

LAWS OF CEDAR KEY

LAWS OF CEDAR KEY

CURRENT AS OF DECEMBER 31, 2018

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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 and are considered “Included.” Ordinances that are not of a general and permanent nature are not codified in the Code and are considered “Omitted.”

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.

Ord. / Res. No.	Date Adopted	Included / Omitted	Supp. No.	Sections Changed
476	09/20/12	Included	1	CH 2 § 2.03.00
477	09/20/12	Included	1	CH 2 § 2.18.07
478	09/20/12	Included	1	CH 2 § 4.02.00
479	09/20/12	Included	1	CH 2 § 3.01.00
480	06/19/12	Included	1	CH 2 § 4.00.06 & 4.00.07
481	06/19/12	Included	1	CH 2 § 2.10.03
482				Failed 1st Reading
483	11/19/12	Included	1	CH 2 § 4.00.07
484	11/19/12	Included	1	CH 4 § 6.07.03
485		Included & Omitted	1	CH 4 § 6.07.00 – 6.07.09
486	10/15/13	Included	1	CH 2 § 5.01.00 – 5.01.04
487	05/20/14	Included	1	CH 2 § 4.00.04
325 (Resolution)	02/22/11	Included	1	CH 5 § 2.06
326 (Resolution)	02/22/11	Included	1	CH 5 § 2.07
345 (Resolution)	09/03/13	Included	1	CH 5 §1.00 – 1.02 , 2.00 – 2.07
346 (Resolution)	10/01/13	Included	1	CH 5 § 3.00 – 3.02
353 (Resolution)	03/18/14	Included	1	CH 5 § 3.01
354 (Resolution)	07/01/14	Included	1	CH 5 §3.02
355 (Resolution)	09/02/14	Included	1	CH 5 § 2.02
366 (Resolution)	09/01/15	Included	1	CH 5 § 3.00 – 3.02

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488	08/19/14	Included	2	CH 2 § 2.21.00 – 2.21.01
489	11/18/14	Included	2	CH 2 § 2.22.00 – 2.22.05
490	11/18/14	Included	1	CH 1 APPENDIX A
491	11/18/14	Included	1	CH 1 APPENDIX A
492	12/16/14	Included	1	CH 4 § 11.01.03
493	03/03/15	Included	1	CH 1 APPENDIX A
494	02/17/15	Included & Omitted	2	CH 2 § 1.00.00 – 1.00.22
495				Postponed Indefinitely
496				Postponed Indefinitely
497	06/16/15	Included	1	CH 1 APPENDIX A
498	09/15/15	Included	1	CH 1 APPENDIX A
499	11/03/15	Included & Omitted	2	CH 2 § 5.02.00 – 5.02.01
500	02/16/16	Included & Omitted	2	CH 2 § 5.02.03
501	03/01/16	Included & Omitted	2	CH 4 § 3.01.00-3.01.05 & 12.12.04
502	04/19/16	Included & Omitted	2	CH 4 § 2.00.02, 2.01.02, 2.02.02 – 2.02.10, 2.03.00 – 2.03.06, 2.04.00 – 2.04.04, 7.00.00, & 7.01.00 – 7.01.04
503	04/19/16	Included & Omitted	2	CH 4 § 4.03.09
504	04/19/16	Included	2	CH 4 § 11.03.02
505	09/06/16	Included & Omitted	2	CH 4 § 5.01.06, 5.03.03, & 5.03.05
506	07/05/16	Included & Omitted	2	CH 2 § 2.02.04
377 (Resolution)	06/07/16	Included & Omitted	2	CH 5 § 3.02
378 (Resolution)	06/07/16	Included & Omitted	2	CH 5 § 3.00 – 3.02
379 (Resolution)	06/07/16	Included & Omitted	2	CH 5 § 1.00 – 1.02, & 2.00 – 2.07
507	06/21/16	Included & Omitted	2	CH 4 § 6.07.00 – 6.07.16, & 1.06.02
380 (Resolution)	06/21/16	Included	2	CH 4 6.07.07

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382 (Resolution)	08/02/16	Included & Omitted	2	CH 5 § 3.02
508	08/16/16	Included & Omitted	2	CH 2 § 2.07.04, 2.07.05, & 2.07.10
383 (Resolution)	08/16/16	Included	2	CH 5 § 5.00 – 5.02
509	09/06/16	Included & Omitted	2	CH 4 § 2.02.08, 3.01.10, & 6.05.03
510	09/06/16	Included & Omitted	2	CH 4 § 6.00.04
511	09/06/16	Included & Omitted	2	CH 4 § 9.00.03
384 (Resolution)	09/06/16	Included & Omitted	2	CH 3 CAPITAL IMPROVEMENTS TABLE
512	10/18/16	Included & Omitted	2	CH 4 § 6.05.03, 6.06.02, 6.08.04, 10.01.04, 10.01.05, 12.02.05, 12.08.03, 12.12.02, 12.12.04,& 12.12.05
513	10/18/16	Included & Omitted	2	CH 4 § 8.00.00 – 8.12.00 & 10.03.00 – 10.03.03
514	3/7/17	Included	3	CH 1 Appendix A
515	3/21/17	Not Included-Temporary Moratorium (12 months)	3	N/A
516	8/15/17	Not Included-Annexation Referendum Failed	3	N/A
517	8/15/17	Included	3	CH 2 6.02.00-6.02.08
518				
519	11/7/17	Included and Omitted	3	CH 2 2.10.00-2.10.4
520	4/3/18	Included	3	CH 4 6.07.09 & 6.07.16
521	8/21/18	Omitted	3	CH 2 6.00.03
522	12/18/18	Included	3	CH 3 1-2.1(B)
523	12/18/18	Included	3	CH 4 2.01.02(B) 2.02.03 & 12.13.00
524	9/18/18	Included	3	CH 2 2.01.01 2.01.04 2.01.06(F) 2.01.08(C) & 2.01.09
414 (Resolution)	8/21/18	Included	3	CH 5 4.01 & 4.02

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525	9/18/18	Included	3	CH 4 3.01.01 3.01.04 & 3.01.09
415 (Resolution)	9/18/18	Included	3	See Note at CH 4 3.01.01
526	10/16/18	Included	3	CH 2 5.02.01

LAWS OF CEDAR KEY-CHAPTER ONE MUNICIPAL CHARTER

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ARTICLE I: ESTABLISHMENT, CORPORATE LIMITS AND POWERS

1.00.00. CITY CHARTER

The Charter for the City of Cedar Key is re-created and reenacted to read:

1.01.00. ESTABLISHMENT AND GENERAL POWERS

The City of Cedar Key, created by chapter 69-929, Laws of Florida, 1969, shall continue and is vested with all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, render municipal services, and exercise any power for municipal purposes, except as otherwise provided by law.

1.02.00. TERRITORIAL LIMITS

The territorial limits and boundaries of the municipality existing in Levy County under the name of the City of Cedar Key shall embrace all of the territory described in Appendix A of this Chapter.

1.03.00. CONSTRUCTION

A. The powers of the city shall be construed liberally in favor of the city, limited

only by the State Constitution, general law, and specific limitations contained in this act.

B. All powers and authority granted by this act are supplemental and additional to all other statutory and constitutional authority.

C. For purposes of this act, the term:

1. "City" means the City of Cedar Key.

2. "Commission" means the city commission as established in Article II.

3. "State" means the State of Florida.

1.04.00. SPECIAL POWERS

In addition to its general powers, the city may:

A. Acquire by purchase, gift, devise, lease, lease-purchase, condemnation, or otherwise, real or personal property, or any estate or interest in property, within or without the city limits, and for any of the purposes of the city, and to improve, sell, lease, mortgage, pledge, or otherwise dispose of its property or any part of its property.

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B. Acquire, purchase, hire, construct, extend, maintain, own, operate, or lease local public utilities, including: cable television, transportation, electric, telephone, and telegraph systems; wastewater and stormwater facilities; works for supplying the city and its inhabitants with water, gas, and electric energy for illuminating, heating, or power purposes; water, electric, and gas production, transmission, and distribution systems; sanitary sewage facilities; wastewater transmission and disposal facilities; and any and all other utilities as the welfare of its residents reasonably demand.

C. Cause any local improvement that is for a municipal function or purpose to be planned, financed, acquired, constructed, operated and maintained, together with any act or thing that is necessary or incidental thereto. Local improvement shall include, but not be limited to, any of the following, either partial or complete, in whole or in part, within the city, to-wit:

Streets, alleys, sidewalks, curbs, gutters, storm sewers, sewerage disposal systems, water works system, water treatment plant, parks, playgrounds, municipal buildings, garbage and trash disposal plants, docks, swimming pools, public works, public projects, public utilities and any act or thing that is necessary or incidental thereto.

D. Acquire by purchase, gift, devise, condemnation, or otherwise, lands, either within or without the city limits, to be used, kept, and improved as a place of internment of the dead; make and enforce all necessary rules and regulations for the protection and use of all cemeteries within the city limits; and generally regulate the burial of the dead.

E. Provide fire protection and other governmental services within and without the city limits and enter into contracts for such purposes.

F. License, tax, cause to be registered, control the drivers of, and fix the rate to be charged for the transportation of persons and property within the city limits and to the public works beyond the city limits; provide for parking spaces on the streets and regulate, vacate, or discontinue the right to use the parking spaces; and require bonds and sureties to be furnished for all vehicles operated for hire upon the streets of the city whether such operation is wholly within the city limits or between the city and places outside the city.

G. Exercise full police powers over the entire width of right-of-ways of all streets and public ways which lie within, adjacent to, or partially within the city limits.

H. Issue any bonds which municipalities are authorized to issue under the State Constitution or laws of the state, subject to the provisions of this act. For purposes of this subsection:

1. The term "bonds" means ad valorem bonds, revenue bonds and certificates, certificates of indebtedness, special assessment bonds and certificates, tax anticipation notes, bond anticipation notes, revenue anticipation notes, and other evidences of indebtedness.

2. The term "revenue bonds" means bonds payable solely from the revenues derived from sources of revenue other than ad valorem taxes.

3. The term "ad valorem bonds" means bonds and the interest thereon which are payable from the proceeds of ad valorem taxes levied on real and personal property situated within the city limits. Ad valorem bonds may be used in combination with other revenue sources.

I. Levy ad valorem taxes in accordance with the State Constitution and laws of the state and to levy other taxes authorized by general law.

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ARTICLE II: CITY COMMISSION

2.01.00. CREATION

A. The corporate authority of the city shall be vested in a city commission hereby created. The municipal government provided by this act shall be known as the "city commission" form of government.

B. Pursuant to the provisions of this act and subject only to limitations imposed by the State Constitution and by this act, all powers of the city shall be vested in an elective commission, hereinafter referred to as "the commission" or the "city commission", which shall enact local legislation, adopt budgets, determine policies, administrate those policies and appoint the officers and officials of the city authorized by this act.

C. All powers of the city where not otherwise delegated herein, shall be exercised through or at the direction of the city commission in the manner prescribed by this act, or if the manner is not prescribed by this act, then in such a manner as may be prescribed by ordinance or resolution authorized hereunder or the city commission may cause the exercise of such powers in any manner as may be prescribed by general or special law.

2.02.00. COMPOSITION

The city commission shall have five members. The city commission at its annual organizational meetings shall:

A. Appoint one of its members as mayor.

B. Appoint one of its members as vice-mayor.

2.03.00. ELIGIBILITY

Each candidate for a seat must be a qualified voter who is a resident of the city for at least six months prior to the date the person qualifies to run for office. Each commissioner and the mayor shall continuously reside within the city during their terms of office.

2.04.00. MAYOR AND VICE-MAYOR

A. Mayor. The Mayor may preside at all meetings of the commission, may determine whether or not the policies of the commission are being carried out, report same to the commission, and, at the pleasure of the commission, act as the administrator of the city.

1. The Mayor may execute instruments, conveyances, notes, mortgages, and bonds in the name of the city and affix his signature thereto when authorized by the commission so to do.

2. Any deed, mortgage or satisfaction of mortgage heretofore or hereafter executed in the name of the city by the mayor, attested by the city clerk, with the city seal affixed thereto, acknowledged by the mayor and city clerk and recorded in the public records of Levy County, shall be conclusive evidence that such instrument was the act and deed of the city and was duly and lawfully authorized and executed.

3. The mayor shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law.

4. The mayor shall perform any duties delegated to him by any ordinance, resolution or law.

B. Vice Mayor. The vice-mayor shall have the same duties and powers as the mayor during the absence or disability of the mayor, and in such case shall perform all of the duties of the

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mayor, subscribing his name as vice-mayor, and when so done, it shall be deemed as valid as if the mayor had in fact performed that act.

2.05.00. ELECTIONS

A. General election. The city shall hold its general election each year as established by ordinance from time to time; provided, however, the general election each year shall not be prior to the first Tuesday in May and not later than the last Tuesday in June. Both primary and run-off elections may be provided for by ordinance.

B. Special election. Special elections may be held at any time for any lawful purpose.

C. Runoff election: The city may provide for run-off elections.

D. City declared one election district; polling places. All of the territory within the city shall be considered as one election district, but there may be more than one polling place within the city as determined by the ordinance. All qualified electors of the city may vote for any candidate for the office of city commissioner.

E. Election procedure: The city may, by ordinance, establish the rules, regulations and procedures controlling general and special elections and referendums, including primary elections, run-off elections, freeholders elections on bond issues and referendum elections to determine any issue the commission wishes the respective electors to determine. It may adopt by reference any part of the state election code.

1. Candidates elected. The commission shall provide for, establish, and designate the separate groups under which candidates may qualify and seek election. At any regular, special or run-off election of the city, the ballots shall name all candidates who have qualified for that election, and the procedure for determining the successful candidate. Any candidate for city commissioner receiving a majority of the votes

cast in the group in which he is a candidate shall be declared elected for a term of two (2) years. If no candidate receives a majority of the votes cast for that particular group, the two candidates in that group receiving the highest and next to the highest number of votes cast in that group shall be qualified to participate in the run-off election.

2. Runoff election. The commission shall provide for run off elections, which may be held no sooner than the seventh, and not later than the twenty-first, day following the date of the general or special election that the run off is held to resolve.

F. Reserved.

G. Oath of candidate. The city commission may, by ordinance, require each candidate for the city commission at the time he or she qualifies as a candidate to subscribe to an oath that he or she would be qualified to hold office if elected.

H. Reserved.

I. Induction into office. Commissioners elected each year at the regular annual city election shall take the oath of office at the next regular meeting following their election, or at any special meeting called for that purpose. In the event a candidate for the commission is elected in a special election, run-off election or is unable to be sworn in at the time above provided, he or she shall take the oath of office and commence his or her duties at the next regular commission meeting after he or she becomes able and entitled to do so.

J. Oath of Office. Each elected official of the city before entering upon the discharge of the duties of his or her office, shall make oath before some judicial officer or notary public of the state, that he or she will support, protect, and defend the government of the United States of America, and of the State of Florida, against all

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enemies, domestic or foreign, and will bear true faith, loyalty, and allegiance to the same; that he or she is entitled to hold office under the Constitution of the United States of America, and of the State of Florida, and that he or she will faithfully perform all of the duties of the office which he or she is about to enter.

K. Judge as to qualifications of its members. The city commission shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require the production of records, all subject to review by the courts.

2.06.00. COMMISSION TERMS AND VACANCIES

A. The city commission members shall be elected for a term of 2 years or until their successors have been elected and take office.

B. If a vacancy occurs in the city commission from any cause 90 days or more prior to a general election, the vacancy may be filled by the city commission appointing a qualified person to fill such vacancy until the following general election which follows said vacancy. In case of a vacancy, such appointment shall be only until the next general election of the city and the election shall be for the unexpired term.

2.07.00. ORDER OF BUSINESS

The commission shall determine its own rules and order of business. It shall cause the city clerk, or his or her designee, to keep the journal of its proceedings, to authenticate by his or her signature and to record in a book kept for such purposes all ordinances and resolutions.

2.08.00. COMMISSIONERS REQUIRED TO VOTE

Except as otherwise provided by law, when any issue or question is to be voted on at any

commission meeting, any member thereof may call for a roll call vote, and if such a vote is requested by any member, the mayor or city clerk shall call the roll of the commission members and each commissioner present at the commission table at that time shall cast either an affirmative or negative vote on such issue or question and the clerk shall record the individual vote of each in the journal.

2.09.00. COMPENSATION

The compensation of the city commissioners, and of all officials and employees of the city shall be as determined by the city commission.

2.10.00. REMOVAL OF COMMISSIONERS

A. Grounds. Any of the commissioners may be removed from office for any of the following grounds:

1. Successive failure to attend regular meetings without good cause after being requested by the majority of the commission so to do.
2. Removal of residence from said city or ceasing to be a freeholder in said city.
3. Misfeasance in office.
4. Malfeasance in office.
5. Nonfeasance in office.
6. Habitual Intoxication.
7. Conviction of a felony.

B. Procedure. The majority of the commission may remove any member of the commission for any of the grounds set forth herein, provided such member is so charged in writing, given a public hearing if requested, a bill of particulars if demanded and is given the opportunity to appeal the decision of the commission to the circuit court. The commission may, by ordinance, further provide for additional procedure to carry out the intent of this section.

C. Recall of commissioners. Commissioners including the mayor are subject to recall as provided by law.

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ARTICLE III: ADMINISTRATION

3.01.00. DEPARTMENTS

- A. The city commission may establish departments for orderly performance and administration of city functions and duties.
- B. The city commission may appoint each one of its respective commissioners to be in charge of each department.
- C. The city commission may establish the duties, rules, regulations, and policies pertaining to each department.
- D. Administration of each respective department may be by the commissioner in charge of that department, the mayor, city administrator, or city manager, as determined by the city commission from time to time.

3.02.00. APPOINTMENT OF OFFICIALS

- A. The city commission at its annual organizational meetings shall:
 - 1. Appoint one of its members as mayor.
 - 2. Appoint one of its members as vice-mayor.
 - 3. Appoint, by retaining, a city attorney.
 - 4. Appoint a city clerk.
 - 5. Appoint a chief of police.
 - 6. Appoint any other official it deems advisable.
- B. The city commission shall appoint a qualified person to fill any vacancy in any of the aforesaid offices should a vacancy occur in that office between its annual organizational meetings.

3.03.00. TERM OF APPOINTEES

A. The term of office of any municipal official appointed pursuant to Section 3.02.00 of this charter, shall commence on the effective date of the municipal official's appointment as determined by the commission and terminate on the thirtieth (30th) day of May, next following the effective date of his or her appointment, or until his or her successor takes office.

B. The same person, if qualified, may be re-appointed to succeed himself or herself from term to term to the same or another office, and shall, if qualified, retain office until a successor is appointed.

C. The failure to appoint a person to such office on the date provided, or within a reasonable time thereafter, shall extend the term of the person then holding such official position for another term, if he or she is qualified to succeed himself, but if he or she is not qualified to succeed himself or herself, the office shall be deemed vacant until filled.

D. Each municipal official shall continue to be qualified to hold his or her respective office during his or her term and if the official ceases to be so qualified, the official's term shall thereupon terminate.

3.04.00. DUTIES OF APPOINTEES

The duties of the following municipal officials shall be:

A. Attorney. The city attorney, who must be admitted to the practice of law in the state, shall be the legal advisor to, and attorney for, the city. The city attorney shall prosecute and defend all suits, complaints, and controversies for and on behalf of the city, unless otherwise directed by the commission, and shall review all contracts, bonds and other instruments in writing in which the city is to be a party, and shall

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endorse on each approval as to form and legality.

B. City Clerk. The city clerk of the commission shall keep records and perform such other duties as are prescribed by this act or the commission.

C. Chief of Police. The chief of police shall be the chief administrative officer for the city police department.

D. Mayor and Vice-Mayor. The mayor and vice-mayor shall perform duties as prescribed by Section 2.04.

E. Other. The city commission may establish by ordinance any other officer of the city and designate an appropriate title of said officer as determined necessary.

3.05.00. AUDITS AND EXAMINATIONS OF ADMINISTRATIVE DEPARTMENTS

In the absence of state law requiring the city to conduct an annual financial audit, the commission shall adopt an ordinance requiring an annual financial audit of the accounts and records of the city to be completed by an independent certified public accountant within 12 months after the end of each fiscal year.

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ARTICLE IV: SPECIAL PROVISIONS

4.01.00. CHARTER AMENDMENTS

A. This act may be amended pursuant to this section or as otherwise provided by general law.

B. Petition. An amendment may be proposed by a petition signed by 20 percent of the registered voters of the city, or by an ordinance adopted by a four-fifths vote of the membership of the commission. The commission shall place the proposed amendment to a vote of the electors at the next general election or at a special election called for that purpose.

C. Notice. The full proposed amendment must be published once each week for 4 consecutive weeks prior to the election in a newspaper of general circulation published in the city.

D. Effect of election. A proposed amendment receiving an affirmative vote of a majority of the votes cast shall be effective as an amendment to this act not later than the 90th calendar day after the day on which the vote was taken unless otherwise provided in the proposed amendment.

4.02.00. FRESH PURSUIT AND ARREST BY MUNICIPAL OFFICERS

Any police officer of the city may make fresh pursuit of any person from within the city to any point in Levy County and there arrest the person, if the pursued person has violated a municipal ordinance of the city or committed a misdemeanor within the city in the presence of a police officer, or if the police officer has reasonable grounds to believe that the pursued person has committed or is committing a felony.

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ARTICLE V: TRANSITION SCHEDULE

5.01.00. FORMER CHARTER PROVISIONS

All provisions of the charter of the City of Cedar Key in effect immediately prior to the effective date of this act which are not contained in and are not inconsistent with this act are ordinances of the city subject to modification or repeal in the same manner as other ordinances of the city.

5.02.00. ORDINANCES & RESOLUTIONS PRESERVED

All ordinances and resolutions in effect immediately prior to the effective date of this act shall remain in full force and effect to the extent not inconsistent or in conflict with this act until repealed or changed in the manner provided by law.

5.03.00 RIGHTS OF OFFICERS AND EMPLOYEES

Nothing in this act except as otherwise specifically provided in this act shall affect or impair the rights or privileges of persons who were city officers or employees immediately prior to the effective date of this act.

5.04.00. PENDING MATTERS

All rights, claims, actions, orders, and legal or administrative proceedings involving the city immediately prior to the effective date of this act shall continue, except as modified pursuant to the provisions of this act.

5.05.00. SEVERABILITY

The provisions of this charter are severable, and if any word, section, part of section, paragraph, sentence, clause, phrase, or any portion of this charter shall be held invalid or unconstitutional, such decision shall not affect any other part or portion of this charter.

5.06.00. REPEALED

Chapter 69-929, Laws of Florida, is hereby repealed.

5.07.00. EFFECTIVE DATE

This act shall take effect upon becoming a law.

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APPENDIX A –TERRITORIAL LIMITS

Begin at a point located 1461 feet from the half mile corner on the South line of Section 19, Township 15 South, Range 13 East (Tallahassee meridian), said point of beginning being on a straight line, run North, 8 degrees, 19 minutes East, from the last mentioned half mile corner, said point of beginning being further described as being on a line run due North through the exact center of 2 permanent concrete monuments 100 feet apart located on the Northern point of Way Key, said point of beginning being on the last mentioned due North line 400 feet North of the Northernmost of said two concrete monuments (which said point of beginning was described in Chapter 9698, Laws of Florida, Special Acts of 1923 as being "100 yards North of the extreme Northern end as measured at mean low water, of the point known as the Bishop or Williams Point, said Bishop or Williams Point being extreme Northern point of Way Key"); Thence run due East (true meridian), 5078.7 feet from said point of beginning to the East rail of the main line of the Seaboard Air Line Railway as it formerly existed, said last mentioned point now being marked with a permanent concrete monument, said concrete monument herein designated as Point "D"; thence run South 12 degrees, 35 minutes West in a straight line along the said East rail of the main line of the Seaboard Air Line Railway as it formerly existed, to a point intersecting the North line of that certain parcel of land described in Official Record Book 183, page 110 of the Public Records of Levy County, Florida. Thence departing from said East rail of the main line of the Seaboard Air Line Railway as it formerly existed, run along the North line of said parcel of land described in Official Record Book 183, page 110 in an East-Southeast direction to the Westerly right-of-way line of State Road No. 24, thence run along said right-of-way line in a Southwesterly direction, 200.00

feet; thence departing from said right-of-way, run along the South line of said parcel described in Official Record Book 183, page 110 in a West-Northwest direction to a point intersecting the aforementioned East rail of the main line of the Seaboard Air Line Railway as it formerly existed; thence run along said East rail of the Seaboard Air Line Railway to a point known as Point "E"; Point "E" lying South 12 degrees, 35 minutes West, 3360.5 feet of Point "D"; thence from Point "E", run along a line, due East (true meridian, said line hereinafter designated as "Line E-F") to the Easterly right-of-way line of State Road No. 24; thence run along said right-of-way line, in a North-Northeast direction to a point intersecting the North line of LOT 4, BLOCK H, MAP OF HALE'S ADDITION TO CEDAR KEY, FLORIDA, (a subdivision as recorded in Plat Book 1, page 22 of the Public Records of Levy County, Florida); thence departing from said right-of-way line, run along the North line of said LOT 4 to the Northeast corner of LOT 4, said point being on the Easterly line of aforesaid BLOCK H, MAP OF HALE'S ADDITION; thence run along the Easterly line of said BLOCK H in a South-Southwest direction to a point intersecting the aforesaid "Line E-F"; thence run along said "Line E-F" due East (true meridian) to a point intersecting a Southerly projection of West line of LOTS 1-8, BLOCK G, MAP OF HALE'S ADDITION TO CEDAR KEY; thence run in a North-Northeast direction along the West line of said LOTS 1-8, BLOCK G, to the Easterly boundary line of aforesaid MAP OF HALE'S ADDITION; thence run along said Easterly boundary line in a Southeast direction to the Northeast corner of aforesaid BLOCK G; thence run in a South-Southwest direction along the Easterly line of said BLOCK G to a point intersecting the aforesaid "Line E-F"; thence run along said "Line E-F", due East (true meridian)

