a)

Direct egress from property adjacent to arterial and collector streets shall be prohibited when egress to a road of lesser designation is available.

(b)

If a property is located such that access can be provided to either an arterial or collector facility, access to the arterial facility shall be prohibited.

(c)

Direct access to individual one-family and two-family (duplex) dwellings shall be prohibited on arterial and

collector streets, except those for which no other access can be conveniently provided.

(d)

Common access facilities on arterial and collector streets are encouraged when two or more contiguous sites are planned for commercial, office or industrial facilities (two access facilities maximum on property less than 200 feet frontage).

(e)

Off-street parking shall be designed to ensure that all vehicles leaving or entering the public street right-of-way shall be traveling in a forward motion, except driveways serving one-family and two-family dwellings.

(f)

In addition to the above criteria, an inventory has been compiled which classifies the various segments of the county numbered road system, according to existing and proposed safe access intervals. These intervals will be utilized as a guideline to standardize the minimum spacing criteria for the issuance of new driveway permits and median openings without the necessity of obtaining a variance. If a particular county road is not included in the inventory, the intervals are not applicable, and issuance of permits is dependent on the other criteria. This inventory is as follows:

DRIVEWAY CONNECTION SPACING
ROAD INVENTORY

Class	Range	Road Name	From	To
6	0 ft.	100th Way/CR 361	Bay Pines Blvd./SR 595	54th Ave. N./CR 200
5	≥120 ft.	102nd Ave. N./CR 296	113th St./CR 321	US Alt. 19/SR 595
3	≥460 ft.	102nd Ave./CR 296	US Alt. 19/SR 595	Starkey Rd./CR 1
4	≥240 ft.	102nd Ave. N./CR 296	Hamlin Blvd./CR 213	113 St./CR 321
4	≥240 ft.	113th St. N./CR 321	Park Blvd./CR 694	Ulmerton Rd./SR 688
2	≥680 ft.	118th Ave. N./CR 296	US Hwy. 19/SR 55	28th St./CR 683
5	≥120 ft.	125th St. N./CR 283	74th Ave. N./CR 240	102nd Ave. N./CR 296
4	≥240 ft.	130th Ave./Wilcox/CR 352	Indian Rocks Rd./CR 233	Ulmerton Rd./SR 688
5	≥120 ft.	131st St./Vonn Rd./CR 263	74th Ave. N./CR 240	Wilcox Rd./CR 352

4	≥240 ft.	142nd Ave. N./CR 376	Belcher Rd./CR 501	US Hwy. 19/SR 55
5	≥120 ft.	22nd Ave. S-Gulf/CR 138	Pasadena Ave./SR 693	34 St. S./SR 55
5	≥120 ft.	28th St. N./CR 683	38th Ave. N./CR 184	62nd Ave. N./CR 216
3	≥460 ft.	28th St. N./CR 683	Gandy Blvd./SR 694	Roosevelt Blvd./SR 686
4	≥240 ft.	34th St. N./CR 663	118th Ave. N./CR 296	Ulmerton Rd./SR 688
6	0 ft.	35th St./37th St. N./CR 651	38th Ave. N./CR 184	54th Ave. N./CR 202
5	≥120 ft.	38th Ave. N./CR 184	Tyrone Blvd./SR 595	4th St./SR 92
6	0 ft.	46th Ave. N./CR 188	Park St./CR 1	37th St./CR 651
1	CAF	49th St./CR 611	Gulf to Bay/SR 60	Roosevelt Blvd./SR 686
4	≥240 ft.	49th St./CR 611	Roosevelt Blvd./SR 686	Gulf to Bay/SR 60
5	≥120 ft.	49th St./CR 611	5th Ave. N./SR 595	US Hwy. 19/SR 55
5	≥120 ft.	54th Ave. N./CR 202	Park St./CR 1	1st St. N.
6	0 ft.	54th Ave. N./CR 200	Duhme Rd./CR 321	100th Way/CR 361
5	≥120 ft.	58th St. N./CR 583	Roosevelt Blvd./SR 686	Whitney Rd./CR 438
6	0 ft.	58th St. N./CR 581	38th Ave. N./CR 184	62nd Ave. N./CR 216
5	≥120 ft.	60th St. N./CR 573	102nd Ave./CR 296	115th Cr. N.
5	≥120 ft.	62nd St. N./CR 565	US Hwy. 19/SR 55	Roosevelt Blvd./SR 686
5	≥120 ft.	62nd St. N./CR 563	118th Ave./CR 303	US Hwy. 19/SR 55
5	≥120 ft.	62nd Ave. N./CR 216	Belcher Rd./CR 501	4th St./SR 92
6	0 ft.	66th Ave.-116th St./CR 224	Oakhurst Rd./CR 233	113th St./CR 321
5	≥120 ft.	74th Ave./Oakhurst/CR 240	137th St. N./CR 233	66th Ave./CR 224

4	≥240 ft.	86th Ave. N./CR 266	98th St./CR 373	Starkey Rd./CR 1
6	0 ft.	86th Ave. N./CR 264	Hamlin Rd./CR 213	Seminole Blvd./SR 595
5	≥120 ft.	98th St./CR 373	86th Ave./CR 266	102nd Ave./CR 296
3	≥460 ft.	Alderman Rd./CR 816	US Alt. 19/SR 595	US Hwy. 19/SR 55
6	0 ft.	Alt Keene Rd./CR 395	East Bay Dr./SR 686	McMullen Rd./CR 385
5	≥120 ft.	Alt Keene Rd./CR 395	East Bay Dr./SR 686	McMullen Rd./CR 434
4	≥240 ft.	Anclote Rd./CR 992	US Alt. 19/SR 595	Anclote Blvd./CR 994
4	≥240 ft.	Anclote Blvd./CR 994	Anclote Rd./CR 992	US Alt. 19/SR 595
5	≥120 ft.	Belcher Rd./CR 501	Bryan Dairy Rd./CR 296	Sunset Point Rd./CR 576
5	≥120 ft.	Belcher Rd./CR 501	38th Ave./CR 184	54th Ave./CR 202
4	≥240 ft.	Belcher Rd./CR 501	Park Blvd./CR 694	54th Ave./CR 202
4	≥240 ft.	Belcher Rd./CR 501	Sunset Point Rd./CR 576	Curlew Rd./SR 586
3	≥460 ft.	Belcher Rd./CR 501	Park Blvd./SR 694	Bryan Dairy Rd./CR 296
5	≥120 ft.	Belleair Rd./CR 464	Lake Ave./CR 385	US Hwy. 19/SR 55
4	≥240 ft.	Belleair Cswy./CR 416	Gulf Blvd./CR 183	Indian Rocks Rd./CR 233
6	0 ft.	Belleair Rd./CR 464	US Alt. 19/SR 595	Lake Ave./CR 385
6	0 ft.	Betty Lane/CR 355	SR 590	Overbrook Ave./CR 560
1	CAF	Bryan Dairy Rd./CR 296	66th St./SR 693	US Hwy. 19/SR 55
3	≥460 ft.	Bryan Dairy Rd./CR 296	Starkey Rd./CR 1	66th St. N./SR 693
4	≥240 ft.	Carlton Rd./CR 78	Klosterman Rd./CR 880	Curlew Pl./CR 80
5	≥120 ft.	Central Ave./CR 150	Park St./CR 1	3rd St. N
6	0 ft.	Countryside Blvd./CR 720	Curlew Rd./SR 586	McMullen-Booth/CR 611

4	≥240 ft.	Curlew Ext./CR 95	US Hwy. 19/SR 55	West Lake Dr./CR 537
4	≥240 ft.	Curlew Pl./CR 80	Florida Ave./CR 369	Carlton Rd./CR 78
5	≥120 ft.	Donegan Rd./CR 363	8th Ave. SE/CR 400	Lake Ave./CR 375
5	≥120 ft.	Donegan Rd./CR 376	Donegan Rd./CR 363	Lake Ave./CR 375
5	≥120 ft.	Drew St./CR 528	NE Coachman Rd./SR 590	US Hwy. 19/SR 55
5	≥120 ft.	Duhme Rd./113th/CR 321	Welch Cswy./CR 666	Park Blvd./SR 694
3	≥460 ft.	E.L. Woodlands Pkwy./CR 627	Tampa Rd./CR 752	E.L. Woodlands Blvd.
2	≥680 ft.	East Lake Rd./CR 611	Tampa Rd./CR 752	Pasco County Line
1	CAF	East-West Parkway	Tampa Rd./SR 586	Hillsborough County Line
5	≥120 ft.	Enterprise Rd./CR 638	McMullen-Booth/CR 611	Phillippe Pkwy/SR 590
5	≥120 ft.	Florida Ave./CR 369	Curlew Pl./CR 80	Sunset Dr./CR 944
5	≥120 ft.	Forest Lakes Blvd./CR 667	SR 580	Tampa Rd./SR 584
6	0 ft.	Greenbriar Blvd./CR 425	Hercules Ave./CR 425	Belcher Rd./CR 501
6	0 ft.	Greenwood Ave./CR 335	Wyatt St./CR 456	Belleair Rd./CR 464
5	≥120 ft.	Gulf Blvd./CR 183	Clearwater Pass Bridge	Walsingham Rd./SR 688
5	≥120 ft.	Gulf Rd./CR 928	Florida Ave./CR 369	Whitcomb Blvd./CR 399
6	0 ft.	Haines Rd./CR 691	US Hwy. 19/SR 55	9th St./CR 803
4	≥240 ft.	Haines Bayshore/CR 454	US Hwy. 19/SR 55	Whitney Rd./CR 575
5	≥120 ft.	Hamlin Blvd./CR 213	102nd Ave./CR 296	Walsingham Rd./SR 688
6	0 ft.	Hercules Ave./CR 425	Druid Rd.	Imperial Way
5	≥120 ft.	Hercules Ave./CR 425	Druid Rd.	Virginia St./CR 618