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to a point located at the intersection of the last mentioned due East line with a line run due North (true meridian) from a point (hereinafter designated as point "A") 100 yards due East (true meridian) of the present mean low water line of the extreme eastern end of Fenimore Mill Point (now the Standard Manufacturing & Fibre Factory Point), said Fenimore Mill Point being located on the Eastern prolongation of Second Street as it existed in the former City of Cedar Key; thence run due South (true meridian) from the last mentioned intersection through said Point "A" along a line to its intersection with a straight line run through the present mean low water line of the Southernmost point of Dog Island (said Dog Island being located in Sections 28 and 33, Township 15 South, Range 13 East, (Tallahassee meridian), and through the present mean low water line of the Southernmost point of the Island of Piney Point, said line being hereinafter designated as "B-C"; thence from the last mentioned intersection, run Southwesterly along the said "B-C" to its intersection with a line run due South (true meridian) from a point located 100 yards due East (true meridian) of the present mean low water line of the Easternmost point of the Island of Piney Point; thence from the last mentioned point of intersection run on a line in a Northerly direction (said line being a projection to the point of beginning and previously known as the "West City Limits Line" to a point intersecting the Easterly right-of-way line of Airport Road (Levy County Road No. 470); thence run along said right-of-way line, South 11 degrees, 41 minutes, 24 seconds West, to a point intersecting an Easterly projection of the South line of LOT 4, CEDAR POINT (a subdivision as recorded in Plat Book 9, page 9 of the Public Records of Levy County, Florida); thence run along said South line, South 88 degrees, 54 minutes, 43 seconds West, 103.52 feet; (thence run along the following described courses of said LOT 4); thence run North 25 degrees, 18 minutes, 17 seconds East, 13.83 feet; thence run North 27 degrees, 31

minutes, 03 seconds West, 71.84 feet; thence run North 12 degrees, 47 minutes, 05 seconds West, 61.41 feet, thence run South 83 degrees, 54 minutes, 59 seconds West, 66.62 feet; thence run South 70 degrees, 10 minutes, 24 seconds West, 62.89 feet; thence run South 81 degrees, 02 minutes, 13 seconds West, 98.85 feet; thence run South 80 degrees, 34 minutes, 23 seconds West, 69.42 feet; thence run North 75 degrees, 16 minutes, 34 seconds West, 55.16 feet; thence run North 31 degrees, 54 minutes, 09 seconds East, 130.34 feet; thence run North 33 degrees, 13 minutes, 14 seconds East, 93.42 feet to the Northwesterly corner of aforesaid LOT 4; thence run along the North line of said LOT 4, South 68 degrees, 00 minutes, 50 seconds East, projecting to a point intersecting the aforementioned "West City Limit Line"; thence run along said "West City Limit Line", in a Northerly direction to a point intersecting the South line of LOT 10, EGRET'S PASS, (a subdivision as recorded in Plat Book 8, page 75 of the Public Records of Levy County, Florida); thence run along the South line of said LOT 10, North 88 degrees, 54 minutes, 25 seconds West, 49.82 feet; thence run North 00 degrees, 40 minutes, 56 seconds East, 90.00 feet; thence run North 88 degrees, 54 minutes, 25 seconds West, 214 feet more or less to the Easterly water's edge of the Gulf of Mexico; thence run Northerly along said water's edge to the Southerly water's edge of a private canal; thence run along the Southerly water's edge of said canal in an Easterly direction to a point intersecting the aforesaid "West City Limit Line"; thence run along "West City Limit Line", in a Northerly direction to a point intersecting the South right-of-way line of Whiddon Avenue, according to the plat of FOWLER-WAY IN CEDAR KEY, FLORIDA, (a subdivision as recorded in Plat Book 1, page 38 of the Public Records of Levy County, Florida); thence run along said right-of-way line in a Westerly direction to the water's edge of the Gulf of Mexico; thence run along said water's edge in a Northwesterly direction to the South line of

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WESTVIEW (a subdivision as recorded in Plat Book 6, page 39 of the Public Records of Levy County, Florida); thence run along the South line of WESTVIEW, North 88 degrees, 54 minutes, 25 seconds West, 454 feet more or less to the Southwest corner of said record plat WESTVIEW; thence run North 00 degrees, 41 minutes, 42 seconds West, 300.14 feet to the Northwest corner of said record plat WESTVIEW; thence run along the North line of said record plat WESTVIEW, South 88 degrees, 54 minutes, 25 seconds East, to a point intersecting the aforesaid "West City Limit Line"; thence run along "West City Limit Line" in a Northerly direction to a point intersecting the South line of the North One-Half (N ½) of Section 30, Township 15 South, Range 13 East; thence run along said South line of N ½ of Section 30, West, to a point that is 365 feet West of the center of said Section 30; thence South 36 degrees, 05 minutes West, a distance of 2805 feet, thence North 67 degrees, 20 minutes West, a distance of 700 feet to a point that is 660 feet North of the Southwest corner of said Section 30; thence run North along the West boundary of Section 30 to the Westerly extension of the South right-of-way line of HODGES AVENUE (a subdivision as recorded in Plat Book 3, page 19 of the Public Records of Levy County, Florida); thence run Easterly along said extension and South right-of-way line to its intersection with a Southerly projection of the West boundary of LOT 1, BLOCK H, CEDAR KEY SHORES, UNIT 1, (a subdivision as recorded in Plat Book 3, pages 19-19A, of the Public Records of Levy County, Florida); thence run along said projection in a Northerly direction to a point intersecting the North line of said LOT 1; thence run along said North line of LOT 1 to the Northeast corner of said LOT 1; thence run along a projection of the East line of said LOT 1, South, to an intersection with the aforementioned South right-of-way line of Hodges Avenue; thence run East along said right-of-way line to a point intersecting a

Southerly projection of the West line of LOT 3, BLOCK J, CEDAR KEY SHORES, UNIT 1; thence run along said projection, North to the Northwest corner of said LOT 3; thence run West, 70 feet to the Southwest corner of LOT 4 of aforesaid BLOCK J; thence run North, 123 feet to the Northwest corner of LOT 5 of said BLOCK J; thence run North 64 degrees, 53 minutes, 37 seconds East, 193.25 feet to the Northeast corner of said LOT 5; thence run South on a projection of the East line of LOTS 3, 4 and 5, BLOCK J to a point intersecting the aforesaid South right-of-way line of Hodges Avenue; thence run East along said right-of-way line to a point intersecting a Southerly projection of the West line of LOT 25, BLOCK F, CEDAR KEY SHORES, UNIT 1; thence run along said projection, North, 166 feet to the Northwest corner of said LOT 25; thence run along the North line of LOT 25 and LOT 1, BLOCK F, East, 200 feet to the Northeast corner of said LOT 1; thence run South along a projection of the East line of LOT 1, 166 feet to a point intersecting the South right-of-way line of aforesaid Hodges Avenue; thence run East along said right-of-way line to a point intersecting a Southerly projection of the West line of LOT 19, BLOCK B, CEDAR KEY SHORES, UNIT 1; thence run along said projection, North 166 feet; thence run North 45 degrees East, 60 feet more or less to the water's edge of the Gulf of Mexico; thence run along said water's edge in a Southeasterly direction to the East line of said LOT 19; thence run on a projection of the East line of LOT 19, South, 182 feet more or less to a point intersecting the South right-of-way line of aforesaid Hodges Avenue; thence run East along said right-of-way line to a point intersecting a Southerly projection of the West line of LOT 15, BLOCK B, CEDAR KEY SHORES, UNIT 1; thence run along said projection, North 238 feet more or less to the water's edge of the Gulf of Mexico; thence run along said water's edge to a point intersecting the aforesaid "West City Limit Line"; thence run along said "West City Limit

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Line," Northerly to a point intersecting the centerline of a canal abutting LOT 1, BLOCK D, CEDAR KEY SHORES, UNIT 1; thence run along the centerline of said canal in a Westerly direction to a point intersecting a Northerly projection of the Easterly right-of-way line of Rye Key Drive; thence South 25.00 feet along the East right-of-way line of Rye Key Drive to a concrete monument; thence run West, 50.03 feet to the Northeast corner of LOT 1, BLOCK E, CEDAR KEY SHORES, UNIT 1; thence run North 25.00 feet to the centerline of a canal running Westerly; thence run Westerly along the centerline of said canal a distance of 571 feet more or less, to a point which is South 35 degrees, 28 minutes, 00 seconds East, a distance of 548.00 feet from a ½ inch G.I. pipe; thence run North 35 degrees, 28 minutes, 00 seconds West, a distance of 548.00 feet a ½ inch G.I. pipe; continue thence North 35 degrees, 28 minutes, 00 seconds West, a distance of 443.00 feet to a ½ inch G.I. pipe; thence run North 63 degrees, 51 minutes, 00 seconds East, a distance of 975.00 feet to a ½ inch G.I. pipe; thence run South 78 degrees, 58 minutes, 00 seconds East, to a point intersecting the aforesaid "West City Limit Line"; thence run along said "West City Limit Line" to the Point of Beginning.

TOGETHER WITH:

All of those certain pieces, parcels, tracts and lots of land on the Northerly side of the right-of-way of CEDAR KEY AIRPORT in the West ½ of Section 31, Township 15 South, Range 13 East, consisting of LOTS 18 and 19, according to a survey and plat of PINEY POINT, made October 27, 1953 by Perry C. McGriff, a surveyor, together with a further tract Northwesternly of said LOTS 18 and 19, the said LOTS 18 and 19 and the additional tract, together being more particularly described as follows, to-wit:

Commence at the Northwest corner of said Section 31, Township 15 South, Range 13 East,

and run South 64 degrees, 52 minutes East, a distance of 2397 feet; thence run North 41 degrees, 44 minutes West, a distance of 450 feet; thence run South 48 degrees, 16 minutes West, a distance of 2000 feet to the Southeasterly corner of said LOT 18 to establish the POINT OF BEGINNING; from said Point of Beginning run South 48 degrees, 16 minutes West, a distance of 300 feet; thence run North 41 degrees, 44 minutes West, a distance of 300 feet; thence run North 48 degrees, 16 minutes East, a distance of 300 feet; thence run South 41 degrees, 44 minutes East, a distance of 300 feet to the Point of Beginning.

AND:

A parcel of land in the East ½ of the NW ½ of Section 31, Township 15 South, Range 13 East, Levy County, Florida, being more particularly described as follows:

Commence at the Northwest corner of Section 31, Township 15 South, Range 13 East, Levy County, Florida, and run South 64 degrees, 52 minutes East, a distance of 2397 feet; thence run South 41 degrees, 44 minutes East, a distance of 100 feet to establish the POINT OF BEGINNING; from said Point of Beginning thence run South 48 degrees, 16 minutes West, a distance of 100 feet, thence run South 41 degrees, 44 minutes East, a distance of 600 feet; thence run North 48 degrees, 16 minutes East, a distance of 100 feet; thence run North 41 degrees, 44 minutes West, a distance of 600 feet more or less to the Point of Beginning.

AND:

That part of Section 31, Township 15 South, Range 13 East, Levy County, Florida, being more particularly described as follows:

Commence at the Northwest corner of said Section 31 as a point of reference; thence run South 2248.62 feet; thence run North 89 degrees, 06 minutes East, a distance of 869.88

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feet; thence run South 48 degrees, 16 minutes West, a distance of 431.9 feet to the Easterly right-of-way line of a 40 foot wide road right-of-way; thence run South 17 degrees, 01 minutes East, a distance of 137.00 feet to the Point of Beginning; thence from said POINT OF BEGINNING run North 72 degrees, 59 minutes East, a distance of 100 feet; thence run North 17 degrees, 01 minutes West, a distance of 67.00 feet; thence run North 72 degrees, 59 minutes East, a distance of 163.00 feet more or less to the water's edge of the Gulf of Mexico; thence run in a Southerly direction along said water's edge, a distance of 132.14 feet more or less; thence run South 71 degrees, 59 minutes West, a distance of 238.5 feet more or less to said Easterly right-of-way line; thence run North 17 degrees, 01 minutes West, along said Easterly right-of-way line, a distance of 67.00 feet to the said Point of Beginning.

AND:

Commencing at the Northwest corner of Section 31, Township 15 South, Range 13 East, thence run South 2248.62 feet, thence run North 89 degrees, 06 minutes East, 869.88 feet; thence run South 48 degrees, 16 minutes West, 431.9 feet; thence run South 17 degrees, 01 minutes East, 70 feet to the Point of Beginning; thence run North 72 degrees, 59 minutes East, 100 feet; thence run South 17 degrees, 01 minutes East, 67 feet; thence run South 72 degrees, 59 minutes West, 100 feet; thence run North 17 degrees, 01 minutes West, 67 feet to the Point of Beginning, all being and lying in Section 31, Township 15 South, Range 13 East, Levy County, Florida.

AND:

A parcel of land in the Northwest Quarter (1/4) of the Southeast Quarter (1/4) of Section 20, Township 15 South, Range 13 East, Levy County, Florida, lying within the following described boundary:

The West 510.00 feet of the South 600 feet of the Northwest Quarter (1/4) of the Southeast Quarter (1/4) of Section 20, Township 15 South, Range 13 East, Levy County, Florida, LESS AND EXCEPT the road right-of-way of State Road No. 24.

All lands described in the above legal descriptions are lying and being in Sections 19, 20, 29, 30, 31 and 32, Township 15 South, Range 13 East, and a portion in Section 36, Township 15 South, Range 12 East, all being located in LEVY County, Florida.

AND:

Lot 5, Block G and the S 1/2 of Lot 4, Block G, CEDAR KEY SHORES NO. 1 SUBDIVISION, according to the Plat thereof recorded in Plat Book 3, Page 19, Public Records of Levy County, Florida.

(Annexed into the City by Ordinance Number 475, effective 04/19/11)

AND:

Lot 2 and Lot 3, CEDAR POINT, according to the plat thereof recorded in Plat Book 9, Page 9, Public Records of Levy County, Florida; AND

That part of Parcel 1 as described in Official Records Book 533, Pages 8-11 of the Public Records of Levy County, Florida, being more particularly described as follows:

That part of Parcel 1 lying between a Westerly extension of the Northerly line of Lot 2 and the Westerly extension of the Southerly line of Lot 3 of CEDAR POINT, a subdivision recorded in Plat Book 9, Page 9 of the Public Records of Levy County, Florida, said Westerly extension of the Northerly line of Lot 2 and the Southerly line of Lot 3 to intersect with the Westerly line of said Parcel 1 and the Northerly line of said parcel 1 as described in Official Records Book 533, Pages 8-11 of the Public Records of Levy County, Florida.

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(Annexed into the City by Ordinance Number 490, effective 11/18/14.)

AND:

Lot One (1) of CEDAR POINT, as per plat thereof recorded at Plat Book 9, Page 9, of the Public Records of Levy County, Florida.

(Annexed into the City by Ordinance Number 491, effective 11/18/14.)

AND:

Lot Nine (9), Block "H", CEDAR KEY SHORES, UNIT 1, according to the plat thereof recorded in Plat Book 3, Pages 19 and 19A, Public Records of Levy County, Florida.

(Annexed into the City by Ordinance Number 493, effective 03/03/15.)

AND:

Lot 1, WEBSTER JOHNSON ESTATES, an unrecorded subdivision, per deed recorded in Official Records Book 1184, Page 278, Public Records of Levy County, Florida.

(Annexed into the City by Ordinance Number 497, effective 06/16/15.)

AND:

That certain tract, lot, piece or parcel of land on the southerly side of the right-of-way of CEDAR KEY AIRPORT in West ½ of Section 31 in Township 15 South, Range 13 East, particularly described by metes and bounds as follows, to-wit:

Commence at the Northwest corner of Section 31, Township 15 South, Range 13 East and run thence South 64 degrees 52 minutes East a distance of 2397 feet, run thence South 41 degrees 44 minutes East a distance of 100 feet, run thence South 48 degrees 16 minutes West a distance of 100 feet to establish the Point of Beginning.

From said POINT OF BEGINNING continue and run South 48 degrees 16 minutes West a distance of 92.5 feet, run thence South 41 degrees 44 minutes East a distance of 400 feet, run thence North 48 degrees 16 minutes East a distance of 92.5 feet, thence run North 41 degrees 44 minutes West a distance of 400 feet to the point of beginning. Lying and being in Levy County, Florida.

(Annexed into the City by Ordinance Number 498, effective 09/15/15.)

AND:

CEDAR KEY SHORES NO 1, BLOCK D, LOT 4 & TRACT LYING NORTHERLY, AS DESCRIBED IN DEED AT O.R. BOOK 1381, PAGE 228, Levy County, Florida.

(Annexed into the City by Ordinance Number 514, effective 03/7/17.)

LAWS OF CEDAR KEY-CHAPTER TWO GENERAL ORDINANCES

CHAPTER TWO: GENERAL ORDINANCES

ARTICLE I: ADMINISTRATION

1.00.00. ELECTIONS: GENERAL, SPECIAL AND RUN-OFFs

1.00.01. Regular Election of City Commissioners

Regular elections shall be held on the first (1st) Tuesday after the first (1st) Monday in May of each year for the election of the City Commissioners whose terms of office expire or to fill vacancies that may occur. In the event no candidate receives a majority of the votes cast in a group or groups, a runoff election shall be held on the third (3rd) Tuesday following between the two (2) candidates in such group or groups receiving the highest number of votes cast. The candidates in each group receiving the highest number of votes cast in such runoff election shall be elected.

(History: Ord. Nos. 128, 143, 364)

1.00.02. Special Elections Required; Proclamation

Special elections shall be held in the following cases:

A. When there has been no choice of any officer who should have been elected at a general election.

B. When a vacancy shall occur in any office by resignation, death or otherwise or when in the discretion of the City Commission any question affecting the interest of the City shall arise which might make it necessary to submit such question to a vote of the qualified electors of the City; provided, in case any vacancy shall occur at a time not more than

ninety (90) days before the regular election, it shall be within the discretion the City Commission whether a special election be called. Such special election shall be ordered by the City Commission by resolution instructing the Mayor to issue his proclamation calling such election in the same manner and form as provided for in the case of regular elections.

1.00.03. Appointments

If a vacancy occurs in the City Commission for any cause ninety (90) days or more prior to a general election, the City Commission may appoint a qualified person to fill such vacancy until the next general election at which time a qualified person shall be elected only for the unexpired term.

1.00.04. Mayor to Issue Proclamation; Contents; Publication

Thirty (30) days or more prior to the qualifying period for any and all elections the Mayor shall issue a notice or proclamation calling the election. The notice or proclamation shall specify what officers are to be elected, the length of time the officers are to serve, and the time and place of holding the election. During the thirty (30) days prior to the qualifying period for the election, the notice or proclamation shall be published twice in a newspaper of general circulation published in the City.

(History: Ord. No. 494)

1.00.05. Qualification of Electors

Every person who is a qualified elector under the laws of the State of Florida and who is a

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resident of the City of Cedar Key shall be a qualified elector of the City.

(History: Ord. No. 494)

1.00.06. Registration of Electors

All qualified electors shall be registered in accordance with applicable provisions of the election code of Florida Statutes.

(History: Ord. No. 494)

1.00.07. Registration Officer Designated

The Supervisor of Elections of Levy County, Florida, is hereby designated as registration officer for the City and shall keep or cause to be kept the City's registration books.

(History: Ord. No. 494)

1.00.08. Appointment of Poll Workers; Opening and Closing Polls; Substitute Poll Workers; Illiterates Not Qualified

The City Clerk shall appoint the necessary poll workers for the conduct of the election who shall open the election at seven o'clock (7:00) a.m. on the morning of the election and shall keep the polls open until seven o'clock (7:00) p.m. of such election day. The City Clerk shall be empowered to appoint substitute poll workers, as necessary. No elector who cannot read and write the English language shall be appointed as a poll worker for any election.

(History: Ord. No. 494)

1.00.09. Qualification of Candidates for City Commission

Any person who is a resident of the City and is a qualified elector therein may become a candidate for the office of City Commissioner of the City by:

A. Taking an oath before the Clerk of the Commission not sooner than the fiftieth (50th) day prior to the day of the election, but not later

than noon of the forty-sixth (46th) day prior to the day of the election, that he or she possesses the qualifications to become a candidate for such office and designating the group in which he or she will run;

B. Paying to the City Clerk the election assessment imposed by F.S. § 99.093(1), or by qualifying for an exemption from such payment of assessment pursuant to the provisions of F.S. § 99.093(2); and

C. Complying with the mandatory requirements established by Florida Law.

(History: Ord. No. 430)

1.00.10. Ballots

The names of all qualified candidates for election to the City Commission shall be placed upon the ballot in alphabetical order according to surnames.

(History: Ord. No. 494)

1.00.11. Oath of Poll Workers

The poll workers shall take and subscribe an oath or affirmation, as required by the Florida Election Code.

(History: Ord. No. 494)

1.00.12. Canvassing Board of Composition, Powers and Duties

Prior to any city election, the City Commission shall appoint three persons qualified under state law to serve as the City Canvassing Board. The county supervisor of elections may serve as a nonvoting advisor to the Canvassing Board and the City Attorney shall serve as legal counsel to the Canvassing Board. The Canvassing Board shall be responsible for reviewing and determining by majority vote the validity of any absentee ballot which is questioned by the City Clerk or properly challenged by a candidate or elector; ruling on any protest or question relating

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to the election process, which cannot be resolved by the City Clerk; and receiving, canvassing and certifying the election results. The City Clerk will be responsible for the scheduling of Canvassing Board meetings, which meetings will be conducted in accordance with F.S. ch. 286. In the event it may be necessary, in order to come to a proper decision, the board shall have the power to examine witnesses and take testimony.

(History: Ord. No. 494)

1.00.13. Grouping of Candidates; Run-Off Elections

The Commission shall declare each seat to be filled as one of five (5) separate groups numbered I, II, III, IV and V. The candidates shall, at the time of qualifying, designate the group in which they shall run. The candidate receiving a majority of the votes cast in each group shall be elected. In the event no candidate receives a majority of votes cast in a group or groups, a run-off election shall be held between the two candidates in such group or groups receiving the highest number of votes cast. The candidates receiving the highest number of votes cast in such run-off election shall be elected.

(History: Ord. No. 364)

1.00.14. Absentee Voting

The city will be responsible for administering the absentee voting process as set forth in F.S. § 101.62 et seq. To the extent practicable, the city clerk and the canvassing board shall perform the duties of canvassing absentee ballots in accordance with the procedures set forth in F.S. § 101.68. If any person believes that any ballot is illegal for any reason, such person shall have the duty, before the ballot is removed from the envelope, to file with the canvassing board a protest against the canvass of such ballot, specifying the reason he believes the ballot to be illegal. No challenge, protest or contest of any

type regarding any absentee ballot shall be accepted after the ballot has been removed from the absentee envelope.

(History: Ord. No. 494)

1.00.15. Application of General Laws of State to City Elections

The general law of the State on the subject of election shall apply to and govern all City elections insofar as there is no conflict with the provisions of the Laws of Cedar Key.

(History: Ord. No. 494)

1.00.16. Unopposed Candidates

When there is only one candidate qualified for a city commission seat, the name of the candidate shall not be printed on the election ballot, and such candidate shall be declared elected for the office. If, as the result of this provision, there are no names to be placed on a ballot, the city election shall be canceled.

(History: Ord. Nos. 128, 286, 315, 494)

1.00.17. City Clerk Election Responsibilities

Every municipal election shall be conducted by and be under the personal supervision of the City Clerk, who the Cedar Key City Commission hereby empowers and directs to exercise all of the powers and to perform all of the duties and functions appropriate to the conduct of such election, including the establishment, promulgation, and enforcement of such rules and regulations, relating to such election and the establishment, maintenance, filing, and preservation of such election records as the City Clerk may deem necessary, or which may be required by City, County, or State Law.

(History: Ord. No. 381)

1.00.18. Challenges and protests.

Any person who wishes to question, challenge or protest any procedure or decision relating to

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any city election shall file such question, challenge or protest in writing to the city clerk or to the Canvassing Board prior to the certification of the election returns by the Canvassing Board. The City Clerk or the Canvassing Board, as the case may be, shall make a decision as soon as is practicably possible. Any decision of the City Clerk may be appealed to the Canvassing Board. The failure by any person to file such question, challenge or protest within the time and in the manner prescribed above, shall be deemed to be a failure to exhaust administrative remedies in any subsequent judicial proceeding.

(History: Ord. No. 494)

1.00.19. Intent; construction.

It is the intent of the City Commission, that these election procedures be judicially construed in a manner to uphold the validity of any election, rather than to void an election. It is the further intent of the City Commission that no city election shall be voided on the account of procedural irregularities unless it is shown in accordance with the proper standard of proof that the will of the voters was thwarted.

(History: Ord. No. 494)

1.00.20. Vacancy in candidacy for office.

A. If the death, withdrawal or removal from the ballot of a qualified candidate or candidates for City Commission following the end of the qualifying period results in fewer than two candidates for a particular office, the City Clerk shall schedule a special election for that specific office which shall take place not less than 45 days nor more than 60 days thereafter. The City Clerk shall promptly advertise at least one notice of the rescheduled election and reopening of qualifying in a newspaper of general circulation in the city and shall post notice of the same at City Hall in a conspicuous place.

B. If an election is scheduled pursuant to subsection (a) of this section, a supplemental

qualifying period shall be established, which period shall begin no less than nine days after the said notice has been published. The supplemental qualifying period shall end at 12:00 noon on the fifth business day after the beginning date of the supplemental qualifying period. Any candidate wishing to qualify during this supplemental qualifying period shall file all documents and pay qualifying fees prior to the end of the supplemental qualifying period.

C. Any remaining candidate for that office shall not be required to requalify for election or pay a second qualifying fee. Any remaining candidate shall not be declared an unopposed candidate unless no additional candidate qualifies for election during the supplemental qualifying period, in which case the City Clerk shall declare the candidate unopposed and elected, and shall cancel the special election.

D. The procedures for any special election called hereunder, including the filing of campaign reports and statements by candidates, shall be in accordance with the Florida Elections Code and the provisions of the city Charter and this Code.

E. A candidate withdrawing or being removed from the ballot after having qualified and paid the qualification fee shall not receive a refund of the qualifying fee.

F. If at any special election called hereunder no candidate receives a majority of votes cast, there shall be a runoff election which shall be held two weeks following the first election, at which election the two candidates receiving the greatest number of votes at the first election shall be voted upon and the one receiving the majority of votes in the runoff election shall be elected to office.

(History: Ord. No. 494)

1.01.00. ADOPTING A COMPREHENSIVE PLAN FOR THE CITY

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1.01.01. Exercise of Authority

The City Commission of the City of Cedar Key, Florida, hereby declares its intent to exercise the authority set out in Florida Statutes 163.3161-163.3211, commonly known as the "Local Government Comprehensive Planning Act of 1975."

1.01.02. Adoption and Incorporation By Reference

The City of Cedar Key Comprehensive Plan prepared by the Withlacoochee Regional Planning Council is incorporated herein by reference, and is hereby adopted, as the Comprehensive Plan for the City of Cedar Key in accordance with Florida Statutes 163.3177, copies of same being filed with the City Clerk of the City of Cedar Key, and attached hereto.

(History: Ord. No. 173)

1.02.00. PENALTIES AND ABATEMENT

1.02.01. General Penalties

Whenever in this Code or in any other ordinance of the city or in any rule or regulation adopted pursuant to this Code, any act is prohibited or is made or declared to be unlawful or an offense, misdemeanor or public nuisance, or whenever in such Code, ordinance, rule or regulation the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefore, the violation of any such provision of this Code or any ordinance, rule or regulation shall be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a term not exceeding sixty (60) days, or by both such fine and imprisonment. Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense.

1.02.02. Abatement

In addition to the penalty provided in subsection (a), any condition which has been declared a nuisance may be abated as provided by state law.

1.03.00. CIVIL CITATIONS

1.03.01. Authority and Purpose

This Part is adopted pursuant to Chapter 162, Part II, Florida Statutes, as a supplemental municipal ordinance enforcement procedure.

1.03.02. Jurisdiction

The terms and provisions of this Part shall apply to all real property lying within the City of Cedar Key. All civil infractions of the regulations listed in Section 1.03.06 below may be enforced pursuant to this Part by citation to the county court of Levy County, except where prohibited by law or statute.

1.03.03. Designation of Code Enforcement Officer

For the purpose of this division, the term "code enforcement officer" shall mean the City of Cedar Key Planning and Development Director, the City of Cedar Key Police Chief, City of Cedar Key Police Officers, the City of Cedar Key Animal Control Officer, and any other agent of the City of Cedar Key designated by the City Commission as a code enforcement officer. Designation of a code enforcement officer and appropriate training for such officer shall be determined by the City Commission, but shall include at a minimum at least a forty-hour minimum standards training course in the appropriate area of expertise.

1.03.04. Code Enforcement Citation Procedures

A. Any code enforcement officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a

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duly enacted code or ordinance of the City of Cedar Key and that the county court will hear the charge.

B. Prior to issuing a citation, a code enforcement officer shall provide notice to the person that the person has committed a violation of a city ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period, the code enforcement officer may issue a citation to the person who has committed the violation.

C. A code enforcement officer shall not be required to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety or welfare; or that the violator is engaged in violations of an itinerant or transient nature; or if a repeat violation is found; or if the violation is irreparable or irreversible.

D. A citation issued by a code enforcement officer shall be in a form prescribed by the City and shall contain:

1. The date and time of issuance.
2. The name and address of the person to whom the citation is issued.
3. The date and time the civil infraction was committed.
4. The facts constituting reasonable cause.
5. The number or section of the code or ordinance violated.
6. The name and authority of the code enforcement officer.

7. The procedure for the person to follow in order to pay the civil penalty or to contest the citation.

8. The applicable civil penalty if the person elects to contest the citation.

9. The applicable civil penalty if the person elects not to contest the citation.

10. A conspicuous statement that if the person fails, within 30 days of the date the citation is issued, to pay the civil penalty or fails to request a court hearing to contest the citation, the person shall be deemed to have waived the right to contest the citation and that, in such case, a rule to show cause may be issued requiring the person to appear in court and a judgment may be entered against the person for an amount up to the maximum civil penalty.

E. After issuing a citation to an alleged violator, a code enforcement officer shall deposit the original and one copy of the citation with the county court.

1.03.05. Penalties and Surcharges

A. A violation of an ordinance cited and enforced under the provisions of this Part shall be deemed a civil infraction.

B. Notwithstanding any provision of any Cedar Key ordinance to the contrary, the maximum civil penalty for violations of the ordinance provisions listed in Section 1.03.06 below may be up to, but shall not exceed, \$500, plus a \$10 fee for administrative court costs.

C. For any citation issued pursuant to this Part, a civil penalty of less than the maximum civil penalty shall be assessed if the person who has committed the civil infraction does not contest the citation and pays the civil penalty. Notwithstanding any provision of any Cedar Key ordinance to the contrary, the civil penalty for uncontested citations shall be as set forth in

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Section 1.03.06 below, plus a \$10 fee for administrative court costs.

D. Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082 or Section 775.083, Florida Statutes.

E. If a person fails to pay the civil penalty or request a hearing within 30 days of the date the citation is issued, fails to appear in court to contest the citation when a hearing has been requested, or fails to appear in court as may be required, the court may enter judgment for an amount not to exceed \$500.00 per infraction and/or may issue a rule to show cause upon the request of the city. The court rule shall require such person to appear before the court to explain why action on the citation has not been taken. If any person who is issued such rule fails to appear in response to the court's directive, the person may be held in contempt of court.

F. The city may, as an additional or alternative remedy, refer cases of citations not paid and not contested within 30 days of issuance to a collection agency for processing, collection, and notification of failure of payment to the credit bureau.

G. At any hearing pursuant to this Part, the commission of a violation of a code or ordinance must be proved by a preponderance of the evidence. The Florida Rules of Civil Procedure and the Florida Evidence Code shall be applicable to any hearing.

H. All civil penalties shall be paid to and collected by the clerk of the court for Levy County. All penalties collected by the clerk shall be turned over to the city finance department. A total of two dollars \$2.00 per citation collected shall be credited to the revenues of the city and earmarked for training of code enforcement officers. The remaining funds shall be deposited in the general revenues of the City of Cedar Key. An exception to the general revenues deposit requirement shall only be allowed when specifically designated otherwise by ordinance.

I. The provisions of this Part shall not apply to enforcement pursuant to sections of the standard building codes adopted pursuant to Section 553.73, Florida Statutes, as they apply to construction, provided that a building permit is either not required or has been issued by the city.

J. The provisions of this Part are an additional and supplemental means of enforcing city codes or ordinances and may be used for the enforcement of the regulations designated below in Section 1.03.06. Nothing contained in this Part shall prohibit the City of Cedar Key from enforcing the regulations listed in Section 1.03.06 by other means.

1.03.06. Penalties for Uncontested Violations

The following are the ordinances that are enforceable by the procedures described in this Part, and the civil penalty for uncontested violations of each such ordinances.

Cite	Description	Penalty
Chapter 2 General Ordinances:		
Part 2.01.00	Improper disposal of waste	\$250
Sec. 2.01.10	Littering and dumping	\$250

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Part 2.02.00	Unlawful sale, consumption, service, or possession of alcohol, including open container violations	\$100
Part 2.06.00	Violation of curfew for minors	\$50
Part 2.07.00	Violation of animal control law	\$150
Part 2.09.00	Unlawful presence in city park after hours	\$50
Sec. 2.11.01	Unlawful climbing on water tower	\$100
Sec. 2.11.06	Unlawful obstruction of a city sidewalk or street	\$60
Part 2.12.00	Violation of noise regulation	\$250
Part 2.13.00	Violation of public nudity regulations	\$250
Part 4.00.00	Violation of marina regulations	As set forth in Sec. 4.00.06
Part 4.02.00	Unlawful spear fishing	\$50
Sec. 6.00.03	Unlawful operation of golf cart	\$50
Chapter 4 Land Development Code:		
Article VIII	Violation of sign regulations	\$50
Article IX	Violation of operational performance standards	\$50

(History: Ord. No. 335)

1.04.00. RECORDS MANAGEMENT

1.04.01. Intent

It is the intent of this section to create a records management system in conformity with Florida Statutes, Chapters 119 and 257.

1.04.02. Definitions.

Inactive Records mean those records that are no longer required for daily operations, but which must be retained due to legal or operating reasons.

Public Record means all documents, papers, letters, maps, books, tapes, photographs, film and sound recordings, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by the City.

Records Management means the management of information and records. This includes but is not limited to management of forms and reports, control of correspondence, management of filing

equipment and office duplication machines, and management of record storage.

1.04.03. Ownership of Records

All Public Records created or received by the City shall be the property of the City. Any such records in the possession of outgoing employees shall be delivered to the City Clerk.

1.04.04. Records Management Liaison Officer

The City Clerk shall be the Records Management Liaison Officer.

1.04.05. Custodian of Records

The City Clerk shall be the custodian of all Public Records.

1.04.06. Records Management Program

The City Clerk shall be responsible for implementation of the records management program for the City. In this regard, the City Clerk shall, at a minimum:

A. Develop and circulate such rules and regulations as may be necessary and proper to

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implement and maintain the records management program.

- B. Establish a location for the records storage center for the City.
- C. Establish a standardized, economical and efficient method for filing and storage of documents.
- D. Prepare a public records inventory and destruction schedule.
- E. Identify inactive records and establish the manner in which they are to be stored. Offsite storage may be used for such records if necessary.
- F. Advise and assist all employees of the City regarding the records management program.
- G. Ensure that all requests for public records are responded to in a timely, lawful manner.
- H. Destroy public records in accord with the State of Florida, General Records Schedule GS1-L for Local Government Agencies, and file the necessary Records Disposition Compliance Statement with the Florida Department of State.

1.04.07. Responsibilities of Employees.

All employees of the City shall:

- A. Comply with the spirit and intent of Florida Statutes, Chapters 119 and 257.
- B. Convey to the City Clerk all Public Records to be maintained and stored.
- C. Destroy public records only upon the direction of the City Clerk.

(History: Ord. No. 355)

1.05.00. CODE ENFORCEMENT HEARING OFFICER

1.05.01. Definitions

For the purposes of this Part, the following definitions shall apply.

City Commission shall mean the City Commission of the City of Cedar Key.

Code Inspector shall mean any authorized agent or employee of the city whose duty it is to assure compliance with the codes and ordinances of the city.

Hearing Officer shall mean the Code Enforcement Hearing Officer for the City of Cedar Key as that position is established herein.

Repeat Violation shall mean a violation of a provision of a code or ordinance of the city by a person whom the Code Enforcement Hearing Officer has previously found to have violated the same provision within five years prior to the violation.

1.05.02. Creation of Code Enforcement Hearing Officer

A. Pursuant to Chapter 162, Florida Statutes, the City Commission shall appoint at least one Code Enforcement Hearing Officer, and may appoint others as necessary.

B. A Hearing Officer shall be an attorney, licensed to practice law within the State of Florida, whose practice is substantially in the area of administrative, governmental, zoning, land use, or real estate law.

C. A Hearing Officer shall not hear any matter in which the Hearing Officer has a conflict of interest. If such a conflict exists, the Hearing Officer shall request that the City Commission designate another Hearing Officer, who may be appointed on a temporary basis to hear the case.

D. A Hearing Officer shall serve at the pleasure of the City Commission and may be removed from service at any time, without

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cause, by a majority vote of the City Commission.

E. A Hearing Officer shall not be a city employee, but shall enter into an agreement to provide professional services at a rate established by the City Commission. A Hearing Officer shall be entitled to reimbursement for such travel, mileage, and per diem expenses as may be authorized in the agreement with the City.

1.05.03. Prosecution of Cases

A. The City Attorney shall represent the City and the code inspectors before the Hearing Officer.

B. The City Attorney shall present the City's case on all formal hearings and shall have prosecutorial discretion including, but not limited to, the right to negotiate a settlement with a violator and present that settlement to the Hearing Officer for approval, and to recommend the disposition of a case to the Hearing Officer.

C. If an appeal is taken from a decision of a Hearing Officer, the City Attorney shall represent the city in such proceedings.

1.05.04. Jurisdiction

A. The Hearing Officer shall have jurisdiction to hear and decide alleged violations of all codes and ordinances in force in the City

B. The jurisdiction of the Hearing Officer shall not be exclusive. Any alleged violation of any of the aforesaid codes and ordinances may be pursued by appropriate remedy in court at the option of the administering official whose responsibility it is to enforce that respective code or ordinance. Nothing contained in this Code shall prohibit the city from enforcing its codes and ordinances by any other means.

1.05.05. Powers

The Hearing Officer shall have power to:

A. Adopt rules for the conduct of hearings.

B. Subpoena alleged violators, witnesses, and evidence to hearings. Subpoenas may be served by the Levy County Sheriff.

C. Take testimony under oath.

D. Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

1.05.06. Notices

A. Notice of each hearing of the Hearing Officer shall be given in compliance with the requirements of due process and the Florida Open Meetings Law.

B. In addition, all notices to alleged violators required by this Part 1.05.00 shall be by one of the following methods:

1. Certified mail, return receipt requested;

2. Hand delivery by the sheriff, or other law enforcement officer, the code inspector, or other person designated by the City Commission;

3. By 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.

C. In addition to providing notice as set forth in B above, at the option of the Hearing Officer, notice may also be served by publication or posting, as follows:

1. Publication. Notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the city. The newspaper shall meet such requirements as are

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prescribed under Chapter 50, Florida Statutes, for legal and official advertisements. Proof of publication shall be made as provided in §§ 50.041 and 50.051, Florida Statutes.

2. Posting. In lieu of publication as described in 1 above, notice may be posted for at least 10 days in at least two locations, one of which shall be the property on which the violation is alleged to exist and the other of which shall be at city hall. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

3. Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required pursuant to B above.

D. Evidence that an attempt has been made to hand-deliver or mail notice as provided in subsection B above, together with proof of publication or posting as provided in subsection C above, shall be sufficient to show that the notice requirements of this Section have been met, without regard to whether or not the alleged violator actually received such notice.

1.05.07. Enforcement Procedure

A. It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes and ordinances. The Hearing Officer shall not have the power to initiate such enforcement proceedings.

B. Except as provided in subsections C and D below, if a violation of the codes or ordinances is found, the code inspector shall first notify the violator and give such person a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code inspector shall notify the Hearing Officer and request a hearing. The Hearing Officer shall schedule a hearing and, through the clerical staff of the City, provide

notice of the hearing as required herein. If the violation is corrected and then recurs, or if the violation is not corrected by the time specified for correction by the code inspector, the case may be presented to the Hearing Officer even if the violation has been corrected prior to the hearing, and the notice shall so state.

C. If a repeat violation is found, the code inspector shall notify the violator, but is not required to give the violator a reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation, shall notify the Hearing Officer and request a hearing. The Hearing Officer shall schedule a hearing and, through clerical staff of the City, provide notice as required herein. The case may be presented to the Hearing Officer even if a repeat violation has been corrected prior to the hearing and the notice shall so state.

D. If the code inspector has reason to believe a violation or a condition causing the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible in nature, the code inspector shall make a reasonable effort to notify the violator and may immediately notify the Hearing Officer and request a hearing.

1.05.08. Conduct of Hearing

A. shall cause notice thereof to be furnished to the alleged violator as provided herein. Such notice of hearing shall contain the date, time, and place of the hearing, and shall state the nature of the violation and reference. Upon request of a code inspector, or at such other time as may be necessary, the Hearing Officer shall set hearings.

B. Every effort shall be made to set hearings within 30 days of the Hearing Officer receiving a request for hearing from the code inspector. In general, the Hearing Officer shall endeavor to set hearings, and move matters to

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conclusion, as expeditiously as possible allowing for notice as required herein.

C. Upon scheduling of a hearing, the Hearing Officer to the appropriate code or ordinance.

D. At the hearing, the burden of proof shall be upon the code inspector to show, by a preponderance of the evidence, that a violation exists.

E. All testimony shall be under oath and shall be recorded. The Hearing Officer shall take testimony from the code inspector and alleged violator and from such other witnesses as may be called by the respective sides.

F. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern such proceedings. All relevant evidence shall be admitted if, in the opinion of the Hearing Officer, it is the type of evidence upon which reasonable and responsible persons would normally rely in the conduct of business affairs, regardless of the existence of any common law or statutory rule which might make the evidence inadmissible over objections in civil actions. The Hearing Officer may exclude irrelevant or unduly repetitious evidence. Hearsay evidence may be accepted for the purpose of supplementing or explaining any direct evidence, but such hearsay evidence shall not in and of itself be considered sufficient to support a finding or decision unless the evidence would be admissible over objections in a civil action.

G. The Hearing Officer may inquire of any witness before the Hearing Officer. The alleged violator, or his attorney, and the attorney representing the City shall be permitted to inquire of any witness before the Hearing Officer and shall be permitted to present brief opening and closing statements.

H. The Hearing Officer may, for good cause shown, postpone or continue a formal hearing.

I. At the conclusion of the hearing, the Hearing Officer shall issue findings of fact based on evidence in the record and conclusions of law, and shall issue an order affording the proper relief consistent with the powers granted herein and by Chapter 162, Florida Statutes. The order shall be stated orally at the meeting and shall be reduced to writing and mailed to the alleged violator 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 may be imposed if the order is not complied with by said date.

J. A certified copy of such order may be recorded in the public records of Levy County and shall constitute a 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 subsection and the order is complied with by the date specified in the order, the Hearing Officer 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.

1.05.09. Penalties

A. The Hearing Officer may, upon notification by the code inspector that an order of the Hearing Officer has not been complied with by the set time, or upon finding that a repeat violation has been committed, order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by the Hearing Officer for compliance, or, in the case of a repeat violation,

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for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code inspector. If a finding of a violation or a repeat violation has been made as provided for in this chapter, a hearing shall not be made necessary for issuance of the order imposing the fine.

B. A fine imposed pursuant to this section shall not exceed \$250.00 per day for a first violation and shall not exceed \$500.00 per day for a repeat violation. If the Hearing Officer finds a violation to be irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000.00 per violation. In determining the amount of the fine, if any, the Hearing Officer 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. If a repeat violation is corrected prior to a hearing, the Hearing Officer may conduct a hearing to determine costs and impose the payment of reasonable enforcement fees upon the repeat violator.

C. The Hearing Officer shall award the City all costs incurred in prosecuting a case before the Hearing Officer if the City prevails and requests that it recover its costs incurred.

D. The Hearing Officer may reduce a fine imposed pursuant to this section and may execute a satisfaction or release of lien entered pursuant to this section.

E. A certified copy of an order imposing a fine may be recorded in the public records of Levy County, Florida, and shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of the State of Florida, including levy against the personal property, but such order shall not be

deemed otherwise to be a judgment of a court except for enforcement purposes.

F. A fine imposed pursuant to this Part 1.03.00 shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first. If, after three months from the filing of any such lien, the lien remains unpaid, the Hearing Officer may authorize the city attorney to foreclose on the lien. No lien created pursuant to the provisions of this chapter may be foreclosed on real property which is a homestead under Section 4, Article X of the Florida Constitution.

G. No lien provided by this chapter shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded unless, within that time, an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an action to foreclose on a lien, the prevailing party is entitled to recover costs, including a reasonable attorney's fee, incurred in the foreclosure. The City shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien affected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration with notice, unless a notice of lis pendens is recorded.

1.05.10. Appeals

A. An aggrieved party, including the City Commission, may appeal a final administrative order of the Hearing Officer to the circuit court. Any such appeal shall be filed within 30 days of the execution of the order to be appealed.

B. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the Hearing Officer.

C. The City Commission shall, by resolution, establish reasonable charges to be

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paid by the appealing party for preparation of the record to be appealed.

(History: Ord. No. 357)

1.06.00. CITY DEPARTMENTS

1.06.01. Clerk

There is hereby created an office of the City Clerk of the City Commission which shall be responsible to perform the functions and duties prescribed by the Charter of the City of Cedar Key (Chapter 1, Laws of Cedar Key), General Ordinances of the City of Cedar Key (Chapter 2, Laws of Cedar Key), and the Land Development Code of the City of Cedar Key (Chapter 4, Laws of Cedar Key). The City Clerk of the Commission shall serve as the department administrator for the office of the City Clerk.

1.06.02. Police Department

There is hereby created a City of Cedar Key Police Department which shall be the law enforcement agency of the city. The Department shall be administered by the chief administrative officer who shall be appointed by the City Commission and shall have the title of Chief of Police. The Department duties, rules, regulations, and policies shall be recommended by the Chief and adopted by the City Commission.

1.06.03. Volunteer Fire Department

There is hereby created a City of Cedar Key Volunteer Fire Department which shall be the volunteer fire suppression agency of the city. The Department shall be administered by the chief administrative officer who shall be

appointed by the City Commission and shall have the title of Fire Chief. The Department duties, rules, regulations, and policies shall be recommended by the Chief and adopted by the City Commission.

1.06.04. Planning And Development Department

The Planning and Development Department is established by Part 11.05.00, Chapter 4, Laws of Cedar Key and shall perform the duties and functions described therein. Section 11.05.02 establishes the position of Planning and Development Administrator which is appointed by and serves at the pleasure of the City Commission. The Administrator shall perform the duties and responsibilities prescribed by Section 11.05.01 A through D, which include the areas of Planning, Development Review, Building Official and Code Enforcement Administrator.

1.06.05. Public Works

There is hereby created the Department of Public Works which shall be managed by a department director that shall have the title of Public Works Director and shall be appointed by and serve at the pleasure of the City Commission. The Public Works Director shall have full supervisory responsibility for all employees of the Department and shall be responsible for the efficient and effective operation of all aspects of the operation and maintenance of the city's public facilities.

(History: Ord. No.

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ARTICLE II: HEALTH, SAFETY & WELFARE

2.00.00. SEWER HOOKUP REQUIRED FOR TRAILERS

It shall be unlawful for any person, persons, firm or corporation to park any house trailer, house car, or portable living quarters on any vacant property within the corporate limits of the City of Cedar Key, Florida, without making connection with the Cedar Key Water and Sewer District sewer system excepting this ordinance shall not apply to established trailer parks that are equipped with toilets and sewer connections for the use and convenience of its guests.

(History: Ord. No. 67)

2.01.00. MUNICIPAL SOLID WASTE COLLECTION AND SERVICE

2.01.01. Definitions

For the purpose of construing this Part, the following definitions shall apply. When not inconsistent with the context, 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. The word “shall” is always mandatory and not merely directory.

Biological Waste means solid waste that causes or has the capability of causing disease or infection and includes, but is not limited to, biomedical waste, diseased or dead animals, and other wastes capable of transmitting pathogens to humans or animals. The term does not include human remains that are disposed of by persons licensed under chapter 497, Florida Statutes.

Biomedical Waste means any solid waste or liquid waste that may present a threat of infection to humans. The term includes, but is not limited to, nonliquid human tissue and body parts; laboratory and veterinary waste that

contains human-disease-causing agents; discarded disposable sharps; human blood and human blood products and body fluids; and other materials that in the opinion of the Department of Health represent a significant risk of infection to persons outside the generating facility. The term does not include human remains that are disposed of by persons licensed under chapter 497, Florida Statutes.

Bulk Trash means any Solid Waste which cannot be containerized in a cart provided by the City or bagged in an Official City Bag; including, but not limited to domestic appliances, including White Goods, furniture, toys, and other Trash usual to housekeeping, but not including Excluded Waste, or Special Wastes (except White Goods), as those terms are defined herein. City means the City of Cedar Key, Florida.

Commercial Customer means the owner or occupant of a Commercial Establishment within the mandatory service area as set out in subsection 2.01.04.A of this Part.

Commercial Establishment means an entity providing goods or services to the public.

Commercial Solid Waste means Garbage and Trash generated by and from Commercial Customers.

Construction and Demolition Debris means discarded materials generally considered to be not water soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project, and includes rocks, soils, tree remains, trees, and other vegetative matter that normally results from land

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clearing or land development operations for a construction project, including such debris from construction of structures at a site remote from the construction or demolition project site.

Curbside means within five (5) feet of the road.

E-Waste means discarded home electronic devices containing both valuable as well as harmful materials which require special handling and recycling methods, and can be feasibly recycled as part of the City's solid waste program.

Excluded Waste means singularly or in combination, Biomedical or Biological Waste, tires, Construction and Demolition Debris, E-Waste, Hazardous Waste, Sludge, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, used oil, and residential or commercial solid waste for which there is no legally permitted disposal, processing, transfer or storage facility within Levy County.

Garbage means all kitchen and table food waste and animal or vegetative waste that is attendant with or results from the storage, preparation, cooking, or handling of food materials.

Hazardous Waste means Solid Waste, or a combination of Solid Wastes, which, because of its quantity, concentration, or physical, chemical or infectious 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 of, stored, treated, or otherwise managed. The term does not include human remains that are disposed of by persons licensed under chapter 470, Florida Statutes.

Interior Remodeling and Home Repair Trash means materials, including, but not limited to, lumber, drywall, plumbing fixtures, carpet or

other flooring materials accumulated by the resident during the course of a self-performed interior improvement project. It does not include such items when accumulated by a contractor.

Official City Bag means bags purchased from the City or the City's designee and sold to customers for collection and disposal of excess Solid Waste

Recovered Materials means metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the Solid Waste stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal. Recovered Materials as described are not Solid Waste.

Recyclable Material means those materials designated by the City or the City's designee which are capable of being recycled and which would otherwise be processed or disposed of as Residential or Commercial Solid Waste.

Recycling means any process by which Solid Waste, or materials that would otherwise become Solid Waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

Residence means all improved property used as a single-family dwelling unit, condominiums, or other multi-family dwelling unit. Each mobile home and trailer shall be deemed a Residence. Each townhouse, condominium or apartment unit shall be deemed a separate Residence unless otherwise provided herein.

Residential Customer means the owner of a Residence within the mandatory service area as set out in subsection 2.01.04.A of this Part, or the owner of a Residence subscribing to the City service within the optional service area as set out

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in subsection 2.01.04.A of this Part, or as otherwise provided herein.

Residential Solid Waste means Garbage, Bulk Trash, Interior Decorating and Home Repair Trash, and Trash generated by and from Residences.

Sludge means the accumulated solids, residues, and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies or similar waste disposal appurtenances.

Small Nonprofit means a property that is exempted by the Levy County Tax Collector from ad valorem taxes because it is a nonprofit and exclusively used for religious, literary, scientific, or charitable purposes pursuant to chapter 196, Florida Statutes and qualifies for residential service pursuant to subsection 2.01.08.G of this part.

Solid Waste means sludge unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. Recovered Materials are not solid waste.

Special Waste means solid waste that can require special handling and management, including but not limited to, White Goods, waste tires, used oil, lead-acid batteries, Construction and Demolition Debris, ash residue, Yard Waste, Biological Wastes, and mercury-containing devices and lamps.

Trash means all refuse, accumulation of paper, rags, packaging, sweepings, broken toys, tools, utensils, Interior Remodeling and Home Repair Trash, and all other accumulations of a similar nature other than Garbage or Yard Waste, which are usual to housekeeping and to the operation of Commercial Establishments, but shall not include Recyclable Materials, Construction and Demolition Debris, Excluded Waste, or Special Wastes, as those terms are defined herein.

White Goods means discarded air conditioners, heaters, refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances.

Yard Waste means vegetative waste resulting from landscaping maintenance and land-clearing operations, and includes, but is not limited to, materials such as tree and shrub trimmings, grass clippings, palm fronds, trees and tree stumps generated by the owner or occupant of the premises.

2.01.02. Enforcement

The Cedar Key City Commission shall have the authority and responsibility for the administration and enforcement of the ordinance.

2.01.03. Collection, Conveyance and Disposal of Waste

All Solid Waste, Residential Recyclable Materials, and Yard Waste accumulated in the City shall be collected, conveyed and disposed of by the City, or its designated agents, licensees, employees, or contract representative. No other person shall collect or convey over any of the streets or alleys of the City, or dispose of any Solid Waste, Residential Recyclable Materials, and Yard Waste accumulated in the City, except as follows:

A. Excluded Waste. This ordinance shall prohibit the disposal of Excluded Waste in the regular waste collection system of the City, but

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shall not prohibit the producers of any Excluded Waste, or the owners of premises upon which such waste has accumulated from personally collecting, conveying and disposing of the waste, or from using the services of a commercial hauler, if such service is not provided by the City, subject to the laws and ordinances of the City, County and State.

B. Conveyance over Streets. This ordinance shall not prohibit collectors of solid waste from outside the City from hauling such solid waste over City streets, provided such collectors comply with the provisions of this ordinance and with any other applicable law or ordinance of said City.

C. Yard Waste. This ordinance shall not prohibit the owner or occupant of a premises from personally conveying and disposing of tree trimmings, hedge or grass clippings, tree stumps, tree limbs, large trees and similar materials.

2.01.04. Solid Waste Storage and Disposal

A. Service Subscription.

1. Mandatory Service Area. Each Residence or Commercial Establishment, except vacant lots, within the City limits shall subscribe for solid waste collection and removal services provided by the City. Nothing in this ordinance shall require Commercial Establishments to subscribe to the City's curbside recycling service. Every such Residence or Commercial Establishment shall, prior to occupancy, enter into a written agreement with the City for the solid waste collection and removal services. For

2. Optional Service Area. Residences and Commercial Establishments, either the owner or the tenant shall be required to enter into the agreement. The owners of non-publicly traded entities subscribing for service shall be required to personally guarantee the agreement.

B. Mandatory Collection. Any Residence (whether occupied or not) within the boundaries

of the City of Cedar Key, or any Commercial Establishment occupied or in operation where food is prepared or Solid Waste is generated and accumulated within the boundaries of the City of Cedar Key, shall pay the prescribed fees for Solid Waste removal and disposal services from the premises.

2.01.05 City Commission to Make Regulations; Enforce Part.

A. The City Commission or designee shall have the authority to make regulations concerning the days of collection, type and location of collection containers and other such matters pertaining to the storage, collection, conveyance and disposal as necessary and to change or modify the same after reasonable notice to affected persons.