5	≥120 ft.	Hermosa Dr.-19th/CR 39	US Hwy. 19/SR 55	Tampa Rd./CR 752
6	0 ft.	Highland Ave./CR 375	Belleair Rd./CR 464	Union St./CR 600
5	≥120 ft.	Highland Ave./CR 375	East Bay Dr./SR 686	Belleair Rd./CR 464
6	0 ft.	Highland Blvd. N./CR 804	US Hwy. 19/SR 55	Highlands Blvd./CR 547
6	0 ft.	Highlands Blvd./CR 547	Lake St. George Dr./CR 577	Woodridge Pkwy
6	0 ft.	Highlands Blvd./CR 547	US Hwy. 19/SR 55	Lake St. George Dr./CR 577
4	≥240 ft.	Highpoint Dr.	Lansbrook Pkwy./CR 619	Bryan Lane
5	≥120 ft.	Indian Rocks Rd./CR 233	Walsingham Rd./SR 688	West Bay Dr./SR 686
4	≥240 ft.	Keene Rd.-Omaha/CR 1	Gulf to Bay/SR 60	Tampa Rd./CR 752
5	≥120 ft.	Keene Rd./CR 1	Belleair Rd./CR 464	Gulf to Bay/SR 60
4	≥240 ft.	Keene Rd-Starkey/CR 1	94th Ave./CR 282	Belleair Rd./CR 464
3	≥460 ft.	Keystone Rd./CR 582	US Hwy. 19/SR 55	Hillsborough Co. Line
4	≥240 ft.	Klosterman Rd./CR 880	Carlton Rd./CR 78	US Hwy. 19/SR 55
6	0 ft.	Lake St. George Dr./CR 577	Tampa Rd./CR 752	Highlands Blvd./CR 547
6	0 ft.	Lake St. George Dr./CR 577	Countryside Blvd./CR 720	Tampa Rd./CR 752
6	0 ft.	Lake Ave./CR 385	Alt Keene Rd./CR 395	Gulf to Bay/SR 60
5	≥120 ft.	Lake Ave./CR 375	Ulmerton Rd./SR 688	Donegan Rd./CR 376
6	0 ft.	Lakeview Rd./CR 488	Ft. Harrison Ave./SR 595	Hercules Ave./CR 425
5	≥120 ft.	Main St./CR 576	McMullen-Booth/CR 611	10th Ave. (Safety Harbor)
6	0 ft.	McMullen Rd./CR 434	Lake Ave./CR 375	Alt Keene Rd./CR 395

3	≥460 ft.	McMullen-Booth/CR 611	Gulf to Bay/SR 60	SR 580
2	≥680 ft.	McMullen-Booth/CR 611	SR 580	Tampa Rd./CR 752
6	0 ft.	Mehlenbacher Rd./CR 432	Indian Rocks Rd./CR 233	Clearwater-Largo/SR 595
4	≥240 ft.	Meres Blvd./CR 912	Florida Ave./CR 369	US Alt. 19/SR 595
6	0 ft.	Nebraska Ave./CR 776	US Alt. 19/SR 595	US Hwy. 19/SR 55
5	≥120 ft.	Nursery Rd./CR 474	Highland Ave./CR 375	US Hwy. 19/SR 55
5	≥120 ft.	Oakhurst Rd./137th/CR 233	74th Ave. N./CR 240	Walsingham Rd./SR 688
6	0 ft.	Old Ridge Rd./CR 313	74th Ave. N./CR 240	Walsingham Rd./CR 330
5	≥120 ft.	Omaha St./CR 1	Nebraska Ave./CR 776	Alderman Rd./CR 816
5	≥120 ft.	Omaha St./CR 1	SR 580	Nebraska Ave./CR 776
6	0 ft.	Orange St./CR 377	US Alt. 19/SR 595	Pennsylvania Ave./CR 760
6	0 ft.	Palmetto St./CR 548	Highland Ave./CR 375	Saturn Ave.
5	≥120 ft.	Palmetto St./CR 550	Hercules Ave./CR 425	Belcher Rd./CR 501
5	≥120 ft.	Park Blvd./SR 694	140th St. N.	113th St. N./CR 321
4	≥240 ft.	Park Blvd./CR 694	113th St. N./CR 321	66th St. N./SR 693
2	≥680 ft.	Park Blvd./CR 694	Gulf Blvd./CR 699	140th St. N.
3	≥460 ft.	Park St./CR 1	Central Ave./CR 150	Park Blvd./CR 694
5	≥120 ft.	Pennsylvania Ave./CR 760	Orange St./CR 377	US Alt. 19/SR 595
6	0 ft.	Ponce de Leon Blvd./CR 456	Missouri Ave./SR 595	Hillcrest Ave.
6	0 ft.	Ponce de Leon Blvd./CR 456	Indian Rocks Rd./CR 233	US Alt. 19/SR 595
5	≥120 ft.	Ridge Rd./Clwtr-Largo/CR 321	Ulmerton Rd./SR 688	West Bay Dr./SR 686
3	≥460 ft.	Ridgemoor Blvd.	East Lake Rd./CR 611	Ridgemoor Dr.

5	≥120 ft.	Riverside Dr./CR 936	Tarpon Dr./Gulf Rd./CR 928	Spring Blvd./CR 936
4	≥240 ft.	San Martin Blvd./CR 823	Macoma Dr.	Gandy Blvd./SR 694
5	≥120 ft.	Starkey Rd./CR 1	Park Blvd./SR 694	94th Ave./CR 282
4	≥240 ft.	Sunset Point Rd./CR 576	Keene Rd./CR 1	McMullen-Booth/CR 611
6	0 ft.	Sunset Point Rd./CR 576	US Alt. 19/SR 595	Keene Rd./CR 1
5	≥120 ft.	Sunset Point Rd./CR 576	US Alt. 19/SR 595	Keene Rd./CR 1
4	≥240 ft.	Tampa Rd./CR 752	US Alt. 19/SR 595	Curlew Rd./SR 586
5	≥120 ft.	Tampa Rd./CR 752	Orange St./CR 377	US Alt. 19/SR 595
4	≥240 ft.	Tarpon Lake Blvd./CR 619	East Lake Rd./CR 611	Lansbrook Pkwy/CR 619
6	≥0 ft.	Tarpon Woods Blvd./CR 814	East Lake Rd./CR 611	Ridgemoor Blvd.
6	0 ft.	Taylor-8th Ave./CR 400	Indian Rocks Rd./CR 233	Donegan Rd./CR 363
4	≥240 ft.	Treasure Island Cswy/CR 150	Gulf Blvd./CR 699	Park St./CR 1
2	≥680 ft.	Trinity Blvd./CR 996	East Lake Rd./CR 611	Pasco County Line
6	0 ft.	Union St./CR 600	Edgewater Dr./SR 595	Hercules Ave./CR 425
3	≥460 ft.	Village Center Dr./CR 838	Tarpon Lake Blvd./CR 619	East Lake Rd./CR 611
6	0 ft.	Virginia St./CR 632	Main St./SR 580	Keene Rd./CR 1
6	0 ft.	Virginia St./CR 618	Keene Rd./CR 1	Hercules Ave./CR 425
5	≥120 ft.	Walsingham Rd./CR 330	Ulmerton Rd./SR 688	US Alt. 19/SR 595
4	≥240 ft.	West Lake Rd./CR 537	Tampa Rd./CR 752	US Hwy. 19/SR 55
5	≥120 ft.	West Lake Rd./CR 537	Curlew Ext./CR 95	Tampa Rd./CR 752
5	≥120 ft.	West Bay Dr./CR 416	Indian Rocks Rd./CR 233	Clearwater-Largo/SR 595
5	≥120 ft.	Westlake Blvd./CR 439	Nebraska Ave./CR 776	Alderman Rd./CR 816

6	0 ft.	Whitcomb Blvd./CR 399	Meres Blvd./CR 912	Gulf Rd./CR 928
5	≥120 ft.	Whitney Rd./CR 575	Whitney Rd./CR 438	Haines Bayshore/CR 454
5	≥120 ft.	Whitney Rd./CR 438	US Hwy. 19/SR 55	58th St. N./CR 583
3	≥460 ft.	Woodfield Blvd.	Forelock Dr.	Keystone Rd./CR 582

To be used by Pinellas County as a guideline only. Other engineering and safety factors must be considered.