B. The City Commission or its designee is responsible for the enforcement of regulations regarding storage, collection, conveyance and disposal of all solid waste and recyclable materials generated within the City, including accumulations of same that may be in violation of this article or other solid waste regulations. A notification of violation will be provided and correction of the violation shall be made in the time specified by the notice; however, failing correction, the City is hereby authorized to collect and dispose of the material causing the violation and to bill the Commercial or Residential Customer for the cost of providing this additional collection and disposal service.

2.01.06. Solid Waste Services

A. Residential Service.

1. Provided. Residential service shall consist of curbside collection of all Residential Solid Waste and Recyclable Materials, Bulk Trash and Yard Waste.

2. Carts. Each Residence qualifying for residential service in the City shall be assigned a serial-numbered cart of the size requested by the

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Residential Customer, or, if no size request is received, of the size determined by the City Commission or its designee. The City reserves the right to require the Residential Customer to select a larger size pursuant to subsection H below. The Residential Customer may exchange the cart for another of a different size in accordance with subsection E, below.

3. Recyclable Materials.

Each dwelling unit shall be provided a bin for the purpose of storage and disposal of Recyclable Materials.

Recyclable Materials that meet the requirements set forth by the City Commission or designee shall be collected at curbside. Recyclable Materials not fitting in the bin may be placed in clear plastic bags and will be collected at curbside. Corrugated cardboard boxes not fitting in the bin may be flattened and placed next to the bin.

4. Bulk Trash. No earlier than 24 hours preceding the scheduled bulk trash collection day, an owner or occupant of a Residence shall place Bulk Trash at the Curbside for collection.

5. Small Quantity Hazardous Waste. The City shall provide for the collection of small quantity Hazardous Waste generated by Residences at least once each year and shall advertise the time and location of the service in advance. The collection shall not be considered service provided by the City within the meaning of subsection 2.01.03.A. of this Part.

B. Commercial Service.

1. Provided. Commercial service shall consist of Curbside collection of all Commercial Solid Waste and Yard Waste. Curbside collection of Recyclable Materials shall be optional.

2. Each Commercial Establishment shall be assigned one or more 96 gallon serial-

numbered carts, or a dumpster in the size requested by the Commercial Customer. Except as provided in subsection H below, The Commercial Customer may choose the number of carts or size of dumpster assigned and the frequency of collection.

C. General.

1. All Solid Waste shall be drained of free liquids and stored for collection in the assigned cart, dumpster, or Official City Bag as accumulated. The cart or dumpster shall not be filled above a height allowing the attached lid to be completely closed, nor shall the bags be filled such that they cannot be securely fastened shut or weigh over 40 pounds. Solid Waste, other than Bulk Trash, placed in containers other than the assigned cart, dumpster, or Official City Bag will not be collected. Anyone placing Solid Waste in containers other than the assigned cart or pre-paid garbage disposal bags will be in violation of this article.

2. Responsibility for scattered garbage or trash. Customers are responsible for the cleanup from bags torn or cans spilled by animals, or otherwise spilled through no fault of the collectors. Collectors are not required to sweep, fork, shovel or otherwise clean up trash or garbage that has become scattered or is otherwise not readily picked up and placed in the truck, including spillage resulting from overloaded containers.

D. Yard Waste. Yard waste that is properly piled or containerized will be collected at curbside. If tree or shrubbery trimmings are not containerized they may be placed at curbside in a compact pile not containing any items exceeding four inches in diameter and three feet in length and will be collected. Limbs and shrubbery with thorns must be placed in a separate pile. Grass, leaves, pine straw and other loose materials must be placed in sealed bags or lidded containers, and will be collected if

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properly placed for collection at curbside. Nondisposable or reusable containers intended not to be picked up by the collectors shall be clearly and appropriately identified. Concrete, dirt, bricks, building materials, appliances, furniture or similar items are not considered yard trash, and will not be collected. No more than three cubic yards of piled yard waste shall be collected per scheduled yard waste collection day.

E. Changes in Carts or Dumpsters; Change in Frequency of Collection. New and existing Residential and Commercial Customers may change their solid waste cart size or level of commercial service (i.e., number of carts or frequency of collection) in accordance with policies promulgated by the City Commission or its designee. The fee for exchanging cart sizes shall be set out in Laws of Cedar Key, chapter 5.

F. Damaged Carts. Carts or recycling bins damaged through no fault of the Customer or unusable because of ordinary wear and tear will be replaced upon request.

G. Lost or Stolen Carts and Bins. Lost or stolen carts or recycling bins shall be replaced upon paying the fee set out in Laws of Cedar Key, Chapter 5.

H. Adequacy of Cart or Dumpster Size; Frequency of Collection. Residential Customers shall select a solid waste cart size, and Commercial Customers shall select the number of carts and a frequency of collection, that is adequate to contain all solid waste normally generated on such property. In the event the City determines that the level of service selected by the customer is inadequate to contain all solid waste that is normally generated on such property, the City may require replacement of the container with the next larger size, add additional commercial carts, or increase the number of collection days, as appropriate, and bill the customer for the increase in cost.

2.01.07 Prohibitions.

A. Generally.

1. No person shall place any solid waste in any street, alley, storm drain, or other public place, or upon private property, whether owned by such person or not, except it be in proper containers for collection. No person shall throw or deposit solid waste in any channel, stream, or other body of water.

2. Any unauthorized accumulation of solid waste on any property is hereby declared to be a nuisance and prohibited.

3. Solid waste which is to be picked up by the City may be placed next to the curb or roadway, in front of the residence or establishment in which accumulated, provided, however, if approved by the City, an alley or road may be used.

4. The City shall have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of this section, including, but not limited to prosecution pursuant to Laws of Cedar Key, Chapter 2, Part 1.03.00.

B. Littering and Dumping

1. No paper, handbills, leaves, lawn trimmings, brush, sidewalk sweeping, or solid waste of any description shall be thrown on any streets or deposited in the gutters of any street, road or public way or in any channel, stream or body of water, drainage ditch or outfall ditch.

2. The City shall prohibit non-paying persons from inside or outside the city limits from dumping solid waste in any city serviced container or vehicle on city or private property. Upon evidence of violation, persons violating this section shall be charged as provided in Laws of Cedar Key, Chapter 2, Part 1.03.00.

2.01.08.Fees

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A. Fees Set by Resolution. There shall be established by resolution a uniform system of base rates for the collection of solid waste both within the incorporated City Limits and in the contiguous unincorporated areas.

B. Reduced Fees. Any person owning or occupying a residence whose average annual household income is sixty-percent or less than the poverty level for Levy County, Florida as published in the Florida Statistical Abstract and who receives no special financial support from any government or private agency solid waste collection may apply to the City Clerk for a reduced fee of five dollars (\$5.00) per month. Any person 65 years of age or older whose average annual household income is less than the federal poverty level and who receives no special financial supplement from any government or private agency for solid waste collection may also apply for a reduced fee of five dollars (\$5.00) per month. Application shall be made by executing an affidavit before the City Clerk stating that payment of the full service monthly subscription rate constitutes a hardship upon the person and household applying and that said person receives no financial supplement from any state, federal or private agency to assist him or her in paying for solid waste collection. The affidavit shall also contain a clause giving the City of Cedar Key permission to investigate the applicant's sources of income. All persons receiving the minimum level of service fee shall execute the aforementioned affidavit in the same manner, re-verifying their continued need of the reduced fee at least once annually, and the City Clerk shall at least once annually review all reduced fees previously granted to ensure that all recipients continue to qualify for the reduced fees. The City Clerk may rescind the reduced fee of anyone who has secured said reduction under false pretenses or who no longer meets the financial requirements of this section.

C. Security Deposit. All Commercial accounts shall be required to pay a security deposit as follows:

1. Existing accounts shall pay the required security deposit to the City by December 1, 2018. If the account has been delinquent one or more times within the previous five years, the required deposit shall be in an amount equal to two months' normal charge for the account. If the account has had no delinquencies in the previous five years, then the required deposit shall be in an amount equal to one month's normal charge for the account

2. New Accounts shall pay a required deposit to the City in an amount equal to two months' normal charge for the account.

3. In the event that the solid waste service under an account is increased or decreased, the required security deposit shall be adjusted accordingly.

D. Procedure for Rate Changes. Any future adjustment of rates for the collection of solid waste shall be by resolution, with at least one public hearing, advertised at least seven (7) days prior to the hearing and adoption. Billing Procedures

2.01.09.Billing Procedures

A. Generally. It shall be the obligation of the owner or occupant of any residence or commercial concern upon receipt of a certificate of occupancy or upon change in use thereof to notify the City. The owner or occupant of any residence or commercial establishment shall pay the fee prescribed by resolution for solid waste and yard waste collection services rendered.

B. Billing Procedures. The service fee shall accrue monthly. Statements shall be rendered monthly to the occupant or owner of a commercial concern, and quarterly or to the owner of a residence. For purposes of this section, where a condominium association or

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homeowner's association collects the service fee from each unit within the association, then the homeowner's or condominium association may be billed monthly as the owner.

C. Residences-Liability for Fees. The owner(s) of any residence receiving service shall be fully liable for the cost of such service whether or not the owner(s) is(are) an occupant of the residence.

D. Delinquent Accounts. Any account remaining unpaid after the 28th day of the month shall be delinquent and shall have an amount established by resolution as late payment penalty added to the balance due. Any account remaining unpaid 57 days or more shall be given a 72-hour notice, after which service shall be suspended until the account is paid in full, or a monthly payment plan satisfactory to the City is established. The City may collect the assigned cart from the customer and shall not return the cart until such time as the customer's account is no longer delinquent, at which time the City shall re-establish service by the end of the next business day. Charges for collection shall continue to accrue to the customer during the time the account is suspended. After a delinquency of 60 days or more, the City may take any action allowed by law to collect on the delinquent account, including use of a collections agency or court action. Any delinquent account placed in the hands of a collections agency or attorney for collection or legal action because of a default in payment shall be charged an additional charge in the amount allowed by law, up to the actual cost of collection, including collection agency or attorney's fees and court costs. All such delinquent amounts owed the City shall constitute a lien upon the real property, the priority of which shall be co-equal with the lien of ad-valorem taxes and assessments.

E. Uncollectible Accounts. The City Clerk shall identify and recommend to the City

Commission the deletion of uncollectible accounts from the active account records of the City and shall advise the City Auditor of such uncollected amounts and the reason for deleting the account. Reasons may include instances when the cost of collection would exceed the amount owed.

F. Accounts for Multi-Occupancy Commercial and Residential Buildings.

1. Residential buildings with two or more units may upon request have one or more commercial accounts for the entire building instead of a residential account for each unit. Commercially collected residences shall have commercial service as described in subsection 2.01.06 B of this Part.

2. A Multi-occupancy commercial building may upon request have one or multiple commercial accounts. A multi-occupancy commercial building may include attached residential units as part of a commercial account and all such units shall have commercial service as described in subsection 2.01.06 B of this Part.

3. A residence that has an accessory home occupation meeting the requirements of section 7.02.02, chapter 4 of this Code shall only be required to have one residential account.

4. A residence that has an accessory residential use meeting the requirements of section 7.02.01, chapter 4 of this Code shall only be required to have one residential account.

5. A parcel that includes a commercial structure and a detached residential structure may have one commercial account for both structures provided that both structures are under common ownership. The parcel shall have commercial service as described in subsection 2.01.06.B of this Part.

G. Accounts for Small Nonprofits. A property meeting the definition of Small Nonprofit may choose to have one residential account instead of

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a commercial account for the property provided that the property is regularly open no more than three days per week for public activities. Small Nonprofits choosing residential service shall have service as described in subsection 2.01.06.A of this Part.

(History: Ord. Nos. 261, 263, 318, 462, 467)

2.02.00. ALCOHOL

2.02.01. Definitions

The definitions contained in the beverage law of the State of Florida are hereby adopted as the definitions of terms as are used in this ordinance. The meaning and intent of the words and terms used in the beverage law of the State of Florida as the same have been interpreted by the Courts of this State, the Attorney General, and the State Beverage director shall be the same for the City.

2.02.02. Hours of Prohibited Sale

No alcoholic beverages may be sold, consumed or served, or permitted to be sold or served or consumed, on any container or package, in any place holding a beverage license under the laws of Florida between the hours of two o'clock (2:00) a.m. and seven o'clock (7:00) a.m. daily, Monday through Sunday, inclusive. The times referred to herein shall mean the official time in effect in the City on the particular day.

2.02.03. Hours of Permitted Sale

Alcoholic beverages may be sold, consumed or served, or permitted to be sold, served or consumed, in any place holding a beverage license under the laws of Florida and the ordinances of the City of Cedar Key on any day, Monday through Sunday, inclusive, during any hours not prohibited by 2.02.02 of this ordinance.

2.02.04. Proximity to Schools or Churches

No alcoholic beverages may be consumed or served or permitted to be served or consumed in

any place of business within five hundred feet of an established school or church. The distance shall be calculated from the main front door entrance of the place of business to the nearest point of entry on a parcel of land occupied by a church or school with the measurement made along the route of ordinary pedestrian traffic.

2.02.05. Use Prohibited in Public Park

A. Definitions.

Alcoholic Beverages shall have the meaning prescribed by Paragraph 4(a) and 4(b) of Section 561.01 of the Florida Statutes.

Public Park means that certain parcel of land located within the Corporate Boundaries of Cedar Key, Florida, located on the corner of Second Street and A Street in Cedar Key, Florida.

Original Container means a bottle, can, or other container in which an alcoholic beverage is usually or customarily packaged for retail sale to members of the public.

B. Unlawful Consumption. It shall be unlawful for any person to consume any alcoholic beverage in the public park as defined in 2.02.05 A above.

C. Unlawful Possession. It shall be unlawful for any person to have in his possession in the public park as defined by 2.02.05(A) above, an alcoholic beverage in its original container where said original container has been opened. It shall also be unlawful for any person to be in possession of any alcoholic beverage in the public park which is contained within any other container other than the original, unopened, container.

2.02.06. Open Containers

It shall be unlawful for any person to consume, or have in his or her possession any alcoholic beverage in any open container on any public

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street, thoroughfare, sidewalk, or on any publicly owned parking facility in the City, nor shall any person consume or have in his or her possession any alcoholic beverage in an open container on any private property, except as a lawful guest and with consent of the owner or person in charge of such private property.

(History: Ord. Nos. 27, 133, 219, 257)

2.03.00. WEAPONS

2.03.01. Discharging and Possessing Air Guns and Other non Firearms

A. Discharge. It shall be unlawful to discharge air gun, BB gun, paintball gun or any toy gun, projecting lead or missile, excepting in a regularly established shooting gallery.

B. Possession by Minors. It shall be unlawful for any person under the age of sixteen years to use for any purpose, or be in the possession of any BB gun, paintball gun, air or gas operated gun unless such use or possession is under the supervision and in the presence of an adult.

C. It is unlawful for any adult person responsible for the welfare of any child under the age of sixteen years to knowingly permit such child to use or have in his possession any BB gun, paintball gun, air or gas operated gun as prohibited by this ordinance.

(History: Ord. No. 124 and 476)

2.04.00. FAIR HOUSING

2.04.01. Declaration of Policy

It is hereby declared to be the policy of the City of Cedar Key, Florida, in the exercise of its police power for the public safety, public health, and general welfare, to assure an equal opportunity to obtain adequate housing by all persons, regardless of race, color, sex, religion, national origin, familial status, ancestry, marital

status, age, or handicap, and, to that end, to eliminate discrimination in housing.

(History: Ord. No. 470)

2.04.02. Definitions

When used herein:

Age, unless the context clearly indicates otherwise, means and shall refer exclusively to persons who are 18 years of age or older.

Commission means the City Commission of the City of Cedar Key Florida.

Discriminatory housing practice means an act that is unlawful under Section 2.04.04, 2.04.05, or 2.04.06 of this Ordinance.

Dwelling means any building, structure, or portion hereof which is occupied as, or designated or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

Familial status means one or more individuals (who have not attained the age of 18 years) being domiciled with:

1. Parent or another person having legal custody of such individual or individuals; or
2. The designee of such parent or other persons having such custody, with the written permission of such parent or other persons. The protection afforded against discrimination 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.

Family includes a single individual.

Handicap means that a person has a physical or mental impairment which substantially limits one or more major life activities or that he/she

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has a having, such physical or mental impairment.

Person includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, point-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

To Rent includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(History: Ord. No. 470)

2.04.03. Exemptions

A. Nothing in Section 2.04.04 (other than Subsection C) shall apply to:

1. Any single-family house sold or rented by an owner:

PROVIDED, that such private individual owner does not own more than three such single-family houses at any one time:

PROVIDED FURTHER, That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this Subsection shall apply only with respect to one such sale within any twenty-four (24) month period:

PROVIDED FURTHER, That such bona fide private individual owner does not own interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to any right to all or a portion of the proceeds from the sale or rental or, more than three (3) such single-family houses at any one time:

PROVIDED FURTHER, That after the effective date of this Ordinance the sale or rental of any such single-family house shall be excepted from the application of this Ordinance only if such

house is sold or rented (A) without the use of any manner of sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of Section 2.04.04.C of this part; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

2. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

B. For the purpose of Subsection A, a person shall be deemed to be in the business of selling or renting dwellings if:

1. He has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein, or

2. He has, within the preceding twelve (12) months, participated as agent, other than in the sale of his personal residence in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein, or

3. He is the owner of any dwelling designated or intended for occupancy by, or occupied by, five (5) or more families.

C. Nothing in this ordinance shall prohibit a religious organization, association, or society, or any nonprofit institution or organization

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operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, religion, national origin, familial status, ancestry, marital status, age, or handicap. Nor shall anything in this Ordinance prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings from which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

D. Nothing in this Ordinance requires any person renting or selling a dwelling to modify, alter or adjust the dwelling in order to provide physical accessibility except as otherwise required by law.

E. Nothing in this ordinance shall be construed to

1. Bar any person from restricting sales, rentals, leases or occupancy, or from giving preference, to persons of a given age for bona fide housing intended solely for the elderly or bona fide housing intended solely for minors.

2. Make it an unlawful act to require that a person have legal capacity to enter into a contract or lease.

3. Bar any person from advertising or from refusing to sell or rent any housing which is planned exclusively for, and occupied exclusively by, individuals of one sex, to any individual of the opposite sex.

4. Bar any person from selling, renting or advertising any housing which is planned exclusively for, and occupied exclusively by,

unmarried individuals to unmarried individuals only.

5. Bar any person from advertising or from refusing to sell or rent any housing which is planned exclusively for married couples without children or from segregating families with children to special units of housing.

6. Bar any person from refusing a loan or other financial assistance to any person whose life expectancy, according to generally accepted mortality tables, is less than the term for which the loan is requested.

(History: Ord. No. 470)

2.04.04. Discrimination in the Sale or Rental of Housing

Except as exempted by Sections 2.04.03, it shall be unlawful:

A. To refuse to sell or rent after making of a bona fide offer, to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, sex, religion, national origin, familial status, ancestry, marital status, age, or handicap.

B. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in provision of services or facilities in connection therewith, because of race, color, sex, religion, national origin, familial status, ancestry, marital status, age, or handicap.

C. To 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, sex, religion, national origin, familial status, ancestry, marital status, age, or handicap, or an intention to make any such preference, limitation, or discrimination.

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D. To represent to any person because of race, color, sex, religion, national origin, familial status, ancestry, marital status, age, or handicap that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

E. For profit to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, sex, religion, national origin, familial status, ancestry, marital status, age, or handicap.

(History: Ord. No. 470)

2.04.05. Financial Discrimination

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, financial assistance, because of race, color, sex, religion, national origin, familial status, ancestry, marital status, age, or handicap of such person or any person associated with him in connection with such loan or other financial assistance or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: Provided, that nothing contained in this Section shall impair the scope of effectiveness of the exception contained in Section 2.04.03.

(History: Ord. No. 470)

2.04.06. Discrimination in Brokerage Service

It shall be unlawful to deny any person access to or membership or participation in any multiple-

listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, sex, religion, national origin, familial status, ancestry, marital status, age, or handicap.

(History: Ord. No. 470)

2.04.07. Administration

A. The authority and responsibility for administering this Ordinance shall be with the Commission.

B. The Commission may delegate its functions, duties, and powers to an appointed board, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this Ordinance.

C. The Commission or its appointed board shall:

1. Implement the provisions of this Ordinance and rules and regulations promulgated hereunder and all Ordinances, codes, rules, and regulations pertaining to housing discrimination.
2. Receive, initiate, and investigate any and all complaints alleging violations of the Ordinance, and take appropriate action to eliminate, conciliate, prevent, and/or initiate prosecution of any such violations.
3. Provide assistance in all matters relating to equal housing opportunity.
4. Publish and disseminate public information and educational materials relating to housing discrimination.
5. Enter into written working agreements, as may be necessary to effectuate the purposes

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of this Ordinance, with federal, state and county agencies involved in reducing housing discrimination.

6. Administer oaths and compel the attendance of witnesses and the production of evidence before it by subpoenas issued by the Commission or its appointed board.

7. Take other informational, educational, or persuasive actions to implement the purposes of this Ordinance.

2.04.08. Procedure

A. Any person aggrieved by an unlawful practice prohibited by this Ordinance must file a written complaint with the Counselor its appointed board within forty-five (45) days after the alleged unlawful practice occurs.

B. Upon receipt of a complaint, the Commission or its appointed board shall serve upon the individual charged with a violation (hereinafter referred to as the respondent), the complaint and a written resume setting forth the rights of the parties including, but not limited to, the right of the respondent to a hearing on the matter before adjudication by the Commission or its appointed board.

C. The Commission or its appointed board shall immediately investigate the complaint. Within sixty (60) days from the date of the receipt of the complaint, the Commission or its appointed board shall establish written report with findings of fact.

D. Copies of the Commission or its appointed board's report shall be sent to the complainant and the respondent. Either may within ten (10) days after such services, request a hearing before the Commission.

E. When the complainant or the respondent requests a hearing by the Commission or its appointed board, or when the Commission or its appointed board itself determines that a hearing

is desirable, the Commission or its appointed board shall call and conduct such hearing in accordance with Section 2.04.09, below.

F. The Commission or its appointed board shall carry into execution the actions specified in its report, or, if a hearing is held, shall carry into execution the actions determined upon by the Commission or its appointed board in the hearing.

G. The Commission or its appointed board in its review or its hearing may determine:

1. That the complaint lack ground upon which to base action for violation of this Ordinance, or

2. That the complaint has been adequately dealt with by conciliation of the parties, or

3. That the case warrants filing charges against the offending party in the appropriate court. In some cases both conciliation and adjudicative orders, or both adjudicative orders and initiation of court action may be indicated.

H. If the Commission or its appointed board issues an adjudicative order to correct, adjust, conciliate, prevent, or prohibit any unlawful act prohibited by this Ordinance, and the respondent refuses or fails to comply with or obey such adjudication, the Commission or its appointed board shall forthwith request that the State Attorney file a complaint in the appropriate court. The Commission or its appointed board shall, at all times, provide the complainant with full and timely information as to all the alternatives available to him or her under local, State and Federal law, including assistance to initiate judicial action if desired, under the circumstances.

I. The provisions of Rule 1.090, Florida Rules of Civil Procedure, shall govern the computation of any period of time prescribed by this Ordinance.

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J. All papers or pleadings required by this Ordinance to be served may be served by certified mail or in accordance with the provisions of Rule 1.080 (b), Florida Rules of Civil Procedure.

2.04.09. Hearings

A. When a hearing is required before the Commission or its appointed board, as specified in Section 2.04.08.E above, the Commission or its appointed board shall schedule the hearing and serve upon all interested parties a notice of time and place of hearing. The hearing shall be held promptly, but not less than fifteen (15) days after service of such notice and of the Commission or its appointed board's written report (Section 2.04.08.D above).

B. The parties, or their authorized counsel, may file such statements with the Commission or its appointed board, prior to the hearing date, as they deem necessary in support of their positions. The parties may appear before the Commission or its appointed board in person or by duly constituted representative and may have the assistance of attorneys. The parties may present testimony and evidence, and the right to cross-examine witnesses shall be preserved. All testimony shall be given under oath or by affirmation. The Commission or its appointed board shall not be bound by strict rules of evidence prevailing in courts of law or equity but due process shall be observed. The Commission or its appointed board shall keep a full record of the hearing, which records shall be public and open to inspection by any person, and upon request by any principal party to the proceedings the Commission or its appointed board shall furnish such party a copy of the hearing record at cost. The constitutional rights of the respondent not to incriminate himself shall be scrupulously observed.

C. The Commission or its appointed board shall make a finding of fact, and determination of action to be taken (Section 2.04.08.G above).

D. The Commission or its appointed board may issue subpoenas to compel access to or the production or appearance or premises, records, documents, individuals, and other evidence or possible sources of evidence relative to the complaint at issue.

E. Upon written application to the Commission or its appointed board, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the Commission or, to the same extent and subject to the same limitations as subpoenas issued by the Commission or its appointed board itself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

F. Witnesses summoned by subpoena of the Commission or its appointed board shall be entitled to the same witness and mileage fees as are witnesses in proceedings in the State courts of Florida. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him, unless he is indigent in which case the Commission shall bear the cost of said fees.

G. Within ten (10) days after service of a subpoena upon any person, such person may petition the Commission or its appointed board to revoke or modify the subpoena. The Commission or its appointed board 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 any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

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H. In case of refusal to obey a subpoena, the Commission or its appointed board or the person at whose request it was issued may petition for its enforcement in the appropriate court.

2.04.10. Other Remedies

Nothing herein shall prevent any person from exercising any right or seeking any remedy to which he might otherwise be entitled, or from filing of any complaint with any other agency or any court having proper jurisdiction.

2.04.11. Report to Real Estate Commission

If a real estate broker, a real estate salesman, or an employee thereof has been found to have committed an unlawful practice in violation of this Ordinance, or has failed to comply with an order issued by the Commission or its appointed board, the Commission or its appointed board shall, in addition to the other procedures set forth herein, report the facts to the Real Estate Commission of the State of Florida.

(History: Ord. No. 248)

2.05.00. NOXIOUS WEEDS/TRASH: ENFORCEMENT OF UPKEEP

2.05.01. Declaration of Necessity

This ordinance is declared to be remedial and essential to protect the public interest, health, welfare and safety, and for such purposes it is intended that this ordinance be liberally construed.

2.05.02. Definitions

City shall be the City of Cedar Key, Florida.

Enforcing Official. The Building Official or the designee of the Building Official shall be the enforcing official for this ordinance.

Hazardous Lands means lands occupied or unoccupied upon which there is a decayed or unsafe building or an accumulation of trash,

filth, excessive growth of weeds or noxious plants, or littered with other matter on or within the premises which may cause disease or otherwise adversely affect the health, welfare and safety of the inhabitants of the neighborhood or city are hereby defined and declared to be hazardous lands.

Owner. Any person who alone, jointly or severally with others, holds legal or equitable title to any building or land within the scope of this ordinance shall be deemed to be the owner, which term shall also include the occupant, lessee, mortgagee, or agent and all other persons having an interest in any building or land as shown on the records of the Clerk of the Circuit Court of Levy County, Florida.

Person. For purposes of this ordinance, a person is defined as an individual or entity, partnership, association, corporation, company or organization of any kind.

2.05.03. Prohibition

No owner of land shall cause or permit his land to be or become hazardous land as defined in this ordinance.