*Class 1 Controlled Access Facility

*Class 2 Driveway spacing must be greater than 680 feet

*Class 3 Driveway spacing must be greater than 460 feet

*Class 4 Driveway spacing must be greater than 240 feet

*Class 5 Driveway spacing must be greater than 120 feet

*Class 6 Driveway spacing must be greater than 0 feet

MEDIAN OPENING SPACING
ROAD INVENTORY

Class	Range	Road Name	From	To
3	≥660 ft.	102nd Ave. N./CR 296	Hamlin Blvd./CR 213	US Alt. 19/SR 595
3	≥660 ft.	113th St. N-Ridge/CR 321	Welch Causeway/CR 666	8th Ave. SW/CR 400
3	≥660 ft.	118th Ave. N./CR 296	US Hwy. 19/SR 55	28th St. N./CR 683
3	≥660 ft.	28th St. N./CR 683	118th Ave. N./CR 296	Roosevelt Blvd./SR 686
1	>1320 ft.	49th St./CR 611	Roosevelt Blvd./SR 686	Gulf to Bay/SR 60
3	≥660 ft.	49th St./CR 611	38th Ave. N./CR 184	Roosevelt Blvd./SR 686
3	≥660 ft.	54th Ave. N./CR 202	Park St./CR 1	4th St. N./SR 687
3	≥660 ft.	Alderman Rd./CR 816	US Alt. 19/SR 595	US Hwy. 19/SR 55

3	≥660 ft.	Belcher Rd./CR 501	54th Ave. N./CR 202	Park Blvd./SR 694
3	≥660 ft.	Belcher Rd./CR 501	Palmetto St./CR 550	Curlew Rd./SR 586
3	≥660 ft.	Belcher Rd./CR 501	Ulmerton Rd./SR 688	East Bay Dr./SR 686
2	≥990 ft.	Belcher Rd./CR 501	Park Blvd./SR 694	Ulmerton Rd./SR 688
3	≥660 ft.	Bryan Dairy Rd./CR 296	98th St./CR 373	66th St. N./SR 693
1	>1320 ft.	Bryan Dairy Rd./CR 296	66th St./SR 693	US Hwy. 19/SR 55
4	≥330 ft.	Drew St./CR 528	NE Coachman Rd./SR 590	US Hwy. 19/SR 55
2	≥990 ft.	East Lake Rd./CR 611	Tampa Rd./CR 752	Pasco County Line
1	>1320 ft.	East-West Pkwy/NA	Tampa Rd./CR 752	Hillsborough County Line
3	≥660 ft.	Keene Rd./CR 1	Virginia St./CR 618	Curlew Rd./SR 586
3	≥660 ft.	Keystone Rd./CR 582	US Hwy. 19/SR 55	East Lake Rd./CR 611
3	≥660 ft.	Klosterman Rd./CR 880	US Alt. 19/SR 595	US Hwy. 19/SR 55
2	≥990 ft.	McMullen-Booth/CR 611	Gulf to Bay/SR 60	SR 580
2	≥990 ft.	McMullen-Booth/CR 611	SR 580	Tampa Rd./CR 752
3	≥660 ft.	Omaha St./CR 1	Nebraska Ave./CR 776	Alderman Rd./CR 816
3	≥660 ft.	Park Blvd./CR 694	Gulf Blvd./SR 699	66th St. N./SR 693
3	≥660 ft.	Park St./CR 1	Central Ave./CR 150	Park Blvd./CR 694
3	≥660 ft.	Ridgemoor Blvd./NA	East Lake Rd./CR 611	Ridgemoor Dr.
3	≥660 ft.	Starkey Rd./CR 1	Park Blvd./SR 694	East Bay Dr./SR 686
4	≥330 ft.	Sunset Point Rd./CR 576	Keene Rd./CR 1	10th Ave./Safety Harbor
3	≥660 ft.	Tampa Rd./CR 752	US Alt. 19/SR 595	Curlew Rd./SR 586
3	≥660 ft.	Treasure Island Cswy/CR 150	Gulf Blvd./SR 699	Park St./CR 1

2	≥990 ft.	Trinity Blvd./CR 996	East Lake Rd./CR 611	Pasco County Line

To be used by Pinellas County as a guideline only. Other engineering and safety factors must be considered.

**Class 4 spacing of medians must be greater than 330 feet

**Class 3 spacing of medians must be greater than 660 feet

**Class 2 spacing of medians must be greater than 990 feet

**Class 1 spacing of medians must be greater than 1,320 feet

(g)

All criteria are to be applied, together with sound engineering judgment, to promote safety.

(Ord. No. 90-13, § 8(C), 2-20-90; Ord. No. 92-68, §§ 8(C), 18, 10-27-92; Ord. No. 96-60, § 5, 7-16-96; Ord. No. 97-51, § 1, 7-1-97)

Sec. 170-199. - Design and construction criteria for access connections to county roads.

Design and construction criteria for access connections to county roads are as follows. All new or reconstructed driveways and median openings shall be designed to conform with the following criteria:

(1)

Private driveways (single-family, duplex):

a.

Minimum width, ten feet (20 feet minimum width for single duplex drive).

b.

Maximum width, 24 feet on collector and arterial roads; 30 feet on local subdivision roads.

c.

Fifteen feet minimum radii required for rural section.

d.

Department of transportation standard flares required for a road that has urban curb and gutter section. (No curbs for driveway permitted within right-of-way; wheelchair access to be provided.)

e.

Where a driveway crosses a ditch, a six-foot minimum stabilized shoulder, with three-fourths-inch to one foot slope, each side of driveway pavement will be required.

f.

On a driveway where a culvert is to be installed, the end of the culvert shall not extend beyond the side of property line prolonged. If the end of the culvert creates a hazardous condition in relation to the end of an existing culvert, the proposed culvert should be extended and connected to the existing culvert with a ditch bottom inlet or junction box.

g.

Culverts shall be a minimum of 15 inches R.C.P. or hydraulic equivalent (galvanized asphalt-coated corrugated metal pipe will be acceptable only on residential and duplex driveways).

h.

Culvert length (L) to be determined by the following:

L = Pavement width plus shoulder width (12-foot min.) plus two times (four times the depth of the ditch)

i.

Mitered end sections are required on all culvert installations, as per state department of transportation standard detail index 273.

j.

Justifications for size of culvert must be submitted, along with flow line elevations (inverts).

k.

A minimum flow of 2.5 feet per second must be maintained as a cleansing velocity in all culverts.

l.

Driveway construction from edge of pavement to the property line shall consist of the following:

1.

One-inch PC-3 asphalt surface, six-inch limerock base compact to 98 percent density.

2.

Six-inch thick 3,000 psi concrete, with six-inch by six-inch no. 10 welded wire mesh. (Existing sidewalk to be replaced where it does not meet this criteria.)

3.

Gravel or shell driveways will be allowed subject to compliance with all applicable standards listed above and the following stipulations:

i.

The land development/permitting section shall reserve the right to refuse use of a nonsuitable material.

ii.

A pad for the protection of existing pavement shall be constructed.

m.

Driveway construction which requires removal of a vertical curb (raised curb) shall have pavement saw cut at curbline prior to removing existing curb and replaced with a header curb or valley in accordance with existing type.

n.

Driveway construction where Miami type curb (mountable) exists must tie to the back of the curb.

o.

If culvert is to be installed the entire length of the property, underdrain shall be installed (six-inch minimum PVC perforated), (inlets to be installed every 120 feet or less).

p.

Frontage of 50 feet or less shall be limited to one driveway. Not more than two driveways shall be permitted for any one property fronting on the same road (exceptions may be approved to this article if good cause is shown).

(2)

Commercial driveways.

a.

Minimum width 24 feet (16 feet if driveway is signed and marked as one-way).

b.

Maximum width 40 feet (plus radii and/or flares).

c.

Entrance radii (rural section):

1.

Thirty-five feet minimum entrance radius required.

2.

Twenty-five feet minimum exit radius required.

d.

Addition of pavement for acceleration/deceleration lanes and additional pavement for case III through case

VI to arterial, collector and commercial roads must comply with county standards.

e.

Case I and II entrances are to be overlayed with 1½ inches of PC-3 asphalt to the center of the road, including the addition (feather edge at center of road).

f.

Case III, IV and VI, entrances and modifications thereof, are to be overlayed the entire width of the road with 1½ inches of PC-3 asphalt.

g.

Department of transportation standard flares are required for urban curb and gutter sections unless radii are otherwise specified by traffic engineering.

h.

A six-foot shoulder, each side of pavement, will be required.

i.

On driveways where a culvert is to be installed, the end of the culvert shall be no closer than six feet to side property lines. If the end of the proposed culvert creates a hazardous condition in relation to the end of an existing culvert, the proposed culvert shall be extended and connected to the existing culvert with a D.B.I. (except common driveway).

j.

On driveways where culvert is not to be installed, a six-foot setback from the side property line extended, measured from where the radius, or flare, meets the existing pavement, is required.

k.

Culverts shall be a minimum of 15 inches RCP (corrugated metal pipe will not be allowed for commercial driveways).

l.

Culvert length (L) to be determined by the following:

L = pavement width plus shoulder width (12 feet minimum) plus two times (four times the depth of the ditch).

m.

Mitered end sections are required on all culvert installations (miter to begin at edge of six-foot shoulder).

n.

Justification for size of culvert must be submitted, along with flow line elevations (inverts).

o.

A minimum flow of 2.5 feet per second must be maintained as a cleansing velocity.

p.

Driveway and turn lane construction shall conform to pavement specifications for arterial, collector, industrial and residential streets as set forth in this land development ordinance.

q.

If culvert is to be installed the entire length of the property, underdrain shall be installed (inlets to be installed every 120 feet or less).

r.

Frontages of 50 feet or less shall be limited to one driveway. Not more than two driveways shall be permitted for any one property fronting on the same road (variance may be granted subject to proper conformance to all local, state and federal regulations).

s.

Access from public streets to parking facilities shall be in accordance with the following:

1.

On county collector roads there shall be a minimum of 50 feet from the edge of right-of-way to the first internal intersection or drive.

2.

On county arterial roads there shall be a minimum of 75 feet from the edge of right-of-way to the first internal intersection or drive.

(Ord. No. 90-13, § 8(B), 2-20-90; Ord. No. 92-68, §§ 8(B), 18, 10-27-92; Ord. No. 97-51, § 2, 7-1-97)

Sec. 170-200. - Relocation of installation by owner or permittee.

(a)

In the event of any widening, repairs, installation, construction, or reconstruction, by or for the county, of any county facility within the right-of-way in which the permittee or owner has constructed any installation, such permittee or owner shall move, remove, or relocate such installation as may be required for the public convenience as and whenever specified by the county and at the permittee's or owner's own expense. The same duty to move, remove, or relocate shall apply if an installation is determined to be unreasonably interfering in any way with the convenient, safe, or continuous use of the right-of-way.

(b)

When relocation is required under this section, county owned and maintained facilities shall be given priority in establishing new utility and installation alignments within the right-of-way.

(Ord. No. 90-13, § 12, 2-20-90; Ord. No. 92-68, §§ 12, 18, 10-27-92)

Secs. 170-201—170-230. - Reserved.

DIVISION 2. - RIGHT-OF-WAY PERMIT

Sec. 170-231. - Required.

(a)

It shall be unlawful for any person to construct, install, remove, relocate, or perform other work activities for installations within, on, under, or above the right-of-way without first having obtained a right-of-way permit.

(b)

All permits issued under this article are revocable, and nothing in this article shall operate to create a vested right or property interest in the permittee.

(c)

Nothing in this article shall create a right of access at any particular location or in any configuration which, in the sole discretion of the county administrator is, or becomes, unsafe.

(d)

Nothing in this article shall create rights of any nature to the opening of any median or of the right to any particular turning movements either ingressing or egressing private property.

(Ord. No. 90-13, § 6, 2-20-90; Ord. No. 92-68, §§ 6, 18, 10-27-92; Ord. No. 96-60, § 6, 7-16-96)

State Law reference— State permits, F.S. § 335.1825.

Sec. 170-232. - General permitting procedures.

(a)

The application and the fee for a right-of-way permit not associated with the review of a site plan will be filed with the department of public works; those which are so associated will be filed with department of development review services.

(b)

Approval or denial of an application and conditions of the right-of-way permit shall be subject to the provisions of all current and applicable county ordinances and state and federal laws.

(c)

Proposed amendments or changes to the right-of-way permit must be approved by the county administrator or his designee prior to the commencement of the work.

(d)

In the event of materially incorrect or false statements or information in the application on which the right-

of-way permit was issued, the permit may be revoked and the fee shall not be refunded.

(e)

Work for which the right-of-way permit has been issued shall begin within 90 days of the issuance of the permit and shall be completed within 180 days of the issue date unless the permittee is granted an extension of time prior to the expiration of either period, unless otherwise noted on the permit. Any permit not used within the prescribed time limit shall become void and future work shall require a new application and fee. Permits issued in conjunction with site plans will adhere to the site plan time constraints.

(f)

The issuing of a right-of-way permit under this article does not abrogate any legal requirement to comply with other county ordinances or with the regulations of any other governmental agency, whether local, state, or federal, which may apply.

(g)

The inspection or permitting by the county of work under this article shall not be construed as a warranty of the adequacy of performance or of the accuracy of information provided in the permit application by the applicant. The applicant retains full responsibility for information provided and the permittee retains full responsibility for work performed at all times.

(h)

Right-of-way permits under this article may require the following sureties and insurance:

(1)

Completion: Sureties shall be in the amount of 110 percent of the estimated cost of the installation. All sureties shall be based on a certified cost estimate prepared, signed, sealed and dated by a registered professional engineer or other documentation acceptable to the county.

(2)

Maintenance surety: Minimum maintenance surety shall be 20 percent of the original surety of 110 percent of the estimated cost of the installation. A higher percentage may be required if special circumstances dictate that such is necessary to protect the public from defects. The surety shall be fully effective for a minimum of 18 months from acceptance by the board of county commissioners and/or its designated representative.

(3)

Waiver: The surety requirement may be waived by the county administrator if special circumstances dictate that such protection is not necessary.

(4)

Insurance: Permits for expansion, modification, or other construction activity within the travel lanes of any roadway will require insurance in such form and amount that will adequately protect the county from liability. Other permitted activities may require insurance if the county determines it to be necessary. The county shall be named as an additional insured. A certificate of insurance, meeting the following minimum

standards, must be approved by the county risk management department: Comprehensive general liability insurance, but not limited to, independent contractor, contractual, premises/operations, products/completed operation, explosion, collapse and underground, and personal injury covering the liability assumed under the indemnification provisions of the permit, with limits of liability for personal injury and/or bodily injury, including death, of not less than $300,000.00, each occurrence, and property damage of not less than $100,000.00, each occurrence. (Combined single limits of not less than $300,000.00, each occurrence, will be acceptable unless otherwise stated.) Coverage shall be on an "occurrence" basis, and the policy shall include broad form property damage coverage, and fire legal liability of not less than $50,000.00 per occurrence, unless otherwise stated by exception herein.

(Ord. No. 90-13, § 7, 2-20-90; Ord. No. 92-68, §§ 7, 18, 10-27-92; Ord. No. 96-60, § 7, 7-16-96; Ord. No. 97-51, § 3, 7-1-97)

Sec. 170-233. - Right-of-way permitting procedures.

All applicants for a right-of-way permit shall submit the completed application forms to the appropriate department, each accompanied by relevant drawings and data, signed and sealed by a registered professional civil engineer, including:

(1)

Right-of-way limits.

(2)

Pertinent drainage requirements, including justification of proposed changes to existing drainage facilities.

(3)

Type of construction and materials to be used.

(4)

Physical location of installation.

(5)

Specific design description, including all dimensions, depths, and heights, for all existing as well as proposed installations.

(6)

A diagram showing all existing installations and other pertinent information within one-quarter mile of the proposed installation. For commercial or industrial properties, an indication of any adjacent parcels under the applicant's ownership of leasehold.

(7)

A plan for maintenance of traffic ("MOT") during construction. The proposed plan shall be designed in accordance with the standards set forth in the Manual of Uniform Traffic Control Devices, the Florida Department of Transportation Roadway and Traffic Design Standards and Standard Specifications for Road

and Bridge Construction. The proposed plan must address pedestrian as well as vehicular traffic. The approved plan shall be available on the job site at all times. Following approval, changes necessitated by site conditions require permission from the county traffic division and the county highway department. All MOTs shall be signed and sealed by a Florida registered engineer. The approved MOT shall be available on the job site at all times.

(Ord. No. 90-13, § 8(A), 2-20-90; Ord. No. 92-68, §§ 8(A), 18, 10-27-92; Ord. No. 96-60, § 8, 7-16-96; Ord. No. 97-51, § 4, 7-1-97)

Secs. 170-234, 170-235. - Reserved.

Sec. 170-236. - Indemnity and insurance.

Each right-of-way permit will contain terms indemnifying the county from liability arising out of the performance or maintenance of the installation. Proof of insurance may be required in an amount satisfactory to the county, to cover the indemnified liabilities.

(Ord. No. 90-13, § 13, 2-20-90; Ord. No. 92-68, §§ 13, 18, 10-27-92)

Sec. 170-237. - Fees.

(a)

A schedule of fees for right-of-way permits shall be established by resolution of the board of county commissioners.

(b)

The fee for a right-of-way permit shall represent the estimated cost for reviewing and processing the permit application, inspecting all work performed under the permit, and any other reasonable costs associated with the implementation of this article. Such fees may be reviewed and updated.

(Ord. No. 90-13, § 14, 2-20-90; Ord. No. 92-68, §§ 14, 18, 10-27-92)

Sec. 170-238. - Vacation of right-of-way to publicly accessible waters.

(a)

No public road, public street, public accessway, public right-of-way, or public easement capable of granting public access to any publicly accessible waters of the county shall be abandoned, released, or otherwise vacated, except as otherwise provided in subsection (b).

(b)

In those instances where any party, including another governmental unit, petitions the county for abandonment, release, or vacation of a public road, public street, public accessway, public-right-of-way, or public easement capable of granting public access to any publicly accessible waters, and the board determines that it is in the best interest of the public, is not injurious to individual property owners, and satisfies any other criteria as may be provided by law, the board may, in its discretion, grant the petition, so long as the party agrees to provide, trade, convey, or dedicate to the public comparable land granting access to the same body of water, such access to be of such condition as not to work a hardship to the users thereof, the reasonableness of the distance and comparable land being left to the discretion of the board.

(Ord. No. 15-09, § 1, 2-10-15)

Secs. 170-239—170-265. - Reserved.

ARTICLE V. - UTILITY WORK[4]

Footnotes:

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Editor's note—Ord. No. 01-56, § 1, adopted Aug. 7, 2001, repealed the former art. V and enacted a new article as set out herein. The former art. V, §§ 170-266—170-273 and 170-301—170-304, pertained to similar subject matter and derived from Ord. No. 92-63, §§ 2—11, 13, 14, adopted Oct. 27, 1992; and Ord. No. 94-38, §§ 1—6, adopted April 19, 1994.

Cross reference— Roads and bridges, ch. 98.

State Law reference— Use of right-of-ways by utilities, F.S. § 337.401.

Sec. 170-266. - Generally.