2.05.04. Enforcing Official - Powers and Duties

The enforcing official is charged with the duty of administering this ordinance and securing compliance therewith. In the performance of such responsibility, the enforcing official shall:

A. Make such inspections as may be necessary to effectuate the purposes and intent of this ordinance and to initiate appropriate action to bring about compliance with this ordinance if such inspections disclose any instance of non-compliance.

B. Investigate thoroughly any complaints and alleged violations of this ordinance and indicate clearly in writing as a public record in his office, the disposition made of such complaints. Only matters or conditions pertinent

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to this ordinance shall be considered or recorded by the enforcing official on his inspection report and recommendations.

C. Order in writing as set out below the remedy of all conditions or all violations of this ordinance found to exist in or on any premises and state a time limit given for compliance therewith as hereinafter required.

2.05.05. Authorization to Inspect

The enforcing official or his agent is authorized and directed to lawfully enter and inspect all buildings and to lawfully go upon and inspect all lands within the City at reasonable times to determine their condition in order to safeguard the health, safety and welfare of the public, or upon receipt of complaints or when he has cause to believe a violation of this ordinance exists.

2.05.06. Notice - Procedure

Whenever the enforcing official determines that a violation of this ordinance exists, he shall take the following action:

A. Give written notice to the owner by mail to the address shown on the latest tax roll,

B. Post notice on the premises in a clear, visible manner.

C. The notice shall specify that the described premises exist in violation of this ordinance and shall require compliance with the provisions of this ordinance within thirty (30) days from the date of such notice. The notice shall advise that the owner is subject to penalty for violation of this ordinance and this notice, and that failure to comply with this notice may result in additional charges and penalties, including a lien on the premises if the City is required to bring the premises into compliance.

2.05.07. Work by City--Assessing Liens

A. If the owner fails to comply with the requirements of such notice within the time permitted, the City may at its own expense cause the necessary work to be done to bring the premises into compliance with this ordinance, keeping an accurate record of all expenses in connection therewith.

B. Upon completion of work by the City as herein authorized, the owner shall be immediately notified of the amount of the costs thereof by proper statement mailed to the owner at the address shown on the latest tax rolls, which statement shall also advise that upon failure of the owner to pay same within fifteen (15) days of the date of mailing such statement the City will cause a lien to be placed of record against the premises which will be equal in dignity to all other tax liens.

C. Upon failure of the owner to pay the amount of the statement within the time allowed, the enforcing official shall report same as soon as reasonable to the City Commission may proceed to adopt a resolution fixing a lien on the premises involved, in an amount representing the total cost, expenses, attorneys fees and interest at current rate per annum as may have been expended by the City in connection therewith. Upon its adoption a certified copy of such resolution shall be immediately recorded in the public records of Levy County, Florida and a copy thereof sent to the owner by mail sent within ten (10) days of its adoption, addressed to the owner at the address shown on the latest tax roll. Upon the recording of such resolution, the City shall have a lien for the full amount thereof against the property described therein which shall be and remain a lien equal in dignity to any other tax lien until the same is paid in full, plus interest at current rate per annum.

D. When the lien and all accrued interest thereon has been paid in full, the same shall be released of record by the City in the manner provided by law.

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E. Any lien not satisfied within thirty (30) days after its recording may be enforced by foreclosure thereof under the procedure for foreclosing such liens as provided by law, and the City shall be entitled to recover in such proceedings the full amount of such lien, plus interest at six percent (6%) per annum, a reasonable attorneys fee and all costs expended by the City in connection therewith.

2.05.08. Notice - Mailing

Any notice provided for in this ordinance shall be deemed complete when deposited in the United States Mail with postage prepaid and addressed to the owner as shown on the latest tax roll of Levy County, Florida.

2.05.09. Violations

A. It shall be unlawful for any person to violate this ordinance. Each day such violation continues shall constitute a separate offense.

B. It shall be unlawful for any person other than the enforcing official to remove any notice posted pursuant to this ordinance.

(History: Ord. No. 174)

2.06.00. CURFEW FOR MINORS

2.06.01. Prohibition.

It shall be unlawful for any minor under eighteen years of age to be on the public ways, or in any public place, within the City of Cedar Key between the hours of eleven o'clock (11:00) p.m. and six o'clock (6:00) a.m.

2.06.02. Exceptions

The provisions of this ordinance shall not apply where:

A. The minor is accompanied by a parent, guardian, or another adult designated by a parent or guardian as having custody and control of the minor; or

B. A genuine emergency exists either involving the minor or requiring the assistance of the minor; or

C. The minor is lawfully employed in an occupation which requires him to be on the public ways or in public places, and where the occupation can be immediately verified by a parent, guardian or the employer.

2.06.03. Responsibilities of Owners of Public Places

It shall be unlawful for any person, firm or corporation having charge of any public place within the City to knowingly permit or suffer the presence of a minor on their premises between the hours of eleven o'clock (11:00) p.m. and six o'clock (6:00) a.m. except as provided in 2.06.02 of this ordinance.

2.06.04. Responsibilities of Parent/Guardian or Other Adult.

It shall be unlawful for the parent, guardian or another adult designated by a parent or guardian as having custody or control for a minor to permit or suffer by inefficient control to allow the minor to be on public ways or public property or in public places within the City between the hours of eleven o'clock (11:00) p.m. and six o'clock (6:00) a.m. except as provided in 2.06.02 of this ordinance.

2.06.05. Special Functions

A. Any minor attending a special function of any school, church, or other recognized organization that would extend beyond eleven o'clock p.m. shall be exempt from the provisions of 2.06.01 , provided the school, church or organization shall register in advance with the Chief of Police or his designate. The registration shall include any of the following items of information:

1. The name of the person making the registration.

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2. The name of the church, school or organization.

3. The function.

4. The date the function will be held.

5. The place the function will be held.

6. The time the function will conclude.

B. A minor who attends the function shall have one-half hour following the time of conclusion of the function stated in the registration to then comply with the provisions of 2.06.01 of this ordinance.

2.06.06. Procedures

A. Any police officer finding a minor in violation of this ordinance shall ascertain the name and address of the minor and warn the minor that he or she is in violation of curfew and shall direct the minor to proceed at once to his or her residence. The police officer shall report such action to the Chief of Police who in turn shall notify the parent, guardian or other adult having custody or control of the minor.

B. If the minor refuses to heed the warning and direction by the police officer or refuses to divulge his correct name and address, or if the minor has been warned on a previous occasion that he or she is in violation of curfew, the minor shall be taken to the Police Department and the parent, guardian, or other adult having custody or control of the minor shall be notified to come and take charge of the minor.

C. If the parent, guardian or other adult having custody or control of the minor cannot be located or fails to come and take charge of the minor, the minor may be released to the juvenile authorities.

2.06.07. Penalties

A. Any minor violating the provisions of this ordinance shall be dealt with in accordance with the Juvenile Court law and procedure.

B. Any parent, guardian or other adult having the custody and control of the minor violating the provisions of this ordinance, after having been previously notified under 2.06.06 of this ordinance, shall be fined not more than \$25.00 for each offense.

(History: Ord. No. 186)

2.07.00. ANIMAL CONTROL

2.07.01. Definitions

Animal shall include all non-human species of animal.

Animal Control Officer shall mean a person employed by the City of Cedar Key, or retained by contract, for the purpose of providing animal control within the City.

At large shall be intended to mean off the premises of the owner, and not under direct control of a competent person by leash, cord, chain or a device equivalent thereto which will restrict the animal's movement.

City shall mean the City of Cedar Key, Florida.

Fowl shall include chickens, pea fowl, and like animals (Galliformes); ducks, geese, and like animals (Anseriformes); emus; rheas; and ostriches (Struthio camelus).

Livestock shall include pigs and pig-like animals (Suidae); rabbits and rabbit-like animals when there are more than two (2) (Leporidae); cows, sheep, goats and like animals (Bovidae); and horses and horse-like animals (Equidae).

Owner shall mean any person or persons, firm, or corporation owning, keeping or harboring an animal.

Pet shall mean any animal kept primarily for personal pleasure or companionship rather than

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to provide labor, food, or products for humans, or for other commercial or utilitarian purposes.

Rabies means the acute, often fatal infectious disease of the central nervous system known as Hydrophobia.

2.07.02. General Provisions

A. The provisions of this Part shall be supplemental to the provisions of the Levy County Code of Ordinances on Animal Control. In the event of direct conflict between a provision of the Levy County Code of Ordinances and this Part, the provisions of this Part will apply.

B. This Part shall be liberally construed in order to effectively carry out the purposes hereof, which are deemed to be in the best interest of the public health, safety, and welfare of the citizens and residents of the city.

C. The Animal Control Officer, including a private contractor as provided for in §2.07.03 below, shall be immune from prosecution, civil or criminal, for good faith trespass on private property in the course of discharging the duties of this Part.

D. It shall be unlawful for any person to interfere with, obstruct, resist, or oppose the Animal Control Officer while apprehending animals or performing any other duties as set forth in this Part, or to interfere with any person authorized by the officer to assist him or her. It shall be unlawful to take or attempt to take any animal from the Animal Control Officer or from any vehicle used by the officer to transport any animal without proper authority.

E. It shall be unlawful for any person to tamper with any equipment of the Animal Control Officer.

2.07.03. Enforcement Agency Designated

A. The Cedar Key Police Department is hereby designated as the agency responsible for the proper enforcement of this Part, and said Department is assigned the administrative functions of carrying out the provisions of this Part.

B. Upon recommendation by the Cedar Key Police Department, the City Commission may contract with a private person or business to perform the Department's duties under this Part, including the duties of the Animal Control Officer. The person or business shall be bonded or insured, and the person actually performing the duties of the Animal Control Officer shall have completed the minimum standards training course for animal control officers as provided in §828.27, Fla. Stat. (1997).

2.07.04. Prohibition of Animals Other Than Pets; Exception for Chickens

A. No person shall keep or harbor any animal for use other than as a pet within any part of the City of Cedar Key.

B. No person shall keep or harbor fowl or livestock within any part of the City of Cedar Key.

C. The above prohibition shall not apply to hen chickens, provided that (i) all hen chickens must be kept at all times in an enclosed area, (small coop), located in the rear of the property, not visible from the street; and (ii) roosters are prohibited.

2.07.05. Nuisance Animals

A. A "nuisance animal" shall mean any animal that disturbs the rights of, threatens the safety of, inflicts minor injuries to a member of the general public or interferes with the ordinary use and enjoyment of their property. A rooster chicken is a nuisance animal.

B. It shall be unlawful for any person to own, keep possess or maintain a nuisance animal

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in such a manner so as to constitute a public nuisance. Such public nuisance shall include, but is not limited to:

1. Allowing or permitting an animal to habitually bark, whine, foul, crow or cackle in an excessive, continuous or untimely fashion or make other noise in such a manner so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises. For the purposes of noisy animal nuisances, evidence and testimony of persons residing within a radius of two hundred (200) feet from the residence or location of the offending animal shall be considered. This section shall not preclude the consideration of evidence and testimony of persons living more than two hundred (200) feet from the residence or location of the offending animal.

2. Allowing or permitting an animal to damage the property of anyone other than its owner, including but not limited to turning over garbage containers or damaging gardens, flowers or other plant material, or depositing fecal material.

3. Allowing or permitting the molesting of passers-by, or chasing vehicles, or other animals.

4. Allowing or permitting an animal to be kept in an unsanitary place or area. The term "unsanitary" shall mean any condition which may harbor, produce, or be a breeding place for any disease, or carrier thereof, or which causes or exudes odors that are offensive to any person or persons constituting the general public.

C. Any citizen wishing to file a complaint alleging an animal to be a nuisance must do so by filing a sworn affidavit at City Hall notarized by the City Clerk.

D. Upon receipt of a sworn complaint as provided in paragraph C. above, the City Clerk shall forward the complaint to the Chief of Police for investigation. If the complaint is

sufficient to establish cause to investigate, the Chief shall investigate the complaint and, if warranted, provide the animal owner with a written warning. If two additional complaints are filed within six (6) months of issuance of the initial and a second warning, the Chief shall dispatch the Animal Control Officer to take custody of the animal without further notice to the animal owner and deliver said animal to the Levy County Animal Shelter.

E. Any animal owner wishing to retrieve the animal from the Levy County Animal Shelter shall first pay all costs incurred by the City and County in handling the nuisance animal as provided herein. In the event the animal continues to be a public nuisance and must again be taken to the Levy County Animal Shelter, the owner shall be required to pay twice the costs incurred by the City and County in handling the nuisance animal as provided herein. Any subsequent removal of the animal to the Levy County Animal Shelter shall result in the costs being multiplied by the number of times the animal had been so removed.

2.07.06. Dangerous Dogs

A. A "dangerous dog" shall mean any dog that, according to the records of the Police 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;
3. Has been used primarily or in part for the purpose of fighting or is trained for fighting; or
4. 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

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actions are attested to in a sworn statement by one or more persons and dutifully investigated by the department.

B. The Police Department shall investigate reported incidents involving any dog that may be dangerous and shall interview the owner and require a notarized sworn affidavit from any person desiring to have a dog classified as dangerous. After the investigation, the Chief of Police shall determine if a dog is to be classified as dangerous and shall immediately provide written notification by registered mail or certified hand delivery to the owner of the dog that has been classified as dangerous. A dog shall not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, was unlawfully on the property or, while lawfully on the property, was tormenting, abusing, or assaulting the dog or its owner.

C. The owner of a dog that has been classified by the Police Department as dangerous may file a written request for a hearing to appeal the classification within seven (7) calendar days after receipt of the written notice and must confine the dog in a securely fenced or enclosed area pending a resolution of his appeal. The written request for a hearing shall be sent to the City Clerk. The City Commission shall conduct the appeal hearing not less than five (5) nor more than twenty-one (21) calendar days after receipt of the request by the owner, after giving prior written notice of the time and place of the hearing. A person requesting a hearing shall be afforded the following rights relevant thereto:

1. Present his or her case by oral or documentary evidence.
2. Be accompanied, represented, and advised by his or her own counsel.
3. Offer the testimony of witnesses.

The nature of the hearing shall be non-adversary and informal in form, providing the owner with an opportunity to be heard. Following the hearing, the City Commission shall by resolution enter a final decision in the matter and provide a copy of the resolution to the owner.

D. Within fourteen (14) days after a dog has been classified as dangerous, the owner of the dog must obtain a certificate of registration for the dog from the Animal Control Officer and the certificate shall be renewed annually. The Animal Control Officer is authorized to issue such certificates of registration, and renewals thereof, only to persons who are at least 18 years of age and who present to the Animal Control Officer sufficient evidence of:

1. A current certificate of rabies vaccination for the dog.
2. A proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible warning sign at all entry points that informs both children and adults of the presence of a dangerous dog on the property.

The City Commission may impose, by resolution, an annual fee for the issuance of certificates of registration required by this section.

E. Proper enclosure of a dangerous dog shall mean that, while on the owner's property, a dangerous dog is securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the dog from escaping. Such pen or structure shall have secure sides and a secure top to prevent the dog from escaping over, under, or through the structure, and shall also provide protection from the elements.

F. The owner shall immediately notify the Animal Control Officer when an animal that has been classified as dangerous:

1. Is loose or unconfined.

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2. Has bitten a human being or attacked another animal.

3. Is sold, given away, dies, or is stolen.

4. Is moved to another address.

G. Prior to a dangerous dog being sold or given away, the owner shall provide the name, address, and telephone number of the new owner to the Animal Control Officer. If the new owner lives within the City, the new owner must comply with all of the requirements of this Part that relate to dangerous dogs.

H. It is unlawful for the owner of a dangerous dog to permit the dog to be outside a proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and under control of a competent person. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but will prevent it from biting any person or animal. The owner may exercise the dog in a securely fenced or enclosed area that does not have a top, without a muzzle or leash, if the dog remains within his sight and only members of his immediate household or persons eighteen (18) years of age or older are allowed in the enclosure when the dog is present. When being transported, such dogs must be safely and securely restrained within a vehicle.

I. The provisions of this Part relating to dangerous dogs do not apply to dogs used by law enforcement officials for law enforcement work.

J. Any person who violates any provision of this section is guilty of a non-criminal infraction, punishable by a fine not exceeding \$500.00.

2.07.07. Attack or Bite by Dangerous Dog

A. If a dog that has previously been declared dangerous attacks or bites a person or a

domestic animal without provocation, the owner is guilty of a misdemeanor of the first degree, punishable as provided in F.S. § 775.082 or § 775.083.

B. If a dog that has not been declared dangerous attacks and causes severe injury to or death of any human and the owner of the dog had prior knowledge of the dog's dangerous propensities, yet demonstrated a reckless disregard of such propensities under the circumstances, the owner is guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or 775.083.

C. If a dog that has previously been declared dangerous attacks and causes severe injury to or death of any human, the owner is guilty of a felony of the third degree, punishable as provided in F.S. § 775.082, 775.083, or 775.084.

D. After an attack described in A, B, or C above, the dog shall be immediately confiscated by the Animal Control Officer, transported and conveyed to the Levy County Animal Control office to be placed in quarantine, if necessary, for the proper length of time, or impounded and held in accordance with the policies of Levy County. The county shall hold the dog for ten (10) business days after the owner is given written notification by hand delivery or certified mail. The dangerous dog shall thereafter be destroyed in an expeditious and humane manner. During the ten (10) day time period the owner may request a hearing to appeal the decision of the Animal Control Officer to confiscate and destroy the dog. The hearing shall be provided pursuant to the procedures at §2.07.06 C. If the owner files an appeal, the dog must be held and may not be destroyed while the appeal is pending. The owner shall be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the dog during any appeal procedure.

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E. If a dog attacks or bites a person who is engaged in or attempts to engage in a criminal activity at the time of the attack, the owner is not guilty of any crime specified under this section.

2.07.08. Quarantine of Animals

A. When an animal has bitten or scratched a person or is suspected or believed to be infected with rabies, the animal shall be confined by Levy County and isolated at the direction of the Animal Control Officer and at the owner's expense for a period of time as determined by the Animal Control Officer, but not less than ten (10) days. The term "scratched," as used herein, shall mean a penetration of skin and blood being present in the wound. Quarantine of the animal shall be at the Levy County Animal Shelter. No animal which has been impounded for the purposes of quarantine shall be released during the quarantine period to either the owner or any other person seeking adoption. After the quarantine period has expired, the animal shall be returned to the owner upon payment of all City and County fees, impounding, boarding, vaccination costs and licensing fees.

B. Police animals, as defined in F.S. § 843.319, which have bitten or scratched a person while acting under the direction of a law enforcement agency in an official capacity, such as aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders, shall be exempted by the Animal Control Officer from the quarantine provisions of this Part, provided proof of current vaccination and licensing of the animal is made to the Animal Control Officer.

2.07.09. Impoundment of Animals

A. The Animal Control Officer may catch, seize, humanely trap, or pick up, and impound:

1. Any animal which has bitten or scratched a person or any animal carrying or

suspected of carrying rabies or other infectious or contagious diseases.

2. Any sick or injured, abandoned, or neglected animal for which the owner cannot be found after reasonable effort to do so, or for which the owner is unable or unwilling to provide proper care.

3. Any other animal authorized by any other section of this Part to be impounded, caught, seized, or picked up, or any other animal prohibited by this Part.

B. In connection with impoundment of animals, the Animal Control Officer may carry and use a device to chemically subdue and tranquilize an animal, provided that such officer has successfully completed a minimum of 16 hours of training in marksmanship, equipment handling, safety, and animal care, and can demonstrate proficiency in chemical immobilization of animals in accordance with guidelines prescribed in the Chemical Immobilization Operational Guide of the American Humane Association.

2.07.10. Citations; Penalties

A. In addition to the nuisance animal removal process as set forth in 2.07.05 (D & E); the Animal Control Officer may issue a citation to a person when the officer has probable cause to believe that the person has violated a provision of this Part. The citation shall contain:

1. The date and time of issuance.
2. The name and address of the person.
3. The date and time the violation was committed.
4. The facts constituting probable cause.
5. The section of this Part that was violated.
6. The name and authority of the officer.

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7. The procedure for the person to follow in order to pay the civil penalty, to contest the citation, or to appear in court as may be required.

8. The applicable civil penalty if the person elects to contest the citation.

9. The applicable civil penalty if the person elects not to contest the citation.

10. A conspicuous statement that, if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, he or she shall be deemed to have waived his or her right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

11. A conspicuous statement that, if the person is required to appear in court, he or she does not have the option of paying a fine in lieu of appearing in court.

B. Except as otherwise specifically provided herein, a violation of any provision of this Part shall be deemed to be a civil infraction, and the maximum civil penalty for a violation of a provision of this Part shall not exceed \$500.00. The City Commission may adopt a schedule of fines by resolution.

C. The City Commission may by resolution adopt a schedule of fees that may be imposed on owner's whose animals require the services of the Animal Control Officer.

D. Any person who willfully refuses to sign and accept a citation issued by the Animal Control Officer shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or 775.083.

E. Pursuant to F.S. § 828.27(3), \$2.00 of each civil penalty imposed for a violation of this Part shall be used by the city to pay the costs of a 40-hour minimum standards training course

for the Animal Control Officer, which course is mandated by F.S. § 828.27(3).

F. The Animal Control Officer may, but shall not be required to, issue written warnings prior to the issuance of a citation in incidents of violation of this Part. Failure to comply with the provisions of a written warning may result in issuance of a citation and/or impoundment of the animal.

(History: Ord. No. 312)

2.08.00. ADULT ENTERTAINMENT-SEXUALLY ORIENTED BUSINESS

2.08.01. Subject

The ordinance applies to bookstores, theaters, arcades, adult massage parlors, adult bath houses, hotel and motels and any other businesses that offer books and other printed materials, motion pictures, video tape recordings, tapes, rubber goods or other sexually oriented paraphernalia, or lodging which have as their dominant or primary theme matters related to specified sexual activities or specified anatomical areas.

2.08.02. Purpose

This provision is enacted for the purpose of expressing and protecting the contemporaneous community standards of conduct. These standards do not permit the operation of sexually oriented establishments and sexually oriented activities.

2.08.03. Findings

The City Commission finds that the United States Supreme Court has formulated constitutional guidelines, including the following:

A. Obscene material is not protected under the First Amendment.

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B. The government has a legitimate interest in protecting the public commercial environment by preventing obscene materials from entering the stream of commerce.

C. With regard to the regulation of obscenity, there is a right of the nation and of the states to maintain a decent society.

D. The primary requirements of decency may be enforced against obscene publications.

E. With regard to the scope of regulation of obscene material permissible under the First Amendment, the United States Supreme Court does not undertake to tell states what they must do, but rather undertakes to define the area in which they may chart their own course in dealing with obscenity. The construction of a state obscenity statute by the state's highest court is binding on the United States Supreme Court.

F. The states have a legitimate interest in regulating the use of obscene material in local commerce and in all places of public accommodation, including so-called "adult" motion picture theaters from which minors are excluded as long as such regulations do not run afoul of specific constitutional prohibition.

G. Under the First and Fourteenth Amendments, the Constitutionally permissible scope of state regulation of obscene materials is confined to works which depict or describe sexual conduct, which conduct must be specifically defined by the applicable state law, as written or authoritatively construed.

H. Under the First and Fourteenth Amendments, a state offense relating to obscene materials must be limited to works that, taken as a whole, appeal to the prurient interest in sex; that portray sexual conduct in a patently offensive way, and that taken as a whole, do not have serious literary, artistic, political or scientific value.

I. With regard to constitutionally permissible state regulation of obscene materials, the basic guidelines for the trier of the fact must be:

1. Whether the average person, applying contemporary community standards, would find that work taken as a whole, appeals to the prurient interest; and,

2. Whether the work depicts, describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and,

3. Whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value- there being no requirements that the work be "utterly without redeeming social value" or "social importance." If a state law that regulates obscene material is thus limited as written or constructed, the First Amendment values applicable to the states through the Fourteenth Amendment are adequately protected by the ultimate power of appellate courts to conduct an independent review of constitutional claims when necessary.

J. With regard to the standard for constitutionally permissible state regulation of obscene material that the work must depict or describe, in a patently offensive way, sexual conduct "specifically defined in applicable state law", a state statute may properly define for regulation:

1. patently offensive representations or descriptions of ultimate sexual acts normal or perverted, actual or simulated, and

2. patently offensive representation or description of masturbation, excretory functions and lewd exhibition of the genitals.

K. Although fundamental First Amendment limitations on the powers of the states as to obscene materials do not vary from community, nevertheless this does not mean that there are, or

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should or can be fixed uniform national standards of precisely what appeals to the “prurient interest” or is “patently offensive”, obscenity is to be determined by applying “contemporaneous community standards,” not national standards.

L. Under constitutional standards for determining obscenity in *Miller v. California*, it is permissible to allow juries to rely on the understanding of the community from which they come as to the contemporaneous community standards of obscenity, and the states have a considerable latitude in framing statutes under such element of the *Miller* decision. A state may choose to define an obscenity offense in terms of “contemporaneous community standards” without further specification, or it may choose to define the standards in more precise geographic terms.

M. Although a state may constitutionally proscribe obscenity in terms of “statewide” standard, any such precise geographical area is not required as a matter of constitutional law.

N. The state may constitutionally punish the conduct of a person engaged in the commercial exploitation of the morbid and shameful craving for materials with prurient effect.

O. Expression by words also can be legally “obscene” in the sense of being unprotected by the First Amendment and an obscene book is not protected by the First Amendment merely because it contains no pictures.

P. Obscenity, unprotected by the First Amendment, can manifest itself in conduct, in the pictorial representation of conduct, or in the oral and written description of conduct.

Q. Commercial exposure and sale of obscene materials to anyone, including consenting adults, is not constitutionally protected and is subject to state regulation.

R. Obscene, pornographic motion picture films do not acquire constitutional immunity from state regulation simply because they are exhibited for consenting adults. The City Commission finds agreement with Florida Statute 847.0125 which forbids the retail display of certain books, magazines, periodicals or other printed matter, considered to be harmful to minors. The City Commission finds that commercial sexually oriented entertainment and display or sale of sexually oriented materials tends to foster and encourage crime. These activities are dangerous to law abiding citizens living, traveling, or conducting lawful business nearby.

2.08.04. Definitions

The following words, names or phrases when used in this ordinance, shall have the following definitions ascribed to the respectively:

A. Adult Arcade means an establishment where for any form of consideration, one or more motion picture projectors, slide projectors or similar machines, for viewing by five (5) or fewer persons each, are used to show films, motion pictures, video cassettes, slides or other photographic reproductions or illustrations which are characterized by emphasis upon the depiction or description of specified sexual activities or specified anatomical areas. For the purpose of this ordinance, adult arcade is included within the definition of adult motion picture theater.

B. Adult Bathhouse means a commercial establishment where whirlpools, saunas, steam baths, pools or similar devices are used by patrons or persons for lewd or indecent exposure, as described in Chapter 800, Florida Statutes, of specified anatomical areas or any other specified sexual activities, as listed in subsection R of these definitions. For the purpose of this ordinance, an adult bathhouse is

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included within the definitions of adult entertainment establishment.

C. Adult Bookstore means a place which sells or offers for sale for any consideration, or displays for viewing by patrons or “browsers” any one or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, drawings, films, motion pictures, video cassettes, slides, prints, or other visual representations or recordings, novelties or devices 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, devices or paraphernalia which are designed for use in connection with specified sexual activities. An adult bookstore includes a place with only a portion or section of its area used for display or sale of persons of material listed in subsection (1) to the above. For the purpose of the ordinances, adult bookstores is included in subsection (1) to the above. For the purpose of the ordinances, adult bookstores is included within the definition of adult entertainment establishment.