(a)

Nothing in this article is intended to supersede or conflict with state or federal law; or existing franchise; in the case of any conflict, the provisions of such state or federal law or franchise shall prevail.

(b)

It is the intent of this article to impose reasonable regulations on the placement and maintenance of facilities within the right-of-way, to promote cooperation between users thereof, to facilitate installation and relocation of facilities therein, and to create uniform procedures for issuance of permits for utility work performed within the right-of-way, in order to protect the public health, safety and general welfare of the residents of the county. This article also provides for recovery by the county of actual and projected costs from persons placing and maintaining facilities in the right-of-way.

(c)

Any permit issued prior to the effective date of the ordinance from which this article derives shall be valid on the terms under which it was issued, except that such permit shall be subject to all prospective provisions of this article as they pertain to county projects, and fees that may be adopted and revised by the board of county commissioners.

(d)

The areas embraced by this article shall be all county rights-of-way, whether or not within municipal boundaries.

(e)

The issuance of a utility permit shall not confer upon the permittee any exclusive implied privileges, proprietary interests, or vested rights in the location, alignment, or priority of the utility or installation.

(f)

The issuance of a utility permit under this article does not abrogate any legal requirement to comply with other county ordinances or with the regulations of any other governmental agency.

(g)

If a permittee transfers, sells, or assigns its assets located in the right-of-way, the conditions of this article and any existing permits are binding on such transferee, buyer or assignee.

(h)

Vertical structures, such as towers, whose primary purpose is to serve as a mounting device for antennae, are expressly prohibited from being placed in the right-of-way.

(Ord. No. 01-56, § 1, 8-7-01)

Sec. 170-267. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandonment means the permanent cessation of all uses of a utility facility; provided that this term shall not include cessation of all use of a utility facility within a physical structure where the physical structure continues to be used. By way of example, and not limitation, cessation of all use of a cable within a conduit, where the conduit, continues to be used, shall not be considered abandonment.

Annual general permit means an annual permit issued by the county for certain routine, repetitive work not requiring a specific utilization permit, which may be issued or renewed for periods up to one year, in the discretion of the county.

Applicant, owner, or permittee means any person requesting permission to place or maintain facilities in a right-of-way, or who has previously done so.

As-built survey means a survey performed to obtain horizontal and vertical dimensional data so that constructed improvements may be located and delineated.

County means Pinellas County, Florida.

County project means work done by or for the county within public right-of-way for county purposes, not for the benefit of private developer.

Department means the county department of public works.

Director means the director of the county department of public works.

Emergency means a condition that poses a threat to life, health, or property, or may create an out-of-service condition.

Facilities mean any utilities located in, over or under any right-of-way, but shall not include plantings, driveways, or other non-utility installations in the right-of-way.

Permit means the utility permit which must be obtained before a person may place or maintain facilities in a right-of-way.

Permittee means any person to whom a permit to place or maintain a facility in a right-of-way has been granted by the county.

Person means any natural or corporate person, municipality, school, church, or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity which has or seeks to have facilities located in any right-of-way.

Place or maintain, placement and maintenance, or placing or maintaining shall mean to erect, construct, install, maintain, place, repair, extend, expand, remove, occupy, locate or relocate. A person that owns or exercises physical control over facilities located in the public right-of-way, such as physical control to maintain and repair, is "placing or maintaining" the facilities. A person providing service only through resale or the use of a third party's unbundled network elements is not "placing or maintaining" the facilities through which such service is provided. The transmission and receipt of radio frequency signals through the airspace of the public rights-of-way does not constitute "placing or maintaining" facilities within the public rights-of-way.

Right-of-way means the surface and space above and below any real property in which the county has an interest in law or equity, open to travel by the public, including streets, easements and sidewalks, but excluding parks. Right-of-way means the public right-of-way, not private rights-of-way.

Structural change means activities affecting the integrity of the public road surface, road base, curb, sidewalk or shoulder.

Utilities means any water, sewer, gas, drainage, monitor well, sprinkler or culvert pipe and any electric power, telecommunication, signal, communication, or cable television conduit, fiber, wire, cable, or operator thereof, including utilities operated by the county.

(Ord. No. 01-56, § 1, 8-7-01)

Cross reference— Definitions generally, § 134-2.

Sec. 170-268. - Permits required.

(a)

The director, or his designee, shall be the principal county official responsible for the administration of this article, and he may delegate any or all of the duties hereunder.

(b)

No person shall place or maintain facilities within the right-of-way prior to the issuance of a utility permit, including an annual general permit, for such work. All applications shall contain:

(1)

Applicant's and local agent's name, address, e-mail address, telephone and facsimile numbers.

(2)

A statement that the applicant is a utility owner or its authorized agent.

(3)

All required attachments, and scaled, dated drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities.

(4)

Certification of a registered Florida professional engineer (unless permittee is using exempt employees pursuant to F.S. § 471.003(2)(b)2(d)), or subject to a franchise agreement with the county, that the drawings, plans, and specification submitted by the applicant shall comply with applicable technical codes, rules and regulations. Certification of plans is required if a construction project:

a.

Results in a significantly different traffic control plan;

b.

Results in a structural change of the county road; or

c.

Contains engineering plans which were developed and designed by an outside engineering firm.

(5)

A maintenance of traffic plan, consistent with the Uniform Manual of Uniform Traffic Control Devices, and/or a specific FDOT 600 Series for safety of the public and employees.

(6)

For underground installation, information in sufficient detail to identify:

a.

The physical space currently available in applicant's existing ducts or conduits before installation of applicant's facilities;

b.

The physical space, if any, that will exist in such ducts or conduits after installation of applicant's facilities;

c.

The location, depth, size and quantity of proposed new ducts or conduits;

d.

The type of the utility facility to be installed.

(7)

A description of the construction methods or techniques to be used for the installation.

(8)

A preliminary construction schedule and completion date.

(9)

Payment of all uncontested money past due to the county for:

a.

Prior and current construction permits issued to applicant;

b.

Any loss, damage, or expense suffered by the county as a result of applicant's prior construction in the right-of-way or any emergency actions taken by the county; and

c.

Any use agreement, license, or franchise issued to the applicant.

(Ord. No. 01-56, § 1, 8-7-01)

State Law reference— Permit required, F.S. § 337.401(2).

Sec. 170-269. - Insurance and sureties.

(a)

Prior to the time that the permittee commences any work under a permit, the permittee shall deliver proof of insurance as described below to the Pinellas County Department of Risk Management, 400 South Fort Harrison, Clearwater, FL 33756. Such proof of evidence is to be evidenced by a certificate of insurance executed by the insurer(s), listing coverages and limits, expiration dates, terms of the policy, and all endorsements. Existing permittees maintaining facilities in the right-of-way shall provide such proof within 60 days of the effective date of the ordinance from which this article derives. If requested by risk management, a certified copy of each policy, including all endorsements, shall be provided.

(b)

Required insurance shall remain in effect throughout the term of any permitted use of the right-of-way. The certificate of insurance shall verify that the insurance policy has been issued to the permittee, covering claims for personal/bodily injury including death, and property damage arising out of the placement and maintenance of the facilities.

(c)

The permittee shall furnish comprehensive general liability insurance, including but not limited to independent contractor, contractual, premises/operations, products and personal injury covering the liability assumed by the permittee. Limits of liability for personal injury and/or bodily injury, including death, and property damage may have combined limits of $300,000.00 per occurrence; coverage shall be on an "occurrence" basis.

(d)

If the permittee is self-insured or maintains a policy deductible of $100,000.00 or more, it shall provide a current certified financial statement for the county's review and acceptance as a substitute. Any questions regarding insurance issued should be directed to risk management.

(e)

Additional requirements:

(1)

Pinellas county board of county commissioners shall be endorsed to the required policy as an additional named insured.

(2)

Each policy shall require that 30 days prior to expiration, cancellation, non-renewal or any material change in coverage or limits, a notice thereof shall be furnished by certified mail to material change in coverage or limits, a notice thereof shall be furnished by certified mail to risk management at the address in the first paragraph of this section.

(3)

Permittee shall also notify risk management within 24 hours after the receipt of any notices of expiration, cancellation, non-renewal or material change in coverage received by the permittee from its insurer and immediately send a copy of that notice to risk management.

(4)

Companies issuing the insurance policies shall have no recourse against the county for payment or premiums or assessments or for any deductibles which are the sole responsibility and risk of the permittee.

(5)

The policy clause "other insurance" shall not apply to any insurance coverage currently held by the county, to any such future coverage, or to the county's self-insured retentions of whatever nature.

(f)

Sureties may be in the form of surety bonds, letters of credit, or third-party escrow agreements, acceptable to the county. The following sureties are required:

(1)

Completion sureties, in the amount of 110 percent of the engineer's estimated cost of the installation. The duration of this surety shall coincide with the permitted activity.

(2)

Maintenance sureties shall be a minimum 20 percent of the amount of the completion surety; a higher percentage may be required if special circumstances dictate. This surety shall be effective for a minimum of 18 months from completion of permitted activity.

(3)

Removal sureties shall be required for installation of temporary facilities, intended to remain in place for no more than five years. The amount shall be based on the estimated cost of removal of the facility, or a minimum of $5,000.00 whichever is greater.

(4)

Companies regulated by the public service commission, companies with a current franchise agreement with the county, and governmental entities are exempt from this surety requirement.

(Ord. No. 01-56, § 1, 8-7-01)

Sec. 170-270. - Construction and restoration.

(a)

County projects. For work done in advance of or as part of a county project, it is required that prior to the placement or maintenance of facilities in the right-of-way, a permittee shall conduct a subsurface utility engineering (SUE) study on the proposed route of construction or expansion, all at permittee's expense. A SUE study consists of, at minimum, completion of the following tasks:

(1)

Secure all available "as-built" plans, plats and other location data indicating the existence and approximate location of all underground facilities along the proposed construction route.

(2)

Visibly survey and record the location and dimensions of any aboveground features of all underground facilities along the proposed construction route, including but not limited to manholes, valve boxes, utility boxes, posts and visible street cut repairs.

(3)

Plot and incorporate the data obtained from completion of the tasks described above on the permittee's proposed system route maps, plan sheets and computer aided drafting and design (CADD) files, or in such other electronic format as maintained by the permittee which is acceptable to the director.

(4)

Determine and record the presence and approximate horizontal location of all underground facilities in the

right-of-way along the proposed system route utilizing surface geophysical designating techniques such as electromagnetic, magnetic and elastic wave locating methods.

(5)

Where system design and the location of underground facilities appear to conflict on the updated system route maps, plans and CADD (or acceptable alternate) files, utilize non-destructive digging methods, such as vacuum excavation, at the critical points identified to determine as precisely as possible, the horizontal, vertical and spatial position, composition, size and other specifications of the conflicting underground facilities. A permittee shall not excavate more than a 200 millimeter by 200 millimeter (eight inches × eight inches) hole in the right-of-way to complete this task.

(6)

Plot, incorporate and reconcile the data obtained by completion of these tasks with the updated route maps, system plans and CADD (or acceptable alternate) files.

(7)

Based on all of the data collected upon completion of these tasks, adjust the proposed system design elevations, horizontal and vertical locations to avoid the need to relocate other underground facilities.

(8)

Copy to county. Upon completion of the SUE, the permittee shall record all of the data collected into a CADD file, or acceptable alternate, compatible with that used by the department and deliver a copy to the department.

(9)

Qualified firm. All subsurface utility engineering studies conducted pursuant to this section shall be performed by a firm specializing in SUE work that is approved by the director, or his designee, or may be performed by the permittee's agents or employees, if qualified.

(b)

Utility projects. The director, or his designee, shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way if there is insufficient space to accommodate all of the requests of permittee to occupy and use the right-of-way. In making such decisions, the director, or his designee, shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public health, safety, and welfare, the protection of existing facilities in the right-of-way, and future county plans for public improvements and development projects which are in the public interest.

(1)

Coordination of work. Upon request of the county, permittee may be required to coordinate placement or maintenance activities under a permit with any other work, construction, installation or repairs that may be occurring or scheduled to occur within a reasonable timeframe in the subject public rights-of-way, and permittee may be required to reasonably alter its placement or maintenance schedule as necessary so as to

minimize disruptions and disturbances in the public rights-of-way.

(2)

Protection of facilities. A permittee shall not place or maintain its facilities so as to interfere with, displace, damage or destroy any facilities, including but not limited to, sewers, gas or water mains, storm drains, pipes, cables or conduits of the county or any other person's facilities lawfully occupying the rights-of-way.

(3)

Least disruptive technology. All construction or maintenance of facilities shall be accomplished in the manner resulting in the least amount of damage and disruption of the right-of-way, subject to economic and technical feasibility.

(4)

Upon completion of each permitted construction activity, the permittee shall provide the county with accurate "as-built" drawings of the facilities as installed, or a statement that no deviation from the plans exceed 12 inches. If the permittee uses exempt surveyors and engineers pursuant to Florida Statutes, or is subject to a franchise agreement with the county, drawings or statements shall be signed by an authorized agent of the company. Otherwise, such drawings or statements shall be signed by a registered professional. Where tolerances are critical, the director may require professionally certified as-builts.

(5)

Right-of-way restoration.

a.

In addition to its own work, the permittee must restore the general area of the work, and the surrounding areas, including the paving and its foundations, to the same or better condition that existed before the commencement of the work and must maintain the same condition for a minimum of 18 months thereafter.

b.

In approving an application for a right-of-way utilization permit, the permittee must restore the right-of-way as provided by F.S. § 337.401 et seq.

c.

Failure of the permittee to promptly restore the right-of-way shall constitute consent for the county to perform such restoration at the permittee's expense.

(6)

The permittee is responsible for any damage resulting from placement or maintenance of its facilities. This responsibility covers not only county property, but facilities lawfully placed or maintained by other permittees, and includes damage caused by service interruptions or failure of the permittee's facilities to function properly.

(Ord. No. 01-56, § 1, 8-7-01)

Sec. 170-271. - Relocation.

(a)

In the event of any widening, repairs, installation, construction or reconstruction by or for the county, of any county road within the right-of-way in which the permittee or owner has constructed any utility, the permittee or owner shall locate, move, remove, or relocate such utility or facility as may be required for the public convenience as and whenever specified by the county and at the permittee's or owner's own expense. The same duty to locate, move, remove, or relocate shall apply if a utility or facility is determined to be unreasonably interfering in any way with the convenient, safe, or continuous use of the right-of-way, or with the maintenance, improvement, extension or expansion of the public road, pursuant to F.S. § 337.403. Relocation required for private developers will be reimbursed by the developer, as such is not a county project.

(b)

When relocation is required under this section, county owned and maintained facilities shall be given priority in establishing new utility alignments within the right-of-way.

(c)

The term "locate" as used above in subsection (a) shall:

(1)

Apply only to underground facilities.

(2)

Require exposure of underground utility facility so that the location can be accurately surveyed according to applicable topographic land survey standards.

(3)

In lieu of subsection (2), accurately locate by means of underground detection devices, if the same survey standards are met.

(4)

Require timely performance of utility owner to supply location information within 90 days from written notice from the county.

(5)

Require location data to be supplied in writing, drawings, graphic, or computer files. All data shall be certified by a professional land surveyor indicating location information meets land survey standards.

(d)

Nothing in this article shall prohibit utility owners from contracting with other qualified firms for performance of these activities.

(e)

If a person fails to commence removal or relocation of its facilities as designated by the county, within the time specified in the county's removal order, or if a person fails to timely complete such removal, including all associated restoration of the right-of-way, the county shall have all rights of action specified under F.S. § 337.403, including, but not limited to, removal of the facilities at the permittee's cost and expense, by another person, county forces or its contractor; and pursuant of all available remedies under the sureties, at law or equity.

(f)

The requirements of section 170-270 shall apply to this section.

(Ord. No. 01-56, § 1, 8-7-01)

State Law reference— Relocation of utilities, F.S. § 337.403.

Sec. 170-272. - Abandoned facilities.

(a)

A permittee who abandons a facility in the public right-of-way shall notify the department within 90 days.

(b)

The department may direct the permittee by written notice to remove all or any portion of such abandoned facility, where feasible, at the permittee's sole expense if the county determines that the abandoned facility's presence interferes with the public health, safety or welfare, which shall include, but shall not be limited to, a determination that such facility may:

(1)

Compromise safety for any right-of-way user;

(2)

Prevent another permittee from placing or maintaining facilities; or

(3)

Create a maintenance condition disruptive to use of right-of-way.

(c)

In the event that the department does not direct the removal of the abandoned facility, the permittee, by its notice of abandonment shall be deemed to consent to the alteration, use, or removal of all or any portion of the facility by another permittee or the county.

(d)

If the permittee fails to remove all or any portion of an abandoned facility as directed by the department within a reasonable time period, the county may perform such removal and charge all costs of the removal

against the permittee.

(e)

If the director determines that a facility has been abandoned, it may take any of the steps listed above.

(Ord. No. 01-56, § 1, 8-7-01)

Sec. 170-273. - Enforcement of permit obligations.

(a)

Work done without a permit.

(1)

Emergency situations.

a.

Each permittee shall immediately notify the county via telephone, fax or e-mail at the Pinellas County Highway Department at 22211 U.S. Hwy 19 North, Clearwater, Florida, of any event regarding its facilities which it considers to be an emergency. The permittee may proceed to take whatever actions are necessary in order to respond to the emergency. The permittee may be required to obtain an "after-the-fact" permit within a reasonable time following the emergency work or submit revised "as-builts" where excavation is required.

b.

In the event that the director, or his designee, becomes aware of an emergency regarding a permittee's facilities, the department shall attempt to contact the local representative of each permittee or person affected, or potentially affected by the emergency. In any event, the department may take whatever reasonable action it deems necessary in order to respond to the emergency, the cost of which shall be borne by the permittee whose facilities occasioned the emergency.

(2)

Non-emergency situations. Except in the case of an emergency, any person who obstructs or excavates a right-of-way without a permit must subsequently obtain a permit, pay double the normal fee for said permit, pay double all the other fees required by the Code, deposit with the department the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this article.

(b)

Work beyond five feet from back of curb. Annual permits may be issued by the county for routine work beyond five feet from back of curb. Such work shall be specified on each annual permit, and reporting conditions pursuant to permit and state law.

(c)

Revocation of permits, probation.

(1)

Permittee held permits issued pursuant to the Code is a privilege and not a right. The holder of a permit does not possess a vested right to maintain its facilities in a particular location, nor may the rights of the permittee be construed to be an interest in real property of a property right subject to constitutional protection.