D. Adult Dancing Establishment means a commercial establishment that permits, suffers or allows persons to appear nude as defined in Section 2.13.02 of this Code or allows persons to use or simulate use of sexually oriented paraphernalia, instruments, or devices with humans or animals. For the purpose of this ordinance adult dancing establishment is included within the definition of adult entertainment establishment.

E. Adult Entertainment Establishment means an adult motion picture theater, as adult bookstore, an adult dancing establishment, an adult massage parlor or adult bathhouse.

F. Adult Massage Parlor means a place where specified anatomical areas of one person

are touched by rubbing, stroking, kneading, or tapping by another person, who is an employee accompanied by the display or exposure of specified anatomical areas, but not including health care facilities, licensed physicians or nurses engaged in the practice of their professions, establishments registered under Chapter 480, Florida Statutes, educational athletic facilities if the massage is normal and usual practice in such facilities, and health clubs and athletic societies if the massage is incidental to or a normal part of the health and athletic activities thereof, except where sexual intercourse takes place. For the purpose of this ordinance, an adult massage parlor is included within the definition of adult entertainment establishment.

G. Adult Motion Picture Booth means an enclosed area designed or used for the viewing by one or more persons of motion pictures, films, video cassettes, slides, illustrations, or other photographic reproductions which have as their primary or dominant theme matters depicting, illustrating or relating to specified sexual activities or specified anatomical areas. For the purpose of this ordinance an adult motion picture booth is included within the definition of an adult picture theater.

H. Adult Motion Picture Theater means an enclosed building or a portion or part of an enclosed building, or an open-air theater designed to permit viewing by patrons seated in automobiles, standing or sitting within viewing range, used to present, for any form of consideration, film material which has as its primary or dominant theme, matters depicting, illustrating or relating to specified sexual activities for observation by adult patrons thereof, and includes any hotel, motel, boarding house, rooming house or other lodgings for patrons which present such motion pictures, films, video cassettes, slides or other pornographic reproductions or illustrations

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which have as their primary or dominant theme matters depicting, illustrating or relating to specified sexual activities or specified anatomical areas. For the purpose of this ordinance an adult motion picture theater is included within the definition of adult entertainment establishment.

I. Adult Theater means any place indoors or out of doors where live or dead humans or animals are used in play, drama, single person act, traveling show, exhibition or entertainment which has as their primary or dominant theme matters depicting, illustrating or relating to specified sexual activities or specified anatomical areas. For the purpose of this ordinance an adult theater is included within the definition of adult entertainment establishment.

J. Body Covering.

The following areas less than completely and less than opaquely covered:

human genitals or pubic region

human buttocks; or

human female breasts below a point immediately above the top of the areola (the colored ring around the nipple), or

Human male genitals in a discernibly turgid state, even if completely or opaquely covered.

K. City Commission means specifically the City Commission of the City of Cedar Key, Florida.

L. Commercial means operated for pecuniary gain. For the purpose of this ordinance, operation for pecuniary gain shall not depend on actual profit or loss.

M. Commercial Establishment means any business location, place of business conducting or allowing to be conducted on its premises, any commercial activity.

N. Establishment means a physical plant or location of the commercial activities or operations being conducted, or both together, as the context of the ordinance may require.

O. Obscene Material is any printed or graphic material in any medium, whether book, magazine, periodical, film, video tape or other which depicts or simulates the depiction of a Specified Sexual Activity. Specified Anatomical Area which meets the following standards:

1. The average person, applying contemporary community standards would find that it, taken as a whole, appeals to the prurient interest.

2. It depicts or describes, in a patently offensive way, sexual conduct specifically defined hereunder.

3. It, taken as a whole, lacks serious literary, artistic, political or scientific value.

P. Patrons means any person who is physically present on the premises of a commercial establishment and is not an owner, employee, agent or subcontractor of said establishment or an entertainer or performer at said establishment.

Q. Persons means individuals, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, clubs, and all other groups or combinations.

R. Specified Sexual Activities means:

1. Public or private exposure, exhibition or display of human genitals in a state of sexual stimulation, or arousal.

2. Acts of human adamatism, bestiality, buggery, cunnilingus, coprophagy, coprophilia, tellation, flagellation, frottage, masochism, masturbation, necrophilia, pederasty, pedophilia,

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sadism, sapphism, sexual intercourse, sodomy, urolagnia or zoerasty.

3. Fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts; or

4. Excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.

S. Specified Criminal Act is soliciting for prostitution, pandering prostitution, keeping a house of ill fame, lewd and lascivious behavior or any other act prohibited under Chapters 796 and 800, Florida Statutes, straddle or lap dancing, exposing minors to obscene materials, distributing obscene materials, displaying obscene materials, offering for sale obscene materials, transmitting obscene materials or allowing transmission of obscene materials, or any other act prohibited under Chapter 847, Florida Statutes.

T. Straddle or Lap Dancing means the placing, for any form of consideration, of the buttocks, pubic or genital area of persons, whether clothed or not, in contact with the pubic or genital area of a patron or person, whether clothed or not, or within one (1) foot of the face of a patron or person. For the purpose of this ordinance, straddle or lap dance is included within the definition of specified criminal act.

U. State means the locally governing body, i.e., "state" for the purpose of this ordinance will mean the City Commission of the City of Cedar Key, Florida or the State of Florida where the context requires.

2.08.05. Prohibitions

The following acts or activities are prohibited in Cedar Key, Florida:

A. The ownership, establishment, or operation of any adult entertainment establishment.

B. The commercial establishment or operation of an adult entertainment establishment or any other place or establishment at which persons who are nude as defined in Section 2.13.02 of this Code are displayed, exhibited or exposed to persons or patrons.

C. The commission, attempt to commit, conspiracy to commit or solicitation to commit any specified criminal act.

D. The exposure, display or exhibition of any specified sexual activities, or persons who are nude as defined in Section 2.13.02 of this Code, at any adult entertainment establishment.

E. The exposure, exhibition, display, distribution, offer for sale or lease, pandering or dissemination of any obscene material.

F. The engaging in any act or activity prohibited under the foregoing subsections A through F. in any commercial establishment or other commercial place at which alcoholic beverages are sold, consumed, or permitted to be sold or consumed.

2.08.06. Violations

The commission of any act or activity prohibited under 2.08.05, is unlawful and a violation of this ordinance. Any owner, employee, agent, or independent contractor of any adult entertainment establishment or any other establishment or place at which prohibited acts or activities are engaged, or who at such establishment or place exhibits or exposes to patrons specified anatomical areas shall be in violation of this ordinance, punishable as provided herein.

(History: Ord. Nos. 265, 321)

2.09.00. PARKS

2.09.01. Hours of Operation of City Park

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A. The hours of operation of the “City Park”, located at the southeast corner of the intersection of Second Street and “A” Street, are hereby established to be from 6:00 AM to 11:00 PM each day of the week.

B. It shall be unlawful for any person to be on the premises of the “City Park”, as herein described, between the hours of 11:00 PM and 6:00 AM the following day.

C. The Mayor shall have erected at the “City Park” appropriate signs designating the hours of operation and the hours during which it is closed.

(History: Ord. No. 181, 443)

2.10.00. CEMETERY

2.10.01. Definitions

Application means the preliminary application of a person, firm, family, or other entity for permission to use burial space within the Cedar Key Cemetery.

Plot Permit means the permanent permission of the City for the use of burial plots in Cedar Key Cemetery. This permission is subject to the revocation provisions contained in this Ordinance.

Memorial Garden Permit means the permanent permission of the City for the use of the Cedar Key Cemetery Memorial Garden as provided in §2.10.03(A)(2) of this code. This permission is subject to the revocation provisions contained in this Ordinance.

Burial Permit means The permit issued by the Cemetery Director before actual interment of a body or the scattering of cremated remains occurs.

2.10.02. Cemetery Director

A. Management. The day to day management, including but not limited to the authority to issue permits and administer all rules and regulations adopted herein, shall be vested in the Cemetery Director.

B. Appointment of Board of Trustees. The City Commission of Cedar Key, Florida (“Commission” or “City Commission”) shall, at its annual organizational meeting, appoint the Cemetery Director, who shall serve at the pleasure of the City Commission.

C. Advisors. The Cemetery Director, at his or her discretion, may engage volunteers to advise as to the management of the Cemetery, which volunteers may include persons who served previously as Cemetery Trustees.

2.10.03. Management

A. Application and Permit Process.

1. Plot Permit Required. No person, family, entity or undertaker has the right to use any lot for burial unless the Cemetery Director has first issued a written plot permit accurately specifying the dimensions of the plot given to that person, family, or entity. The plot permit shall be signed by the Cemetery Director and countersigned by the City Clerk, and shall accurately describe, in terms of feet, the location of the plot in relation to at least one, and preferably two, known permanent points in the cemetery. The reference points may be known points upon the boundary of the property or permanent markers installed on plots other than the plot for which the plot permit is issued. Burial or inurnment of cremated remains in an urn or other receptacle requires a plot permit.

2. Memorial Garden Permit Required. No person, family, entity or undertaker has the right to use the memorial garden to scatter cremated remains unless the Cemetery Director and countersigned by the City Clerk has issued a signed written memorial garden permit. Burial

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or inurnment of cremated remains in an urn or other receptacle is not permitted in the memorial garden.

3. Application. To acquire a plot permit or a memorial garden permit a person, firm, family, or other entity ("applicant") must submit an application to the Cemetery Director and countersigned by the City Clerk including the applicant's name, legal address, an alternate address, the number of grave sites or memorial garden permits requested and the appropriate fee calculated as described in § 2.10.04. No application will be accepted or considered for approval by the Cemetery Director without the appropriate fees.

4. Location. If the application is for a burial permit, the Cemetery Director and countersigned by the City Clerk shall determine the physical location of the burial plot and prepare a description of the plot's location. The description shall be attached to the application which shall be kept in the permanent cemetery record book as hereinafter required.

5. Application Approval. The application is subject to approval by the Cemetery Director and countersigned by the City Clerk. Application approval does not accord the applicant the right to use the plot immediately unless there has been a death which necessitates immediate use.

6. Immediate Use of Plot. In the case that the applicant must use a plot immediately because of a death as provided for in § 2.10.03(A)(5), the applicant shall, in addition to the fee for the plot, deposit in escrow with the City Clerk a sum sufficient to accomplish the purchase of the permanent corner markers and name plates as hereinafter specified. Upon installation of the permanent markers and name plates, the Clerk shall return the funds held in escrow. If the applicant does not install permanent corner markers and name plates

within sixty (60) days of interment, the funds shall be used by the Clerk to install permanent corner markers and a name plate on the occupied grave site and the plot permit issued for any additional grave sites within the plot shall be revoked without further action of the City. The Clerk shall immediately send written notice of revocation to the permit holder at the address shown in the application pursuant to the procedures set forth herein.

7. Plot Markers and Name Plate for Plot Permits

a) Temporary Markers. No applications for plot permits shall be approved by the Cemetery Director until the applicant installs wooden temporary markers at the corners of the plot described by the Cemetery Director in the attachment to the application.

b) Permanent Markers. Within sixty (60) days from the approval of an application, the applicant shall install permanent markers and a name plate at the location of the temporary markers. The permanent markers must be composed of stone or concrete bearing the first letter of the family name of the applicant. The permanent name plate must be composed of stone or metal showing the family name of the applicant. Upon inspection by the Cemetery Director to ensure proper placement of permanent markers, a plot permit shall be issued.

8. Memorial Garden Name Plate for Memorial Garden Permits. All memorial garden plates will be 3" by 10" bronze plates bearing the name of the deceased, the date of birth and the date of passing. The name plate may not be installed in the memorial garden before payment of the burial permit fee is made.

9. Notice to Applicant. The application and the permit shall clearly inform the applicant and/or holder of the following:

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a) That regardless of any payment made, the failure to keep the grass and/or weeds on the plot cut and to keep the plot reasonably free from the accumulation of trash, waste, or debris shall result in the revocation of the plot permit without any refund of monies advanced toward purchase; and

b) That violation of any of the other terms of this section will result in forfeiture of any rights to any unused portion of the burial plot or memorial garden without refunds.

10. Prior to Interment or Scattering. Prior to the actual use of any grave for interment, the holder of the plot, a member of his immediate family, or an authorized undertaker, shall apply to City Hall for a burial permit which shall specify in which grave site the interment shall take place. The Cemetery Director shall ensure that the proposed interment will occur at a grave site within a plot for which a plot permit has been issued. Prior to the use of the memorial garden for scattering cremated remains, the holder of the memorial garden permit, a member of his immediate family, or an authorized undertaker shall apply to City Hall for a burial permit. All burial permits shall be signed by the Cemetery Director and countersigned by the City Clerk.

11. Dimensions. Each grave space in a burial plot shall be four feet by eight feet.

12. Transfer. Permits issued under this part are non-transferable to any person other than the City. Any such transfer or attempted transfer of a permit shall be void ab initio. Upon application, the City Commission may consider the repurchase of a plot permit. The City Commission, upon determination that the application has been made by the rightful owner of the plot permit, may, but is not required to, repurchase the plot permit. The repurchase amount to be paid shall be established by the City Commission, but in no event shall exceed

the amount originally paid for the plot permit. All legal and other costs of the repurchase and transfer shall be borne by the seller of the plot permit.

B. Records. A copy of all applications, plot permits, and memorial garden permits shall be kept in a permanent book kept for that purpose in the office of the City Clerk of Cedar Key, Florida.

C. Plot Upkeep. It shall be the obligation of the holders of all plot permits to keep their plots mowed and free from the accumulation of weeds, undergrowth, waste, trash, and debris. Upon a determination by the Cemetery Director that this provision has not been complied with, the Cemetery Director shall direct the holder or holders of the plot permit to mow and/or clean said plot and notify the plot permit holder that failure to do so within a specified time not less than thirty (30) days will result in revocation of the plot permit as to any unused grave spaces. Upon a determination by the Cemetery Director that the plot permit holder has not complied within the time specified, the Cemetery Director shall notify the City Commission, who may revoke any plot permit issued as to grave sites not yet used for interment without a refund of fees paid.

D. Memorial Decorations. The reasonable placement of memorial decorations at grave sites and the memorial garden wall is allowed. However, at its discretion, the Cemetery Director may immediately remove or require a plot permit or memorial garden permit holder to remove within thirty (30) days memorial decorations which are excessive, which have deteriorated, such as old flowers, which are hung from bushes or trees, or which the Cemetery Director considers excessive, disorderly, inappropriate or offensive. Upon a determination by the Cemetery Director that the permit holder has not complied with such a request, the Cemetery Director may remove the decorations

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and may revoke any plot permit issued for grave sites not yet used for interment or memorial garden permit issued for memorial garden spaces not yet used for scattering without a refund of paid fees.

E. Legal Notice. Notice of any action of the Cemetery Director or City Commission shall be made by U. S. Mail to the address shown in the plot permit or memorial garden permit and shall be regarded as effective legal notice, whether or not it was actually received by the holder of the plot permit. It shall be the responsibility of the holders of any permits to inform the Cemetery Director of any change in the address to which notices shall be sent.

F. Fences. New fences around plots may only be erected in the Cedar Key Cemetery when their height does not exceed eighteen inches. Erection of said fences shall only occur after application is made and approved by the Cemetery Director who shall append approval to the copy of the plot permit in the permanent book in City Hall.

G. Animals. No animals may be interred within Cedar Key Cemetery property.

H. Waterlines. No water line shall be tapped, nor shall any water line be constructed by any person without the prior written permission of the City of Cedar Key Public Works Director.

2.10.04. Fees

A. Amount.

1. Plot Permit. A fee of four hundred dollars (\$400.00) per grave site shall be charged by the City to residents of Cedar Key. A fee of one thousand five hundred dollars (\$1,500.00) per grave site shall be charged by the City to applicants who are not residents of Cedar Key.

2. Memorial Garden Permit. A fee of one hundred dollars (\$100.00) plus the cost of the

plaque per memorial garden scattering shall be charged by the City to residents of Cedar Key. A fee of six hundred dollars (\$600.00) plus the cost of the plaque per memorial garden scattering shall be charged by the City to applicants who are not residents of Cedar Key.

3. Burial Permit. A fee of three hundred dollars (\$300.00) per burial site shall be charged by the City to residents of Cedar Key. A fee of four hundred dollars (\$400.00) per burial site shall be charged by the City to persons who are not residents of Cedar Key.

B. Administrative Fee. There shall be a twenty five dollar, (\$25.00), administrative fee required when applying for a plot permit, memorial Garden permit, or a Burial permit.

C. Payment. Fees will be paid to the City Clerk. The City Clerk will deposit fees in escrow until the permit is issued, the applicant withdraws his application, or the Cemetery Director determines a permit will not be issued.

D. Restriction on Expenditures. The City Clerk will credit the fees to the City's Cemetery income line item if a permit is issued or return the fees to the applicant if a permit is not issued. If a permit is issued for fewer grave sites than requested the fee will be recalculated and the balance for the unpermitted sites will be returned to the applicant. All fee income received pursuant to this section shall be restricted to expenditures directly related to the maintenance and costs of the Cemetery.

E. Failure to Obtain Permit. There shall be a double permit fee for all interments for which a permit is required and has commenced before a permit is issued.

F. Amendment. The City may amend the fee charged or adopt any related charges by the adoption of a resolution. The City shall, at least two weeks prior to the adoption of said resolution, publish a notice in a newspaper of

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general circulation within Levy County, Florida, which advertises the proposed new rates and advises the public that a public hearing will be held at which time the public can be heard with regards to the proposed rate changes.

(History: Ord. Nos. 223, 398, 481 and 519)

2.11.00. MISCELLANEOUS CRIMES.

2.11.01. Climbing City Water Tower Prohibited

It shall be unlawful for any person or persons to climb the ladder or framework of the Cedar Key Water and Sewer District Water Tower; excepting, employees of the City or of the Water and Sewer District whose duties require that they do this in the performance of their duties; and excepting those with written permission from the Cedar Key Water and Sewer District.

2.11.02. Cemetery— Littering Prohibited

No person shall dump, or cause to be dumped, or place, or cause to be placed, or pile, or cause to be piled, any garbage, refuse, trash, or rubbish of any kind whatsoever on or upon the grounds of any public cemetery within the City of Cedar Key.

2.11.03. House Boats Prohibited on Beaches

A. It shall be unlawful for any person or persons to tie a House Boat at any point on the Beach or Water Line within the City Limits of the City of Cedar Key, Florida, without approval of the City Commission.

B. This permission will not be granted by the City Commission unless the owner or user of said House Boat is able to connect with the City Sewer Line and have sufficient water supply for all sanitary and health conditions of the occupants of said House Boat.

2.11.04. Setting/Maintaining a Fire on Public Docks

No person shall ignite or cause to be ignited, or set or cause to be set, or maintain or cause to be maintained, any fire of any kind whatsoever, whether contained or otherwise, on or upon any public dock, pier or wharf, within the City of Cedar Key.

2.11.05. Destruction of City Property Prohibited

It shall be unlawful for any person or persons to damage, deface, mutilate or destroy any of any property owned by the City of Cedar Key, Florida.

(History: Ord. Nos. 9, 57, 84, 96, 97)

2.12.00. NOISE

2.12.01. Definitions

dB(A) means the sound pressure level in decibels as measured with a sound level meter using the A weighting network. The unit of measurement is the dB(A).

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which necessitates immediate action. Economic loss shall not be the sole determining factor in the determination of an emergency. It shall be the burden of an alleged violator to prove an “emergency.”

Emergency Work means any work necessary to restore property to a safe condition following an emergency, or to protect property threatened by an imminent emergency, to the extent such work is necessary to protect persons or property from exposure to imminent danger or damage.

Nighttime means between 10:00 p.m. and 6:59 a.m. the following day.

Noise disturbance means any sound which exceeds the sound level limits set forth in Subsection 2.12.03

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Receiving Land Use means “the land use designation for the site impacted by the alleged noise disturbance as described in Section 2.01.02, Chapter 4 of the Laws of Cedar Key and depicted on the City of Cedar Key, Florida Comprehensive Plan, Future Land Use Map.

Weekday means any day Monday through Friday that is not a "paid holiday" as defined in Section 110.117(1), Florida Statutes

2.12.02. General Prohibition

It shall be unlawful and a violation of this Section to make, cause or allow the making of any sound that causes a Noise Disturbance as defined in Subsection 2.12.01.

2.12.03. Maximum Permissible Sound Levels By Receiving Land Use

Prohibition. No person shall operate or cause to be operated any source of sound in such manner as to create a sound level which exceeds the limits set forth in Table 2.12.03 for the receiving land use category:

Table 2.12.03 MAXIMUM SUSTAINED SOUND LEVELS BY RECEIVING LAND USE

Receiving Land Use	Times of Day	dB(A) Sound Level Limit
Residential/Educational & Institutional	7am-10:00 p.m.	60
	10 pm – 6:59 a.m.	55
Commercial/Recreation al/Conservation/Aquaculture	7am-10:00 p.m.	65
	10:00 p.m.- 6:59 a.m.	60

2.12.04. Specific Prohibitions and Exemptions

A. Specific prohibitions. In addition to the general prohibitions set out in subsection 2.12.02, and unless otherwise exempted by this section, the following specific acts, or the causing or permitting thereof, are hereby regulated as follows:

1. Motor vehicles. No person shall operate or cause to be operated a public or private motor vehicle, or combination of vehicles towed by a motor vehicle, that creates a sound exceeding the sound level limits in Table 2.12.03 when the vehicle(s) are not traveling on public streets, highways, driveways, parking lots and ways open to vehicle travel.

2. Radios, televisions, electronic audio equipment, musical instruments or similar devices. No person shall operate, play or permit the operation or playing of any radio, tape player, television, electronic audio equipment, musical instrument, sound amplifier or other mechanical or electronic soundmaking device that produces, reproduces or amplifies sound in such a manner as to create a noise disturbance across a real property boundary. However, this subsection shall not apply to any use or activity exempted in paragraph B below and any use or activity for which a special events permit has been issued pursuant to section 2.14.00, Special Events, of this Chapter.

3. Loudspeakers and public address systems.

a) No person shall operate, or permit the operation of, any loudspeaker, public address system or similar device, for any commercial purpose:

I. Which produces, reproduces or amplifies sound in such a manner as to create a noise disturbance; or

II. During nighttime hours on a public right-of-way or public space.

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No person shall operate, or permit the operation of, any loudspeaker, public address system or similar device, for any noncommercial purpose, during nighttime hours in such a manner as to create a noise disturbance.

4. Animals. No person shall own, possess or harbor an animal or bird that howls, barks, meows, squawks or makes other sounds that:

Create a noise disturbance across a residential real property boundary;

a) Are of frequent or continued duration for ten or more consecutive minutes; or

b) Are intermittent for a period of 30 or more minutes.

5. Construction and demolition. No person shall operate or cause the operation of any tools or equipment used in construction, drilling, repair, alteration or demolition work between the hours of 9:00 p.m. and 6:00 a.m. the following day such that the sound therefrom creates a noise disturbance across a real property boundary, except for emergency work by public service utilities or for other work approved by the City. This section shall not apply to the use of domestic power tools as provided below.

6. Emergency signaling devices.

a) No person shall intentionally sound or permit the sounding outdoors of any fire, burglar or civil defense alarm, siren or whistle, or similar stationary emergency signaling device, except for emergency purposes or for testing as follows:

I. Testing of a stationary emergency signaling device shall not occur between 7:00 p.m. and 7:00 a.m. the following day.

II. Testing of a stationary emergency signaling device shall use only the minimum cycle test time, in no case to exceed 60 seconds.

III. Testing of a complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall only occur on weekdays and not during nighttime hours, and shall be exempt from the time limit specified in paragraph 2. above.

b) No person shall permit the sounding of any exterior burglar or fire alarm unless such alarm is automatically terminated within 15 minutes of activation.

7. Domestic power tools. No person shall operate or permit the operation of any mechanically, electrically or gasoline motor-driven tool during nighttime hours so as to cause a noise disturbance.

8. Pumps, air conditioners, air-handling equipment and other continuously operating equipment. No person shall operate or permit the operation of any pump, air conditioning, air-handling or other continuously operating motorized equipment in such a manner so as to cause a noise disturbance.

B. The following activities or sources are exempt from these noise standards:

a) Equipment necessary for a bona fide commercial fishing or aquaculture operation.

b) Bells or chimes or a house of worship.

c) Nonamplified human voice, except yelling, shouting, whistling, hooting, or generally creating a racket such that it creates a noise disturbance during the nighttime hours in a residential area in other than time of emergency.

d) Sounds resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.

e) Sounds resulting from emergency work as defined in subsection 12.02.01.

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f) Any aircraft operated in conformity with, or pursuant to, federal law, federal air regulations and air traffic control instruction used pursuant to and within the duly adopted federal air regulations; and any aircraft operating under technical difficulties in any kind of distress, under emergency orders of air traffic control, or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations.

g) All sounds coming from the normal operations of interstate motor and rail carriers, to the extent that local regulation of sound levels of such vehicles has been preempted by the Noise Control Act of 1972 (42 U.S.C. § 4901 et seq.) or other applicable federal laws or regulations.

h) Sounds from the operation of motor vehicles, to the extent they are regulated by Chapter 316, Florida Statutes.

i) Any nonamplified noise generated by noncommercial public speaking activities conducted on any public property or public right-of-way pursuant to legal authority.

j) Sounds produced at organized sporting events, by fireworks and by permitted parades on public property or public right-of-way.

2.12.05. Pre-Existing Uses Not In Conformance

When a commercial business established its use prior to May 21, 1990, away from other incompatible uses and subsequently, through encroachment, development or utilization of commercial space for residential purposes, now finds itself adjoining a receiving land category or use which would require a reduction in noise generation, said commercial business shall not emit a noise which exceeds the maximum noise limitation for the receiving land use by more than five (5) decibels.

2.12.06. Measurement or Assessment of Sound.

Measurement with sound level meter:

A. The measurement of sound shall be made with a sound level meter meeting or exceeding the standards prescribed by the American National Standard Specification for Sound Level Meters ANSI S1.4-1983. The instruments shall be maintained in calibration and good working order. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreen for the microphone shall be used when necessary.

B. The slow meter response of the sound level meter shall be used in order to best determine the average amplitude.

C. The measurement shall be made at any point on the receiving property, provided the measurement shall be made at least three feet away from any ground, wall, floor, ceiling, roof or other plane surface.

D. In case of multiple occupancy of a property, the measurement may be made at any point inside the premises to which any complainant has right of legal private occupancy; provided that the measurement shall not be made within three feet of any ground, wall, floor, ceiling, roof or other plane surface.

2.12.07. Enforcement Procedures

A. Enforcement by City Officials. The City Police Chief, or designee, or other code enforcement officials designated by the City, shall enforce these noise regulations and shall have the authority and duty to enforce these noise regulations as set forth below.

B. Enforcement Procedures.

1. When the enforcing official determines that there is a noise disturbance as defined in Subsection 2.12.01, the official shall issue an official warning to the person or persons responsible for the sound. The warning shall advise the person of the violation, and of the possible penalty if the person fails to eliminate

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the sound or reduce the sound so that it is within permitted limits.