(2)

The county reserves the right, as provided herein, to revoke any permit, without refunding any fees, in the event of a substantial breach of the terms and conditions of any statute, ordinance, rule or regulations, or any condition of the permit. A substantial breach by permittee shall include, but shall not be limited to the following:

a.

The violation of any material provision of the permit.

b.

Any material misrepresentation of fact in the application for a permit.

c.

The failure to maintain the required sureties or insurance.

d.

The failure to obey a county directive to correct a condition.

e.

Suspension or revocation of a required federal or state certification or license.

(3)

Except in an emergency which could endanger health or safety, the director or his designee, shall issue a written notice to the permittee of the breach, which shall include the corrective actions to be taken by the permittee and the time allowed for corrective action. In an emergency, no notice is required, and the county may take all such steps it deems necessary to safeguard the public.

(4)

Failure of the permittee to promptly respond and take corrective action within a reasonable time under the circumstances shall justify immediate revocation of the permit.

(5)

Two or more failures to respond or take corrective action may cause the permittee to be placed on probation.

(6)

If a permittee, while on probation, commits a breach as outlined above, the permittee will be fined, and/or

permittee's permit may be revoked and no further permits will be allowed for one full year, except for emergency repairs.

(d)

Other remedies for violation.

(1)

Any violation of any of the provisions of this article may be enforced as a local ordinance violation. Each day the violation continues shall be considered as a separate offense.

(2)

In addition, the county can pursue all other lawful actions, including the filing of a complaint with the public service commission, the filing in any appropriate court for an injunction seeking enforcement of the terms of this article or the permit or to enjoin any use of the right-of-way.

(3)

If the permittee fails to respond in a timely manner to remove or relocate facilities, as required under F.S. ch. 337, following notice from the county, the permittee shall fully indemnify the county against any claims, actions, or suits brought by any contractor or developer who is delayed or inconvenienced by such failure of the permittee.

(Ord. No. 01-56, § 1, 8-7-01)

Sec. 170-274. - Inspections, enforcement, stop work orders.

(a)

Inspection.

(1)

Within one week prior to the time the work under any permit hereunder is to commence, the permittee shall notify the director, or his designee to ensure a mutual agreement as to the work to be done.

(2)

Within one week of the time the work under any site specific permit hereunder is completed, the permittee shall notify the director, or his designee.

(3)

The permittee shall make the work site available to the department inspector and to all others authorized by law for inspection at all reasonable times during the execution and upon completion of the work.

(4)

The department inspector may issue an order to the permittee for correction of any work that does not conform to the applicable standards, permit conditions or codes. Failure to correct the violation may be cause

for revocation of the permit.

(5)

Work on any utility within the right-of-way that is being done contrary to the provisions of this article, or the terms and conditions of the utility permit, may be immediately stopped upon the following conditions:

a.

In an emergency situation that may have a serious effect on health or safety; or

b.

When irreversible or irreparable harm may result, in the reasonable opinion of the county administrator or his designee, and immediate cessation of the activity is necessary to protect the public and the right-of-way. Notice shall be given by the county administrator or his designee in writing to the owner, agent, or the person performing the work, which shall state the conditions under which work may be resumed. Verbal notice shall be sufficient in emergency situations and shall be followed by written notice.

(6)

The inspection or permitting by the county of work under this article shall not be construed as a warranty of the adequacy of performance or of the accuracy of information provided in the permit application by the applicant. The applicant retains full responsibility for information provided and the permittee retains full responsibility for work performed at all times.

(b)

Schedule of fees. A schedule of fees for utility permits may be established by resolution of the board of county commissioners. The fee for a utility permit shall represent the estimated cost for reviewing and processing the permit application, all inspection of work performed under the permit, and any other reasonable costs associated with the implementation of this article. Such fees may be reviewed and updated annually. Communications services providers, as defined by F.S. ch. 202, which includes cable and telephone, will be exempt from permit fees. Permittees other than providers of communications services may be charged other fees for use of the right-of-way as allowed by state law.

(Ord. No. 01-56, § 1, 8-7-01)

Sec. 170-275. - Appeals, waivers and variances.

(a)

Any person adversely affected by a decision of the county administrator in the permitting, enforcement or interpretation of any of the terms or provisions of this article may appeal such decision to the board of county commissioners. Such appeal shall be taken by filing written notice with the county administrator, with a copy to the clerk of the board, within 20 days after the decision of the county administrator. Each such appeal shall be accompanied by a payment in sufficient amount to cover the cost of publishing and mailing notices of hearings. Failure to file such appeal constitutes acceptance of the permit and any conditions thereof or the denial of the application.

(b)

Written request for variance from the terms of this article shall be made by the applicant to the county administrator and shall include detailed plans and written justification for the variance. If the county administrator or his designee determines that strict compliance with this article would impose an unnecessary hardship peculiar to the property of the applicant, he may vary or waive the requirements of this article, provided that such variance or waiver will be consistent with the intent and purpose of this article. In granting such variances or waivers, the county may impose such reasonable conditions as will ensure that the objectives of this article are met.

(Ord. No. 01-56, § 1, 8-7-01)

Sec. 170-276. - Indemnification.

To the fullest extent permitted by state law, permittee agrees to indemnify, defend and save harmless the county and all the members of its board, its officers and employees from and against all losses and all claims, judgments, demands, payments, suits, actions, recoveries, and expenses of every nature and description, including claims for property damage and claims for injury to or death of persons, or on account of, any claim or amounts recovered under the "Workers' Compensation Law" or of any other laws, by-laws, ordinance, order or decree brought or recovered against it by reason of any act of negligence or omission of the permittee, its agents, contractors, or employees, except only such injury or damage as shall have been occasioned by the sole negligence of the county. The monetary limits of this indemnity shall be the limits of insurance coverage applicable to the permittee. These obligations shall survive the expiration of any permit.

(Ord. No. 01-56, § 1, 8-7-01)

Secs. 170-277—170-300. - Reserved.

ARTICLE VI. - SETBACK OF RESIDENTIAL USES FROM COUNTY-OWNED SOLID WASTE DISPOSAL FACILITY[5]

Footnotes:
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Editor's note—Sections 1—10 of Ord. No. 04-18, adopted March 9, 2004, added provisions to the Code, but did not specify manner of inclusion. Therefore, at the discretion of the editor, said provisions have been included as Art. VI, §§ 170-301—170-310 herein.

Sec. 170-301. - Intent and legislative findings.

(a)

The board of county commissioners hereby recognizes that the efficient and proper handling and disposal of solid waste may nonetheless create various effects and impacts that have been determined to generate complaints from nearby residential properties.

(b)

The board of county commissioners also finds and recognizes that allowing increasing numbers of nearby residential properties will likely generate a greater volume of complaints and impede the ability of the county to perform its solid waste disposal obligations.

(c)

It is hereby declared that the board of county commissioners does not intend to allow further residential development of properties not currently zoned for residential use, such that the development will impact the ability of the county to perform its solid waste disposal obligations now or in the future.

(d)

It is further declared that the board of county commissioners finds that the separation of incompatible residential development from the Pinellas County Solid Waste Disposal Facilities is directly concerned with the provision of countywide solid waste disposal services.

(e)

The board of county commissioners further makes a legislative finding that there is a rebuttable presumption that residential uses within 2,000 feet of the Pinellas County Solid Waste Facilities are incompatible with the long-term provision of the essential countywide solid waste disposal services.

(f)

It is the intent of the board of county commissioners that this article be the ordinance, "that regulates the setback of residential uses from a county-owned solid waste disposal facility," referred to in changes to the countywide future land use plan relating to the industrial limited classification made by the board sitting as the countywide planning authority on January 6, 2004.

(Ord. No. 04-18, § 1, 3-9-04)

Sec. 170-302. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Pinellas County Solid Waste Disposal Facilities or county-owned solid waste disposal facilities shall mean the entirety of that real and tangible personal property currently owned or controlled by Pinellas County, as of the effective date of this article, in fee simple, by contractual obligation or otherwise, currently used or contemplated to be used for solid waste handling, collection or transfer operations, processing, incineration, or disposal, as those activities are currently regulated by the state department of environmental protection. The facilities shall include but not be limited to the Bridgeway Acres Landfill, the Pinellas County Waste to Energy Resource Recovery Facility, and the Pinellas County Sod Farm property. The term shall not include the closed Toytown Landfill.

Landfill easement shall mean a deed restriction, easement, or covenant to run with the land placed upon the entirety of a development project that does all of the following:

(1)

Exists in perpetuity.

(2)

Requires written notification prior to closing by each seller of real property to potential buyers of that real

property of the existence, location, and nature of the Pinellas County Solid Waste Disposal Facilities. The required notification shall include a statement that the Pinellas County Solid Waste Disposal Facilities process and dispose of over one million tons of municipal solid waste per year and include current contact information for the Director of Pinellas County Solid Waste Operations.

(3)

Requires written notification by each lessor of real property, within any lease or rental agreement, to potential lessees of that real property of the existence, and location, and nature of the Pinellas County Solid Waste Disposal Facilities. The required notification shall include a statement that the Pinellas County Solid Waste Disposal Facilities process and dispose of over one million tons of municipal solid waste per year and include current contact information for the Director of Pinellas County Solid Waste Operations.

(4)

Recognizes that the Pinellas County Solid Waste Disposal Facilities may eventually reach a height of at least 150 feet above existing grade and possibly higher if allowed by applicable permitting authorities.