2. If a warning or citation is given to a manager, employee, or agent of a business, a letter shall be sent by regular mail to the owner or registered agent of the business, as determined by local business tax or other public record, notifying him or her of the warning or citation and of the consequences of further noise violations.

3. The person or persons receiving the warning shall have a reasonable time to comply with the warning. Absent special circumstances, "reasonable time" is fifteen (15) minutes in the case of non-vehicular sound emitters, and two calendar days for modification of vehicles to come into compliance.

4. If the sound is not eliminated or is not reduced to allowable limits within a reasonable time after the warning, or if the noise or sound is abated after warning and then reoccurs, the person so warned and not complying may be arrested for a violation of this Part and upon conviction shall be subject to the following penalties:

- a) a fine not exceeding five hundred dollars (\$500.00); or
- b) imprisonment for a term not exceeding sixty (60) days; or
- c) both a fine not exceeding five hundred dollars (\$500.00) and imprisonment for a term not exceeding sixty (60) days.

5. Each day any violation of any provision of this Section shall continue shall constitute a separate offense

6. If within the previous 90 days, a person, or business under the same ownership, has been warned or cited for a noise violation, and the same type of noise violation occurs again, the enforcing official is not required to give an

additional warning before arresting the individual for a violation of this Part.

C. Filing of Complaints.

1. Any enforcing official who reasonably believes that a violation of allowed noise limits is occurring is authorized to investigate the alleged violation and take enforcement proceedings as provided for in this Section. Any complaint by other than an enforcing official regarding a noise disturbance must be filed by a person who is an owner or tenant of any building in the vicinity in which the alleged violation occurs.

2. When a complaint has been received, or an enforcing official becomes aware of a possible violation, the enforcing official shall investigate the alleged violation. If the official finds probable cause to believe the owner/operator is in violation of these noise regulations, the official shall follow the enforcement procedures set forth above.

3. If the owner/operator does not take corrective action within a reasonable time as defined in this Part, or if the noise or sound is abated after warning and then reoccurs, the complainant may file a sworn complaint with the enforcing official who may then file a sworn complaint with the state attorney.

4. Any person found guilty of violating the provision of this Part shall be punished as provided in subsection B of this Section.

D. Joint and Several Responsibility. The owner, tenant or lessee of property, or a manager, overseer or agent, or any other person lawfully entitled to possess the property from which the offending sound is emitted at the time the offending sound is emitted, shall be responsible for compliance with this Part. It shall not be a lawful defense to assert that some other person caused the sound. The lawful possessor or operator of the premises shall be

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responsible for operating or maintaining the premises in compliance with this Part and shall be punished whether or not the person actually causing the sound is also punished.

E. Violation May Be Declared Public Nuisance. The operation or maintenance of any device, instrument, vehicle or machinery in violation of any provisions of this Part which endangers the public health, safety and quality of life of residents in the area is declared to be a public nuisance, and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

F. Confiscation. In addition to the penalties set forth herein, any person responsible for an unlawful sound shall be subject to the confiscation of the sound emitter or emitters if convicted three times under this Part within a 12-month period and provided the convictions are for sounds created by the same or same type of sound emitter. Upon the third conviction, the appropriate court shall authorize the city to confiscate the sound emitter until such time as the offender can positively demonstrate to the court both willingness and ability to operate the emitter within the limits prescribed by this Part. Any further conviction shall authorize the permanent confiscation of the sound emitter by the appropriate court.

(History: Ord. Nos. 310, 316, 421, 441)

2.13.00. PUBLIC NUDITY

2.13.01. Findings and Intent

A. The City Commission of the City of Cedar Key, Florida (the "City Commission"), is aware that local governments may, by virtue of the twenty-first amendment to the United States Constitution, regulate and prohibit various forms of actual and simulated Nude and sexual conduct, and the depiction thereof, within and around Establishments Dealing In Alcoholic

Beverages. See *California v. LaRue*, 93 S.Ct. 390, rehearing denied, 93 S.Ct. 1351 (1972); and *New York State Liquor Authority v. Bellanca*, 452 U.S. 714, 101 S.Ct. 2599 (1981).

B. The City Commission is aware that local governments may prohibit the exposure of certain body parts in and around Establishments Dealing In Alcoholic Beverages. See *Geaneas v. Willets*, 911 F.2d 579 (11th Cir. 1990), and may regulate the conduct of appearing Nude in Public Places, see *Michael Barnes v. Glen Theatre, Inc.*, 111 S.Ct. 2456 (1991).

C. The City Commission wishes to regulate nudity and sexual conduct in and around Establishments Dealing In Alcoholic Beverages; and, the City Commission is aware of evidence from other communities indicating that nudity and sexual conduct, coupled with alcohol in Public Places, begets undesirable behavior, and that prostitution, attempted rape, rape, and assault have occurred and have the potential for occurring in and around Establishments Dealing In Alcoholic Beverages where Nude and sexual conduct is permitted; that actual and simulated nudity and sexual conduct, coupled with the consumption of Alcoholic Beverages in Public Places, begets and has the potential for begetting undesirable and unlawful behavior; that sexual, lewd, lascivious, and salacious conduct among patrons and employees within Establishments Dealing In Alcoholic Beverages results in violation of law and creates dangers to the health, safety, morals, and welfare of the public and those who engage in such conduct; and it is the intent of this ordinance to specifically prohibit nudity, gross sexuality and the simulation thereof in Establishments Dealing in Alcoholic Beverages.

D. The City Commission wishes to protect against similar conditions to the end that they not occur in the City of Cedar Key at or around Establishments Dealing In Alcoholic Beverages.

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E. The City Commission desires to prohibit the public display of Nude conduct and sexual behavior or the simulation thereof in and around Establishments Dealing In Alcoholic Beverages.

F. The City Commission finds and determines that there are increasing incidents of nudity in Public Places other than Establishments Dealing In Alcoholic Beverages and in other places readily visible to the public.

G. The City Commission finds and determines that Persons who choose to appear Nude in Public Places are engaging in conduct which often serves to impose their nudity on others who did not seek it out, who are not able to reasonably avoid observing it, and who may be offended or distressed thereby.

H. Appearing Nude in Public Places was a criminal offense at common law and was considered an act *Malus en se*.

I. The City Commission desires to protect and preserve the unique character of the City of Cedar Key as a family-oriented, historic attraction for families, tourists and businesses.

J. The City Commission finds and determines that appearing Nude in Public Places is still contrary to the general societal disapproval that the people of the City of Cedar Key have of persons appearing Nude among strangers in Public Places.

K. The City Commission finds and determines that the mere appearance of Persons in the Nude in Public Places generally increases incidents of prostitution, sexual assaults and batteries, attracts other criminal activity to the community, and encourages degradation of women and other activities which break down family structures.

L. The City Commission finds and determines that without regulation, public nudity constitutes harmful conduct and occurs in a manner which is incompatible with the normal

primary activity of a particular place at a particular time.

M. Although the City Commission's sole intent in enacting this ordinance is to prohibit the conduct of being Nude in Public Places and to suppress the adverse secondary effects such nudity generates, the City Commission nevertheless recognizes that there may be instances wherein appearing Nude in a Public Place may be expressive conduct incidental to and a necessary part of the freedom of expression that is protected by United States or Florida constitutional provisions.

N. A requirement that dancers don opaque covering sufficient to cover the Buttocks and the Breasts as such portions of the human anatomy are defined in this ordinance does not deprive the dance of whatever erotic message, if any, it may convey, but simply makes such message, if any, slightly less graphic and imposes only an incidental limitation on the message.

O. It is the intent of the City Commission to protect and preserve the public health, safety, welfare and morals of the City of Cedar Key by restricting, to the full extent allowed by the United States and Florida Constitutions, the act of being Nude to places which are not frequented by the public and places which are not readily visible to the public.

P. The City of Cedar Key is essentially a rural - suburban community with a population of less than a thousand people.

Q. The City of Cedar Key is a city that is, and desires very much to continue to be, a community that contains and is known for traditional wholesome public recreation activities and historic facilities.

R. The City Commission finds and determines that the average person applying the contemporary community standards within the City of Cedar Key would find that the public

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nudity prohibited by this ordinance, if allowed, when taken as a whole (i) appeals to the prurient interests and (ii) lacks serious literary, artistic, political, and scientific value.

S. Non-regulation of persons appearing nude in Public Places within the City of Cedar Key encourages commercial Entities and other Entities and Persons to advertise outside of Cedar Key and the State of Florida by billboard, radio, print and other media the availability of nudity in Public Places within the City of Cedar Key and thus encourages the influx into the City of Cedar Key of Persons seeking (i) to observe and/or participate in such nudity and (ii) to participate in the disorderly, harmful, and illegal conduct that is associated therewith, thereby increasing injuries and damages to the citizens of this city who will be victims of such increased disorderly, harmful, and unlawful conduct.

T. Competitive commercial advertising and/or exploitation of nudity encourages escalation of Nude and lewd conduct within the competing commercial establishments exploiting such conduct and thereby increases the adverse effects upon public order and the public health.

U. The City Commission finds and determines that the prohibitions contained herein are the most reasonable and minimal restrictions required so as to regulate conduct which is adverse to public order, health, morality and decency within the City of Cedar Key when such conduct takes place at locations where the public is present or is likely to be present, or where such conduct would be readily visible to the public.

V. The passage of this ordinance is necessary to preserve the basic character of the City of Cedar Key.

W. The City Commission is not hereby prohibiting nudity in truly private places or prohibiting nudity which is protected by United States or Florida constitutional provisions.

X. The City Commission finds and determines that the express exemptions contained in this ordinance provide adequate protection to Persons who, without such express exemptions, might otherwise be prevented or discouraged by the ordinance from exercising constitutionally protected rights.

Y. Although the City Commission is of the opinion that this ordinance is a general ordinance regulating conduct and is not an ordinance that affects the use of land as contemplated by Florida Statute 166.041, the City Commission does not wish to become engaged in lengthy and expensive litigation concerning procedural matters that are not relevant to the subject matter of this ordinance and has determined to enact this ordinance under the more conservative, expensive, and time consuming "affecting use of land" procedure as well as under the general procedure for ordinances that regulate conduct; and,

Z. The City Commission finds and determines that this ordinance is consistent with its current comprehensive plan.

2.13.02. Definitions

Capitalized terms, when used in this Part 2.13.00, shall have the following meanings:

A. Alcoholic Beverages Means all distilled spirits and all beverages containing one-half of one percent or more 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 said remainder ingredients were distilled water.

B. Breast means a portion of the human female mammary gland (commonly referred to as the female breast) including the nipple and the areola (the darker colored area of the breast surrounding the nipple) and an outside area of

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such gland wherein such outside area is (i) reasonably compact and contiguous to the areola and (ii) contains at least the nipple and the areola and 1/4 of the outside surface area of such gland.

C. Buttocks means the area at the rear of the human body (sometimes referred to as the gluteus maximus) which lies between two imaginary straight lines running parallel to the ground when a person is standing, the first or top such line being 1/2 inch below the top of the vertical cleavage of the nates (i.e., the prominence formed by the muscles running from the back of the hip to the back of the leg) and the second or bottom such line being 1/2 inch above the lowest point of the curvature of the fleshy protuberance (sometimes referred to as the gluteal fold), and between two imaginary straight lines, one on each side of the body (the "outside lines"), which outside lines are perpendicular to the ground and to the horizontal lines described above and which perpendicular outside lines pass through the outermost point(s) at which each nate meets the outer side of each leg. Notwithstanding the above, Buttocks shall not include the leg, the hamstring muscle below the gluteal fold, the tensor fascia latae muscle or any of the above-described portion of the human body that is between either (i) the left inside perpendicular line and the left outside perpendicular line or (ii) the right inside perpendicular line and the right outside perpendicular line. For the purpose of the previous sentence the left inside perpendicular line shall be an imaginary straight line on the left side of the anus (i) that is perpendicular to the ground and to the horizontal lines described above and (ii) that is 1/3 of the distance from the anus to the left outside line, and the right inside perpendicular line shall be an imaginary straight line on the right side of the anus (i) that is perpendicular to the ground and to the horizontal lines described above and (ii) that is 1/3 of the distance from the anus to the right outside line. (The above description can generally be

described as covering 1/3 of the buttocks centered over the cleavage for the length of the cleavage.)

D. Entity means any proprietorship, partnership, corporation, association, business trust, joint venture, joint-stock company or other for profit and/or not for profit organization.

E. Establishment Dealing In Alcoholic Beverages means any business, commercial or other establishment (whether for profit or not for profit and 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; night club; country club; cabaret; meeting facility utilized by any similar organization; religious, social, fraternal or similar organization; business, commercial or other establishment where a product or article is sold, dispensed, served or provided 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 on the premises or curtilage of said business, commercial or other establishment; or business, commercial or other establishment where the consumption of Alcoholic Beverages is permitted. Premises, or portions thereof such as hotel rooms, used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be an Establishment Dealing In Alcoholic Beverages.

F. Nude means any Person insufficiently clothed in any manner so that any of the following body parts are not entirely covered with a fully opaque covering:

1. The male or female genitals, or
2. The male or female pubic area, or

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3. The female Breast (see the last sentence in this subsection F), or

4. The Buttocks.

Attire which is insufficient to comply with this requirement includes, but is not limited to, G-Strings, T-Backs, dental floss and thongs.

Body paint, body dyes, tattoos, liquid latex whether wet or dried, and similar substances shall not be considered opaque covering. Each female Person may determine which 1/4 of her Breast surface area (see definition of Breast) contiguous to and containing the nipple and the areola is to be covered.

G. Person means any live human being aged ten years of age or older.

H. Places Provided or Set Apart For Nudity shall mean enclosed single sex public restrooms, enclosed single sex functional shower, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, medical offices, portions of hospitals, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and the sphere of privacy constitutionally protected therein. This term shall not be deemed to include places where a person's conduct of being Nude is used for his or her profit or where being Nude is used for the promotion of business or is otherwise commercially exploited.

I. Public Place means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public Places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not for profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement), bottle clubs, hotels,

motels, restaurants, night clubs, country clubs, cabarets, and meeting facilities utilized by any religious, social, fraternal or similar organization. Premises, or portions thereof such as hotel rooms, used solely as a private residence, whether permanent or temporary in nature shall not be deemed to be a Public Place.

2.13.03. Nudity, Sexual Conduct Prohibited in Establishments Dealing in Alcoholic Beverages

The following prohibitions and criteria shall apply within existing and/or newly created Establishments Dealing In Alcoholic Beverages and the curtilages thereof:

A. No person shall knowingly, intentionally or recklessly appear, or cause another person to appear, Nude or expose to public view his or her genitals, pubic area, vulva, or Buttocks, or any simulation thereof.

B. No female person shall knowingly, intentionally or recklessly expose, or cause another female person to expose her Breasts or any simulation thereof to public view.

C. No person or Entity maintaining, owning, or operating an Establishment Dealing In Alcoholic Beverages shall encourage, allow or permit any person to appear Nude or to expose to public view his or her genitals, pubic area, vulva, anus, or any portion of the Buttocks or simulation thereof. This section shall be violated if any portion of the Buttocks is visible from any vantage point.

D. No person or Entity maintaining, owning, or operating an Establishment Dealing in Alcoholic Beverages shall encourage, allow or permit any female person to expose her Breasts or any simulation thereof to public view.

E. No person shall engage in and no person or Entity maintaining, owning, or operating an Establishment Dealing In Alcoholic Beverages shall encourage, allow or permit any sexual intercourse, masturbation, sodomy, bestiality,

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oral copulation, flagellation, lap dancing, straddle dancing, any sexual act which is prohibited by law, touching, caressing, or fondling of the breasts, buttocks, anus, or genitals, or the simulation thereof.

F. The prohibitions of this Section 2.13.03 shall not apply when a person appears Nude in a Place Provided Or Set Apart For Nudity provided (i) such person is Nude for the sole purpose of performing the legal functions that are customarily intended to be performed within such Place Provided Or Set Apart For Nudity and (ii) such person is not Nude for the purpose of obtaining money or other financial gain for such person or for another person or Entity.

G. Each female person may determine which 1/4 of her Breast surface area (see definition of Breast) contiguous to and containing the areola is to be covered. This section 2.13.03 shall not be deemed to address photographs, movies, video presentations, or other non live performances.

2.13.04. Nudity Prohibited in Public Places

It shall be unlawful for any Person to knowingly, intentionally, or recklessly appear, or cause another Person to appear Nude in a Public Place or in any other place which is readily visible to the public, except as provided in Section 2.13.05. It shall also be unlawful for any Person or Entity maintaining, owning, or operating any Public Place establishment to encourage, suffer or allow any Person to appear Nude in such Public Place, except as provided in Section 2.13.05.

2.13.05. Exemptions

The prohibitions of Section 2.13.04 above shall not apply:

A. When a Person appears Nude in a Place Provided Or Set Apart For Nudity provided (i) such Person is Nude for the sole purpose of performing the legal functions that are

customarily intended to be performed within such Place Provided or Set Apart For Nudity and (ii) such Person is not Nude for the purpose of obtaining money or other financial gain for such Person or for another person or Entity; or,

B. When the conduct of being Nude cannot legally be prohibited by this ordinance (i) because it constitutes a part of a bona fide live communication, demonstration or performance by a Person wherein such nudity is expressive conduct incidental to and necessary for the conveyance or communication of a genuine message or public expression and is not a mere guise or pretense utilized to exploit the conduct of being Nude for profit or commercial gain (see Board of County Commissioners vs. Dexterhouse, 348 So. 2d 916 (Fla. 2nd DCA 1977)) and as such is protected by the United States or Florida Constitution, or (ii) because it is otherwise protected by the United States or Florida Constitution; or

C. When the conduct of being Nude is a result of breast feeding an infant.

2.13.06. Enforcement and Penalties

Any person or Entity violating any of the provisions of this Part 2.13.00 shall be prosecuted in the same manner as misdemeanors are prosecuted. Such violations shall be prosecuted in the name of the State of Florida 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 or by imprisonment in the County jail not to exceed 60 days or by both such fine and imprisonment. Each incident or separate occurrence of an act that violates this ordinance shall be deemed a separate offense.

2.13.07. Injunctive Relief

In addition to the procedures provided herein, Establishments Dealing In Alcoholic Beverages that are not in conformity with these

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requirements shall be subject to appropriate civil action in the court of appropriate jurisdiction for abatement.

2.13.08. Severability

If any section, subsection, sentence, clause, phrase, word or provision of this Part 2.13.00 is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Part.

(History: Ord. No. 320)

2.14.00. SPECIAL EVENTS

2.14.01. Definitions

A. A special event as regulated by this Part, shall include any parade, march, procession, contest, tournament, boat show, auto show, concert, carnival, religious event, picnic, race, dance, fireworks display, merchandise sale, or other similar gathering that:

Will take place on or utilize property owned by the City of Cedar Key; and

Will be attended by 50 or more persons, or will involve 25 or more boats, cars, trucks or other vehicles.

B. Property owned by the City of Cedar Key shall include, but not be limited to:

1. City Park and associated beach.
2. The City marina, boat ramp, and surrounding parking areas.
3. City streets and sidewalks.

C. The Police Chief shall be the Chief of Police for the City of Cedar Key or designee.

2.14.02. Permit Required

A permit from the City shall be required for any special event as defined herein.

Each person wishing to obtain a permit for a special event shall apply to the Police Chief on an application form to be available from the City. The following information shall be provided on the application:

1. The name, address and telephone number of the applicant.
2. A detailed description of the special event for which the permit is sought, including the number of persons or vehicles that will be involved, and whether sound amplification or other significant noise generators will be involved.
3. A detailed description of the public property sought to be used, and the manner in which it will be used.
4. The time during which the event will occur.
5. Any special measures to be taken by the applicant to minimize the impact of the event on the city, such as the provision of temporary toilets, use of security personnel, and cleanup plans.
6. Other information determined by the Police Chief to be necessary in light of the particular type of special event proposed.

The completed application shall be submitted to the Police Chief at least ten days prior to commencement of the special event.

An application fee may be set by resolution of the City Commission.

2.14.03. Action on Applications

A. Upon submission of a completed application and payment of the application fee, the Police Chief shall either issue the permit,

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issue the permit with conditions, or deny the permit.

B. In determining whether to issue a permit, and what conditions should be placed on a permit, the Police Chief shall consider the extent to which the special event:

1. Will disrupt normal municipal functions and the ability of persons to engage in normal use of public property.
2. Will negatively affect the public health, safety, and welfare.
3. Will be compatible with the area surrounding the location of the event.
4. Will negatively affect previously permitted activities.

C. Conditions imposed on a permit may address the following issues among others:

1. The posting of bond, cash deposit, or other security to cover any damage to public property and the cost to the city of removing any temporary structures not removed by the applicant and of any extraordinary cleaning of public property necessitated by the conduct of the special event.
2. The provision of portable toilets.
3. The provision of garbage containers.
4. Parking.
5. Street closures.
6. Traffic flow.
7. Avoidance of interference with the activities of city residents or visitors.
8. The location and safety of tents and other portable structures.
9. Number and location of vendors, concessions and booths.

10. Limitations on the size, location and number of temporary signs and banners.

D. Any permit issued under this Part shall be nontransferable.

E. A denial of a permit application, or revocation of a permit, may be appealed to the City Commission by filing a request for such review with the City Clerk. The City Clerk shall place the matter on the next available City Commission meeting agenda.

2.14.04. Indemnification

In consideration for the issuance of a permit under this Part, the applicant shall indemnify and hold harmless the city and its officers, agents and employees from any liability or loss sustained as a result of claims or demands arising from any permit issued in accordance with this Part or any activity conducted in connection therewith.

2.14.05. Revocation

The Police Chief may revoke any special events permit for any one of the following reasons:

- A. Fraud, misrepresentation or false statements contained in the permit application.
- B. Exceeding the scope of activity for which the permit was issued, or failing to comply with any condition placed on the permit.
- C. Violation of any regulation of the City of Cedar Key.
- D. Where revocation is necessary to protect the health, safety or welfare of the residents of the City.

2.14.06. Notification of Public.

The Police Chief shall post one or more signs in the City Park and City Marina area informing the public of the need to obtain a permit for special events as defined herein.

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(History: Ord. No. 347)

2.15.00. CONSTRUCTION WITHIN CITY RIGHT-OF-WAY

2.15.01. Purpose

The purpose of this Part 2.15.00 is to protect the public safety and the integrity of public right-of-way by requiring a right-of-way construction permit and establishing standards for construction activities within city right-of-way.

2.15.02. Definitions

The following definitions shall apply to the regulations within this Article:

City Commission means the City of Cedar Key City Commission.

Construction means any activity within city right-of-way involving filling or excavation of any kind; placement or removal of pavement; planting vegetation; or installation of facilities.

District means the Cedar Key Water and Sewer District

Facilities means wires, pipes, conduit, poles, equipment, machinery, or any other permanent or semi-permanent structure.

Right-of-Way means lands conveyed or dedicated to the public to be used for a street, alley, walkway, drainage facility, or other public purpose.

2.15.03. Applicability

A. Generally. This Part 2.15.00 shall apply to all City right-of-way.

B. Exceptions to Permitting. Notwithstanding the requirement in Section 2.15.04, no right-of-way construction permit shall be required for the following:

1. The placement by any governmental entity of traffic signs, signals, or other traffic control devices within the City right-of-way.

2. Construction necessitated by an emergency where such construction is necessary to protect public safety, provided that to the extent reasonably possible, all conditions and requirements of sections 2.15.05 and 2.15.06 of this Part shall be complied with during the emergency construction. The City shall be notified of such work by the next working day after the construction is commenced, and a right-of-way construction permit shall be obtained after the emergency conditions have passed.

3. Short side service connections with no pavement or sidewalk cut, or road or sidewalk crossings.

4. All maintenance and repair of facilities not involving subterranean crossing, removal of pavement, or excavation within

5. Removal or re-location of facilities at the request of the City.

C. Notwithstanding the requirements in Section 2.15.04, the City may grant to the Cedar Key Water and Sewer District a General Permit authorizing work to be undertaken by the District within City right-of-way. The General Permit shall authorize the District to undertake work within the City right-of-way without obtaining individual permits so long as the conditions stated in the General Permit are adhered to by the District. The General Permit shall include all conditions contained in subsections 2.15.05.A. and B. and section 2.15.06, except paragraphs 2.15.05.B.6 and 7. Any deviation from said conditions shall require a written waiver from the City. There shall be no fee charged for this General Permit.

2.15.04. Permit.

A. Permit Required. No facilities shall be placed in the public right-of-way unless

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authorized by a right-of-way construction permit issued pursuant to this Part 2.15.00.

B. Submittals. An application for a right-of-way construction permit shall be available from the building official. At a minimum, the following shall be submitted along with the application:

1. A sketch, not necessarily to scale, showing the right-of-way and pavement location and width; the location of the construction activity and any facilities to be installed, including the offset from the centerline of the right-of-way or road; the distance from the edge of the pavement to the construction work or facility; the location and width of sidewalks; and the location of other facilities within the area.
2. One or more cross sections as required to adequately reflect the location, including depth, of any facilities to be installed.
3. The minimum vertical clearance above or below the pavement or right-of-way.
4. The location of intersections, bridges, railroad crossings and other major physical features within 300 feet of the proposed construction.
5. The name of the owner, and the number of its current certificate of authorization issued by the Florida Public Service Commission or Federal Communications Commission.
6. The name, address and telephone number of the contact person for the Owner.

2.15.05. Standards and Conditions

A. Standards for Approval of Right-of-Way Construction Permit. The building official shall grant or deny the permit within ten working days of receipt of a complete application and submittals. The permit shall be issued if the building official finds that the construction work, as proposed:

1. Is consistent with all City of Cedar Key regulations, including all City public works standards, and generally conforms to good construction and engineering practices.
 2. Is consistent with future development plans for the area and any plans for future expansion of the roadway or other public improvements.
 3. Will not endanger nor substantially inconvenience the public.
 4. Can be accomplished in conformity with all permit conditions as set forth in paragraph B below.
- B. Conditions. A right-of-way construction permit issued hereunder shall contain the following conditions, which the permit holder agrees to abide by in accepting the permit:
1. The authorization granted by the permit is granted only to the extent of the City's right, title and interest in the land to be entered upon by the permit holder, and the permit holder will at all times assume all risks of and defend the City from and against any and all loss, damage, cost or expense arising in any manner on account of the exercise or attempted exercise by the permit holder of the authorization granted by the permit.
 2. The permit holder acknowledges that the permit granted hereunder does not operate to create or vest any property right in the permit holder, and does not relieve the permit holder of the need for obtaining any other permits that may be required by other authorities.
 3. The permit holder acknowledges that the permit may be revoked by the building official or City Commission if the work performed under the permit is found to be a safety hazard or otherwise detrimental to the public interest.
 4. The construction activity shall not interfere with or encroach upon the property and

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rights of any prior occupant of the City right-of-way.

5. That construction activities shall be conducted from seven o'clock (7:00) a.m. to seven o'clock (7:00) p.m., Monday through Saturday, excluding holidays. Any deviation from these hours requires prior approval from the City building official. The City building official shall be given two working days notice, in writing, requesting deviation from the normal working hours.

6. If the work authorized by the permit is not commenced within sixty days of the issuance of the permit, or of the scheduled start date if shown on the permit, the permit will become null and void. The City building official may grant a single extension of this deadline of up to sixty days if there will be no harm to the public welfare.