(5)

States that failure by a seller or a lessor to provide both a copy of the deed restriction, easement or covenant running with the land and the notice required by subsections (2) or (3) above, as applicable, shall create a rebuttable presumption of fraud in the inducement to the contract for sale or lease.

(6)

That the terms of the deed restriction, easement or covenant running with the land shall inure to the benefit of the other owners or tenants of the development project as well as to Pinellas County, and shall be enforceable by any of those entities in circuit court.

(Ord. No. 04-18, § 2, 3-9-04)

Sec. 170-303. - Regulation of solid waste disposal facilities/preemption.

Pursuant to its countywide authority under the Pinellas County Charter section 2.04(b), and the preemption contained in The Pinellas County Solid Waste Disposal and Resource Recovery Act § 15, the board of county commissioners hereby declares that all other local government or municipal ordinances, regulations, rules, special exceptions, conditions, permits or other limitations upon the Pinellas County Solid Waste Disposal Facilities are void and of no effect to the extent that they attempt to limit any actions of Pinellas County with respect to the operation, construction, improvement, or maintenance of the Pinellas County Solid Waste Disposal Facilities.

(Ord. No. 04-18, § 3, 3-9-04)

Sec. 170-304. - Use restrictions/buffers.

No residential development of any type shall be permitted within 2,000 feet of the boundary of the Pinellas County Solid Waste Disposal Facilities without a variance issued pursuant to section 170-307.

(Ord. No. 04-18, § 4, 3-9-04)

Sec. 170-305. - Regulations not retroactive.

The regulations prescribed by this article relating to uses of property outside the boundaries of the Pinellas County Solid Waste Disposal Facilities shall not be construed to affect any structure not conforming to the regulations prior to the effective date of the ordinance from which this article is derived, or otherwise interfere with the continuance of any existing nonconforming use. Nothing contained in this article shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of the ordinance. Nothing in this article shall be construed to affect land uses permitted under countywide future land use rules in effect prior to March 31, 2004. Nothing in this article shall prohibit a property owner from reconstructing or altering a residential structure which is either existing or approved for construction prior to the effective date of the ordinance from which this article is derived and no provision of this article shall apply to any reconstruction or alteration of such existing or approved residential structures.

(Ord. No. 04-18, § 5, 3-9-04)

Sec. 170-306. - Enforcement of article.

It shall be the duty of the county administrator or his designee to administer and enforce the regulations prescribed in this article. Applications for variances shall be required to be made to the county administrator or his designee upon a form furnished by him or his designee.

(Ord. No. 04-18, § 6, 3-9-04)

Sec. 170-307. - Variance procedures.

Any person desiring to erect or increase the height of any residential structure, or use his property not in accordance with the regulations prescribed in this article, may apply to the board of county commissioners for a variance from such regulations. Such variances may only be allowed where it is duly found that a literal application or enforcement of this article would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this article.

The process to be used for determining whether or not a variance will be granted shall be the same as the process for zoning changes contained in Pinellas County Land Development Code sections 138-76 through 138-83 inclusive, except that the criteria in section 138-80(b) shall not apply. The criteria of section 170-308 shall be applied instead.

No later than 30 days after the board of county commissioners closes the public hearing required under section 138-82, the board shall make and report a decision based upon the record presented. If a variance is granted, the board may place any conditions or requirements determined to be in the public interest upon the variance. Conditional variances will address the appropriateness of relief, allowing the county to fashion that form of relief necessary to equitably address the legitimate concerns of the applicant while at the same time protecting the legitimate interests of the citizens of the county.

Nothing in this section shall prevent the board's decision to continue the hearing to give staff the opportunity to prepare alternatives, in consultation with the applicant, or to give staff or the applicant the opportunity to prepare responses to questions which the board may have regarding information presented at the hearing.

(Ord. No. 04-18, § 7, 3-9-04)

Sec. 170-308. - Variance criteria.

In determining whether to issue or deny a variance, the board of county commissioners shall consider:

(1)

The nature of the terrain, and height of existing structures and any exacerbating, mitigating or muting effects thereof.

(2)

Nature of proposed residential structure(s) including but not limited to type of construction, incorporation of noise attenuation (between indoor and outdoor levels) in the design and construction of a structure.

(3)

Height of proposed residential structure(s).

(4)

Public and private interests and investments.

(5)

The character of current and potential solid waste disposal facilities or solid waste management facilities operations, and planned development or expansion of current and future solid waste disposal, landfill or solid waste management areas, necessary for the county to carry out its countywide solid waste disposal responsibilities.

(6)

Technological advances in building construction or solid waste disposal operations.

(7)

Residential use densities or proposed densities.

(8)

The cumulative effects of all existing structures, proposed structures identified in the applicable jurisdictions' comprehensive plans, and all other known proposed structures in the area on Pinellas County Solid Waste Facilities activities or permitting.

(9)

Requiring a landfill easement as defined in section 170-302.

(10)

Any other impact or impacts on the public interest the board of county commissioners desires to consider.

(Ord. No. 04-18, § 8, 3-9-04)

Sec. 170-309. - Appeals.

Any person aggrieved by the decision of the board of county commissioners, may appeal such decision to the circuit court, as provided by law.

(Ord. No. 04-18, § 9, 3-9-04)

Sec. 170-310. - Territory embraced.

All territory within the legal boundaries of Pinellas County, Florida, including all incorporated and unincorporated areas, shall be embraced by the provisions of this article.

(Ord. No. 04-18, § 10, 3-9-04)

Secs. 170-311—170-340. - Reserved.

ARTICLE VII. - PROPERTIES OF COUNTYWIDE IMPORTANCE

Sec. 170-341. - Legislative findings.

(a)

The Florida Constitution, Article VIII, Section 1(g) provides that the charter of charter counties "shall provide which shall prevail in the event of conflict between county and municipal ordinances"; and

(b)

Section 2.04 of the Pinellas County Charter, s. 1, as adopted by the Florida Legislature and approved by a vote of the Pinellas County electorate on October 7, 1980, as amended ("Charter"), provides for all special and necessary powers of the county to provide certain enumerated services and regulatory authority; and

(c)

Section 2.04 of the Charter provides, "when directly concerned with the furnishing of the services and regulatory authority [in certain specifically enumerated areas], county ordinances shall prevail over municipal ordinances when in conflict"; and

(d)

Section 2.04 of the Charter provides for countywide control over the development and operation of county owned facilities and properties that relate to the provision of the following governmental services and regulatory authority:

(1)

Development and operation of 911 emergency communication system.

(2)

Development and operation of solid waste disposal facilities, exclusive of municipal collection systems.

(3)

Development and operation of regional sewage treatment facilities in accordance with federal law, state law, and existing or future interlocal agreements, exclusive of municipal sewage systems.

(4)

Acquisition, development and control of county-owned parks, buildings, and other county-owned property.

(5)

Development and operation of public health or welfare services or facilities in Pinellas County.

(6)

Operation, development and control of the St. Petersburg-Clearwater International Airport.

(7)

Implementation of animal control regulations and programs.

(8)

Development and implementation of civil preparedness programs.

(9)

Production and distribution of water, exclusive of municipal water systems and in accordance with existing and future interlocal agreements.

(10)

All coordination and delivery of municipal services in the unincorporated areas of the county.

(e)

The Local Government Comprehensive Planning and Land Development Regulation Act ("Act"), specifically F.S. § 163.3171, reserves to charter counties authority for planning and land development regulation to the extent provided for in the county charter; and

(f)

In order to limit any disruptive effects of a county exercise of this existing charter authority, the county herein declares its policy in regard to those properties of countywide importance it wishes to continue preemptively regulating and leaves other county-owned facilities to county regulation by interlocal agreement with the applicable municipality, where appropriate, or as otherwise provided by law.

(Ord. No. 11-42, § 1, 10-25-11)

Sec. 170-342. - Definitions.

[The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Development as used herein shall have the meaning ascribed to it in F.S. § 163.3164 and 380.04.

Properties of countywide importance means county-owned parks, buildings and other properties developed and operated in furtherance of those special countywide powers enumerated in subsection 170-341(d).

(Ord. No. 11-42, § 2, 10-25-11)

Sec. 170-343. - County regulation of development.

The development of properties of countywide importance shall be governed by county ordinances, permits and approvals and municipal ordinances shall not control or regulate the development of properties of countywide importance, unless otherwise agreed to by the county by interlocal agreement. All permits or approvals for development, except for placement of an actual zoning or future land use designation on a particular parcel, that are related to properties of countywide importance shall be reviewed, issued, and enforced by the county. To the extent any municipal ordinance conflicts with the development policy set forth herein, this county ordinance shall prevail.

(Ord. No. 11-42, § 3, 10-25-11)

Sec. 170-344. - Intergovernmental coordination.

It is the intention of the board of county commissioners to coordinate consideration of the particular effects of county regulation of properties of countywide importance as provided herein upon the development and community character of affected municipalities. Prior to the review and issuance of any permit or approval, the county shall notify affected municipalities of development plans, provide said municipality an opportunity to comment, and thereafter provide copies of county permits and approvals issued for development. The county will comply with any alternate process agreed to pursuant to interlocal agreement.

(Ord. No. 11-42, § 4, 10-25-11)

Sec. 170-345. - Areas embraced.

Pursuant to Sections 2.01 and 2.04 of the Pinellas County Charter, this ordinance [Ordinance No. 11-42] shall be effective within the boundaries of Pinellas County.

(Ord. No. 11-42, § 5, 10-25-11)