7. If the work authorized by the permit is suspended or abandoned for a period of more than ninety days, the permit shall become null and void and work may not thereafter commence without a new permit. The City building official may grant a single extension of this ninety-day period for an additional ninety days if such extension is applied for prior to the permit becoming null and void, and if there will be no harm to the public welfare.

8. Unless otherwise specifically provided in the permit, the permit holder agrees to the following traffic-related matters:

a) That all roads within the limits of the permit shall be kept open and safe for all traffic. When approved by the City building official, traffic may be bypassed over an approved detour route.

b) That the permit holder shall regulate traffic in accordance with the standards of the Florida Department of Transportation.

c) That materials stored at the site of the work shall be so placed as to cause no obstruction to vehicular or pedestrian traffic.

9. The permit holder, during the time when construction is underway, shall be solely responsible for stormwater runoff maintenance, so as to not adversely affect the flow of stormwater through existing drainage facilities nor create any other adverse stormwater impacts to public or private property.

10. That all work shall be done in accord with all City of Cedar Key regulations and public works standards.

11. The permit holder shall be solely responsible for restoration to its prior condition or better, of all public and private property affected by the construction activity, and shall guarantee such restoration work for a period of two years from the date of completion as certified on the permit by the City building official. Such restoration shall include replacement of sod, trees, or shrubbery damaged or removed during the course of the construction.

12. Any failure of restoration work, or any failure of the construction work itself that creates a public hazard, shall be repaired by the permit holder within five working days, unless the urgency of the problem requires a quicker reaction time as determined by the city building official.

13. The permit holder will reimburse the City for any expenses the City incurs for the inspection or repair of the right-of-way.

14. In the event the City or any other governmental entity undertakes the construction of public improvements or other activities with which the permit holder's facilities will interfere, the permit holder shall move its facilities at its own expense to such other reasonable location as may be designated by the

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City. When a request to re-locate facilities is made by a private party, the permit holder shall be entitled to reasonable compensation paid prior to work being performed. If the permit holder fails to relocate its facilities after reasonable notice to do so given by the City or other governmental entity, the City may cause the necessary work to be completed and the permit holder shall pay the City the cost thereof within ten days of receipt of an itemized account of such cost.

15. The permit holder shall be responsible for contacting the appropriate authorities to determine the location of underground utility lines, to register the new facilities pursuant to Florida Statutes, and to comply with the gas pipeline protection requirements at Section 553.851, Florida Statutes.

16. The permit holder shall, if deemed necessary by the City building official, post a performance bond or other security in an amount not to exceed 110 percent of the potential damage to the City right-of-way and/or private property. All such bonds or other security arrangements shall be on forms provided by the City building official. Such forms shall prescribe the manner in which noncompliance with the provisions of the permit or these regulations shall be remedied, and shall provide that the principal and surety shall reimburse the City for costs, including attorney fees, incurred in enforcing its rights under the security.

17. That upon completion of the installation of the facilities, the permit holder shall furnish the City a complete set of "as built" construction drawings.

18. The construction permit shall be available at all times at the work site while work is being performed. Any construction in progress on City right-of-way without a valid permit shall be suspended until such time as a valid permit is produced on the site.

19. The permit holder shall notify the building official no less than twenty-four hours prior to beginning work, and immediately upon completion of work. Upon notification of completion, the building official shall inspect the work to insure that it meets all conditions of the permit. Any items found not to be in compliance shall be immediately corrected by the permit holder. The building official's signature on the completion line on the permit terminates the permit and no further work may be done under the permit.

2.15.06. Supplemental Construction Standards

A. Crossing Pavement on Right-of-Way.

1. Default Method. Wherever facilities are to be installed or repaired underground across a City right-of-way, such installation or repair shall not disturb paved surfaces in the City right-of-way. All such installations or repairs across City right-of-way shall be by installed or repaired using trenchless methods under paved surfaces.

2. Exceptions.

a) If the person or entity requesting installation or repair can demonstrate in a writing certified by a professional engineer licensed by the state of Florida that the use of a trenchless method would not be feasible because of factors beyond the control of the applicant such as the existing geology, but excluding financial factors, or would with reasonable probability result in more damage to the paved right-of-way than the use of a nontrenchless method, then the building official may allow the applicant to use another method, provided that such method is the least damaging method available and that such method interferes the least with the public use of the City's right-of-way. The City must provide the applicant with a written waiver.

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b) In the event that the applicant's installation or repair of facilities is scheduled to be done when the City is conducting construction work in the same right-of-way in the same location and the applicant can demonstrate to the satisfaction of the City that the installation or repair of facilities in a trench crossing the right-of-way could be done without interfering with the City's work and without causing additional damage to the right-of-way or cost to the City, the City may grant the applicant a written waiver.

c) All persons or entities for whom an exception is granted, including those exempt from permitting, must comply with the conditions in paragraph 2.15.05.B. of this Chapter.

B. Placement of Wires Underground. Wherever, in any place within the City, electricity transmission wires have been located underground, all proposed wires of any kind shall be placed underground within such places. If the electricity transmission wires are located or relocated underground after the installation of the proposed lines, the permit holder shall remove and relocate its wires underground in such areas immediately thereafter. Provided, however, that if the permit holder is unable for operational reasons to locate or relocate any of its wires underground, the City building official, upon being satisfied as to the facts thereof, may permit such wires to be placed or remain above the ground. Any such permission shall be upon conditions as the City building official may require for the public welfare. Further, when the operational reasons no longer prohibit placement of the wires underground, the permit-holder shall immediately locate or relocate its wires underground.

2.15.07 Enforcement / Penalties.

V. Inspections. The City may conduct inspections to determine compliance with the

provisions of this Part and the right-of-way use permit.

W. General remedies for violations. The City may have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of this Part and the right-of-way construction permit, including, but not limited to, the following:

1. Prosecution before the Cedar Key Code Enforcement Hearing Officer as provided by Laws of Cedar Key, Chapter 2, Article 1, Part 1.05.00, "Code Enforcement Hearing Officer."

2. Institution of a civil action against the alleged violator in a court of competent jurisdiction.

3. Injunctive relief to enjoin and restrain any person from violating the provisions of this Part or the right-of-way permit.

4. An action to recover any and all damages that may result from a violation of this Part or the right-of-way construction permit, including an action to recover fines imposed by Florida law or a code enforcement hearing officer.

5. Revocation, suspension, or modification of any right-of-way construction permit issued under this Part.

6. Withholding the issuance of other right-of-way construction permits to the same person or entity, either individually or through its agents, employees, or independent contractors.

The City may elect any or all of these remedies, separately or concurrently, and the pursuance of one shall not preclude the pursuance of another.

X. Stop work order.

1. When ordered. If a City code enforcement officer finds that the following conditions are met, the code enforcement officer

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shall order that work within the right-of-way be immediately stopped:

Work on any utility or installation within a right-of-way is being done contrary to the provisions of this Part or the terms and conditions of a right-of-way construction permit and one or both of the following is true:

- a. an emergency situation exists that may have a serious effect on the health or safety of the public or of the environment.
- b. in the reasonable opinion of the code enforcement officer, an irreversible or irreparable harm may result, and immediate cessation of the activity is necessary to protect the public, the environment, and/or the right-of-way. For purposes of this subsection, an irreversible harm shall include a violation of section 2.15.06 of this Chapter.

2. Notice. The code enforcement officer shall provide a written notice to the owner, agent, or the person performing the work, and shall state the conditions under which work may be resumed. In an emergency situation, the code enforcement officer may give verbal notice followed by written notice.

Y. Violations of the provisions of this Part or the right-of-way construction permit that are discovered after completion of the work issued shall subject the violator to those enforcement proceedings available in this section, including damages resulting from delay or for correction of the violation.

(History: Ord. 463)

2.16.00. HAZARDOUS MATERIAL INCIDENT COST RECOVERY

2.16.01. Authority

The City has the authority to adopt this article pursuant to its municipal home rule powers and

in accordance with Chapters 166 Fla. Stat. (2002).

2.16.02. Intent and Purpose

This article is intended to provide for recovery by the City of costs incurred in the response and recovery efforts related to hazardous material incidents. This article is also intended to provide for recovery of costs incurred by entities other than the City, which are requested by the City to assist during a hazardous material incident. In addition, it is intended to provide for cost recovery for damages to government-owned properties.

2.16.03. Rules of Construction

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 of the citizens and residents of the City.

2.16.04. Definitions

The terms below shall have the following meanings when used in this Ordinance:

Cost(s) shall mean and include but is not limited to:

All Costs incurred for response, containment and/or removal and disposal of hazardous materials or initial remedial action.

Costs of any health assessment or health effects study and related treatment carried out for responding personnel as a necessity resulting from a hazardous material incident.

Labor, including benefits, overtime and administrative overhead, exclusive of normal departmental operations.

The cost of operating, leasing, maintaining and replacement, where necessary, of any equipment.

Contract labor and equipment.

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Materials, including but not limited to, absorbents, foam, dispersants, overpack drums, or containers.

Supervision of clean up and abatement.

Labor and equipment obtained directly by the city, their agencies or agents, and other agencies.

Fire chief shall mean the chief of the fire department that responded to a hazardous material incident.

Hazardous material shall mean any substance or material in any form or quantity that poses an unreasonable risk to safety, health, or property.

Hazardous material incident shall mean actual or threatened release of hazardous substances or materials that pose an immediate threat to the health, safety, or welfare of the population, including hazardous waste.

Hazardous substance shall mean any material which when discharged may be harmful to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public or private property, shorelines and beaches.

Incident commander shall mean the senior fire official at the site of the hazardous material incident; or the initial senior on-scene response official in the absence of the senior fire official; or a unified command structure which delegates control to officials from more than one agency.

Release shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other receptacles containing any hazardous material or substance or waste of pollutant or contaminant).

Response shall mean a phase of emergency management that occurs during and immediately following an incident. Provides emergency

assistance to victims of the event and reduces the likelihood of secondary damage.

Responsible party shall mean the person (s) whose negligent or intentional act or omission proximately caused a release; the person(s) who owned or had custody or control of, the hazardous substance or waste at the time of such release without regard to fault or proximate cause; and the person(s) who owned or had custody or control of, or other legal duty with regard to the container which held the hazardous substance at the time of or immediately prior to such release without regard to fault or proximate cause. "Responsible party" may also include a corporation or partnership, facility, or other type of business entity.

2.16.05. Hazardous Materials Incidents Liability for Costs

The incident commander or fire chief is hereby duly authorized to take all reasonable measures to respond to and stabilize the hazardous material incident. Any responsible party who causes a hazardous material incident shall be liable to the City for the payment of all reasonable direct costs incurred in response to, stabilization of, and any necessary monitoring of such an incident. The City will seek all available remedies at law including the provisions of this article, against any parties responsible for any hazardous material incident, to include those actions and remedies available under the United States Bankruptcy Code relating to such matters.

2.16.06. Collection and Disbursement of Funds for Cost Recovery

The city fire department shall serve as the City's agent for collecting invoices and billing the responsible party for costs. Agencies of the City or organizations responding to a hazardous material incident at the request of the City will be eligible to submit bills. Invoices that identify eligible costs under this article shall be

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submitted to the fire chief or designee within ten (10) working days after the costs were incurred or identified. Submitted invoices should include sufficient documentation for cost reimbursement (i.e., copies of time sheets for specific personnel, copies of bills for materials, equipment, and supplies procured or used, etc.). Accepting invoices from agencies outside the City shall not incur liability to the City to pay costs from such agencies until payment has been received by the City from the responsible party. The fire chief or his designee shall submit one or a series of consolidated invoice(s) to the responsible party identifying agencies or agents and their specific costs for reimbursement. The responsible party shall issue a certified check to the City within 60 days of receiving any invoice. All funds received under the authority of this article shall be disbursed according to the claims submitted. Where the reimbursement is less than the requested amount, each agency shall receive a pro rate share of such reimbursement as the agencies reimbursable costs bear to the total reimbursable cost. The City shall not be liable to the agency for any deficiency.

2.16.07. Supervision

In the event that any person (s) undertakes, upon order or direction of the incident commander or fire chief, to clean up or abate the effects of any hazardous material unlawfully released into the environment, the incident commander or fire chief may take any action necessary to supervise such cleanup or abatement. The person(s) described in section 2.16.04(I) of this article shall be liable to the City for all costs incurred as a result of such supervision.

2.16.08. Conflict with Other Laws

Whenever the requirements or provisions of this article are in conflict with the requirements of provisions of any other lawfully adopted ordinance, the more restrictive requirements shall apply. Further, this article shall not restrict

or replace cost recovery from funding sources available under state and federal regulations such as the revolving fund established under Section 311(K) of the Federal Water Pollution Control Act (33 USC 1321 k); the Hazardous Substance Response Trust Fund established under Comprehensive Environmental Response, Compensation, and Liability Act (42 USC 9611); and the Florida Coastal Protection Trust Fund established under F.S. Ch. 376.

(History: Ord. No. 368)

2.17.00. UNLAWFUL USE OF PUBLIC RIGHT-OF WAY

2.17.01. Definitions

For the purpose of Part 2.17.00 the following definition shall apply.

Public Right of Way means the surface, air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, dock, park, or other lands conveyed or dedicated to the public for use of the public in the ordinary way.

2.17.02. Building On or Obstructing Public Right of Way

It shall be unlawful for any person to erect, build, construct, deposit, or place any building, structure, or obstruction of any kind whatsoever in any public right-of-way for the purpose of gain or other extraordinary use, except as authorized by a permit issued by the city commission.

(History: Ordinance No. 379)

2.18.00. STATE OF LOCAL EMERGENCY

2.18.01. Purpose and Intent

It is the intent of the City to designate a City official to declare a state of local emergency in the event of a natural, technological or manmade disaster or emergency, or the imminent threat

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thereof, and to authorize certain actions relating thereto when a quorum of the City Commission is unable to meet.

2.18.02. Designation of Certain City Officials With Authority to Declare a State of Local Emergency

Pursuant to Chapter 252, Florida Statutes, which authorizes the waiver of procedures and formalities otherwise required of political subdivisions to take whatever prudent action is necessary to ensure the health, safety and welfare of the community in the event of a state of local emergency, when a quorum of the City Commission is unable to meet, the Mayor of the City Commission, or the Vice Mayor in his absence, or the Senior Commission Member in succession, in the absence of the Mayor and Vice Mayor, is hereby designated and empowered to declare a state of local emergency whenever he or she shall determine that a natural, technological or manmade disaster or emergency has occurred or that the occurrence or threat of one is imminent and requires immediate and expeditious action.

2.18.03. Definitions

Average Retail Price means both the average price at which similar merchandise, goods or services were being sold during the ninety (90) days immediately preceding the emergency, and, in the event that the wholesale price for merchandise rises during the local emergency, a price that includes a mark-up above wholesale cost equal to the average markup over wholesale cost of similar merchandise or goods being sold during the ninety (90) days immediately preceding the emergency.

Emergency. As defined in Florida Statutes, Chapter 252.34(3), "Emergency" means any occurrence, or threat thereof, whether natural, technological or manmade, 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.

2.18.04. Length of Time Authorized for a Declared State of Local Emergency and Provisions for Extension and/or Termination of Declared Emergency

A state of local emergency shall be declared by proclamation of the City Official designated in Section 2.18.02. herein for a period of time up to seven (7) days, which may be extended as necessary in seven (7) day increments by subsequent proclamation, pursuant to Florida Statutes, Chapter 252.38(3)(a)5. The state of local emergency shall continue until terminated by proclamation by the designated City Official when he or she finds that the threat or danger no longer exists and/or until an emergency meeting of a quorum of the City Commission can take place to terminate the state of local emergency.

2.18.05. Activation of Disaster Emergency Plans

A declaration of a state of local emergency shall activate the disaster emergency plans applicable to the City of Cedar Key and shall be the authority for emergency measures such as evacuation orders and declaration of certain areas as being off limits, as well as authorize the use or distribution of any supplies, equipment, materials, and facilities assembled or arranged to be made available pursuant to such plans.

2.18.06. Waiver of Procedures and Formalities

The declaration of state of local emergency shall waive all procedure and formalities required by law relating to:

- A. The performance of public works and taking whatever action is necessary to insure the health, safety and welfare of the community; and
- B. Entering into contracts; and
- C. Incurring obligations; and

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- D. Employing permanent or temporary workers; and
- E. Utilization of volunteer workers; and
- F. Rental of equipment; and
- G. Acquisition and distribution with or without compensation of supplies, materials and facilities; and
- H. Appropriation and expenditure of public funds.

2.18.07. Imposition of Certain Emergency Measures or Regulations

Upon the declaration of a state of local emergency pursuant to this Section, the following emergency measures or regulations may be imposed by resolution duly approved and adopted by City Commission or as set forth in emergency ordinance or resolution issued during the period of such emergency pursuant to the Laws of Cedar Key to protect the life, health, property, welfare or public peace of the community. The purpose of this Section is to provide authority and enforcement power to:

- A. Suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives and combustibles.
- B. Establish curfews, including but not limited to the prohibition of or restrictions on pedestrian and vehicular movement, standing and parking, except for the provision of designated, essential services, such as fire, police, emergency medical services and hospital services, including the transportation of patients, utility emergency repairs and emergency calls by physicians.
- C. Utilize all available resources of the City government as reasonably necessary to cope with the disaster emergency, including emergency expenditures.

D. Make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.

E. Establish emergency operating centers and shelters in addition to or in place of those provided for in Levy County's Emergency Management Plan.

F. Declare that during an emergency it shall be unlawful and an offense against the City of Cedar Key for any person, firm or corporation to use fresh water that may be supplied by the City or the Cedar Key Water and Sewer District for any purpose other than cooking, drinking or bathing.

G. Declare that during an emergency it shall be unlawful and an offense against the City of Cedar Key for any person, firm or corporation operating within the City to charge more than the normal average retail price for any merchandise, goods or services sold during the emergency.

H. Confiscate merchandise, equipment, vehicles or property needed to alleviate the emergency. Reimbursement shall be within sixty (60) days and at customary value charged for the items during the ninety (90) days immediately preceding the emergency.

I. Allow the Mayor, or the Vice Mayor in his absence, or the Senior Commission Member in succession, in the absence of the Mayor and Vice Mayor, on behalf of the City, to call on the National Guard, Army, or Coast Guard, through Levy County Emergency Services, or other law enforcement, fire or public works divisions as necessary, to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.

(History: Ord. No. 477)

2.18.08. Disclaimer of Limitation of Authority

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Nothing in this Section shall be construed to limit the authority of the City Commission to declare or terminate a state of local emergency and take any action authorized by law when sitting in regular or special session.

2.18.09. Penalties

A. Any person, firm or corporation who refuses to comply with or violates any part of this Section, or the emergency measures or regulations which may be made effective pursuant to this Section, shall be punished according to law and upon conviction for such offense, shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment not to exceed sixty (60) days in the County Jail, or both. Each day of continued non-compliance or violation shall constitute a separate offense. In addition to the foregoing, any licensee of the City of Cedar Key found guilty of violating any provision of this Section, or the emergency measures or regulations which may be made effective pursuant to this Section, may have his license suspended or revoked by the City Commission of the City of Cedar Key, Florida.

B. Nothing herein contained shall prevent the City 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 Section or the emergency measures or regulations which may be made effective pursuant to this Section. 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.

(History: Ord. No. 409)

2.19.00. Electrical Safety Inspection

2.19.01. Generally

It is the intent of the City to establish an electrical safety inspection program to minimize potentially hazardous conditions in commercial

buildings. Every portion of a commercial building shall comply with the minimum safety standards of this Part, irrespective of when such building shall have been constructed, altered, or repaired, and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the building or premises.

After the effective date of this ordinance, no use for which a business tax receipt is required shall be commenced or continued in the City of Cedar Key unless the business has passed an electrical safety inspection in compliance with this part.

2.19.02 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 shall include all activities in the City which require a business tax receipt pursuant to Part 5.01.00, Chapter 2, Laws of Cedar Key.

Electrical Safety Inspection means the inspection made by the City and its agents at the location or premises in which a business is conducted. The inspection is to ensure compliance with section 2.19.06 of this Part.

Electric Code means the National Electric Code (NFPA 70) as adopted by the most recent edition of the Florida Building Code.

Person means, but is not limited to, an individual, firm, association, joint venture, partnership, estate, trust, business, syndicate, fiduciary, corporation, and any other business entity.

Premises means all lands, structures, places used or occupied by a business, and also the equipment and appurtenances connected, or used therewith, and also any personal property which is either affixed to, or otherwise used in connection with, any such business.

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2.19.03 Inspection Required

A. Inspections Required. Unless exempted by section 2.19.09 below, an electrical safety inspection shall be required under any of the following circumstances:

1. Any business applying for the first time for a business tax receipt from the City.
2. The reopening of an existing business which has been closed for a continuous period of six (6) or more months, whether with the same or a new owner.
3. When a building permit is required for a premises pursuant to the Florida Building Code and the building official reasonably believes that an inspection should occur.
4. Relocation of an existing business to a new premises that has not been inspected in the previous five years
5. Whenever the building official has probable cause to believe that an existing condition represents an immediate threat to the health, safety, or welfare of the public.

B. Multiple Locations. If any person operates any business at more than one location, each location shall be considered a separate business; and a separate inspection shall, when applicable, be required.

C. Unlawful. It shall be unlawful for any person either directly or indirectly, to engage in or to conduct any business, as defined by this part, in the city, without obtaining an electrical safety inspection if required by Subsection A or B above.

2.19.04 Fees

A. Adoption. The City Commission shall adopt by resolution a reasonable fee to cover the cost of conducting the inspections and reinspections.

B. Inspection Fees. The City shall charge a fee to cover the cost of the initial inspection. No additional fee shall be required for the first reinspection if conducted within 90 days of the initial inspection. No additional fee shall be required for any reinspection during such time as an active building permit is maintained for the correction of the electrical deficiencies identified by the initial inspection. An additional fee shall be charged for each reinspection conducted more than ninety (90) days after the initial inspection if no building permit has been issued and maintained.

2.19.05 Right of Entry for Electrical Safety Inspections.

The building official, upon the showing of proper credentials, may, at all reasonable hours, enter any business within the City for the purpose of making any inspection or investigation which the building official may deem necessary pursuant to Section 2.19.03.

2.19.06 Inspection Standards

Inspections shall be conducted by the building official or the building official's authorized representative to ensure that electrical fixtures, receptacles, equipment, and wiring are 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 Electric Code.

2.19.07 Violations

In the event an inspection reveals a violation of the standard set out in Section 2.19.06 above, the building official shall issue a notice of violation to the owner of the property on which the violation exists. The notice shall state the existing violation and the appropriate corrective action. The owner shall have a reasonable time as determined by the building official to correct the violation. Said reasonable time shall not be less than ninety (90) days unless the building

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official determines that the violation represents an immediate and serious threat to public safety.

In no event shall the time to correct violations be more than one hundred eighty (180) days unless the building official determines that the violation cannot reasonably be corrected within said one hundred eighty (180) days. In such event, the building official may extend the time within which to correct the violations up to an additional one hundred eighty (180) days. If applicable, an active building permit for the work required to correct the violation must be maintained during any such extension.

2.19.08 Penalties

Any person who violates the provisions of this article shall be subject to prosecution in the manner provided by Section 1.05.00 of this Code.

2.19.09 Exemption

WW. Home occupations, as defined and regulated by the Section 7.02.02, Chapter 4, Laws of Cedar Key, shall be exempt from the provisions of this Article.

XX. Businesses that have no physical location within the City limits.

YY. Businesses that have applied for a building permit and for which the Florida Building Code requires an electrical inspection of the entire premises in which the business is located. The intent of this exemption is to prevent double charging since the cost of such a building permit would include the cost of an electrical inspection sufficient to achieve the goal set out in this part; the exemption shall be applied consistent with that purpose.

(History Ord. No. 473)

2.20.00 Fire Safety Inspection

2.20.01 Purpose

It is the intent of the City to establish a fire inspection program to minimize potentially hazardous conditions in commercial buildings.

2.20.02 Definitions

Business shall include all activities in the City which require a business tax receipt pursuant to Part 5.01.00, Chapter 2, Laws of Cedar Key.

Florida Fire Prevention Code means the Life Safety Code (NFPA 101) and the Fire Prevention Code (NFPA 1) as adopted by Rules 69A-60.003 and 69A-60.004, Florida Administrative Code.

Fire Inspector means an individual certified by the Division of State Fire Marshal assigned the duties within the City of conducting fire inspections of buildings, investigating code violations relating to fire safety, and issuing civil citations pursuant to this Ordinance.

Person means, but is not limited to, an individual, firm, association, joint venture, partnership, estate, trust, business, syndicate, fiduciary, corporation, and any other business entity.

Premises means all lands, structures, places used or occupied by a business, and also the equipment and appurtenances connected, or used therewith, and also any personal property which is either affixed to, or otherwise used in connection with, any such business.

2.20.03. Fire Inspections

A. Required. A fire inspection shall be required under any of the following circumstances:

1. Any business applying for the first time for a business tax receipt from the City.

2. The reopening of an existing business which has been closed for a continuous period of six (6) or more months, whether with the same or a new owner.

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3. Anytime a building permit is required for a premises pursuant to the Florida Building Code.

4. Relocation of an existing business to a new premises that has not been inspected in the previous five years.

5. Whenever the fire inspector has probable cause to believe that an existing condition represents an immediate threat to the health safety or welfare of the public.

B. Multiple Locations. If any person operates any business at more than one location, each location shall be considered a separate business; and a separate inspection shall, when applicable, be required.

C. Unlawful. It shall be unlawful for any person either directly or indirectly, to engage in or to conduct any business, as defined by this part, in the city, without obtaining a fire inspection if required by subsections A or B above.

2.20.04 Right of Entry for Fire Inspections.

The fire inspector, upon the showing of proper credentials, may, at all reasonable hours, enter any building or premises within the city for the purpose of making any inspection or investigation which the inspector may deem necessary pursuant to section 2.20.02.

2.20.05 Violation of Fire Prevention Code

In the event an inspection reveals a violation of the Florida Fire Prevention Code, the Fire Inspector shall issue a notice of violation to the owner of the property on which the violation exists. The notice shall state the existing violation and the appropriate corrective action. The owner shall have a reasonable time as determined by the fire inspector to correct the violation. Said reasonable time shall not be less than 45 days unless the fire inspector determines

that the violation represents an immediate and serious threat to public safety.

2.20.06 Civil Citation

Any person failing to fully abate all violations identified in the notice of violation within the allotted time shall be issued a civil citation. The citation shall contain:

- A. The date and time of issuance.
- B. The name and address of the person.
- C. The date and time the civil infraction was committed.
- D. The facts constituting probable cause.
- E. The ordinance violated.
- F. The name and authority of the officer.
- G. The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
- H. The applicable civil penalty if the person elects to contest the citation.
- I. The applicable civil penalty if the person elects not to contest the citation.
- J. A conspicuous statement that if the person fails to pay the civil penalty within the time allowed or fails to appear in court to contest the citation, then she or he shall be deemed to have waived her or his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

2.20.07 Penalties

A violation of this Part shall be deemed a civil infraction and shall be penalized pursuant to section 1.03.05, of this Chapter.

2.20.08 Fees for Fire Inspections

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The City Commission may establish by resolution fees for fire inspections conducted pursuant to this ordinance.

2.20.09 Exceptions

A. Home occupations, as defined and regulated by the Section 7.02.02, Chapter 4, Laws of Cedar Key, shall be exempt from the provisions of this Article.

B. Businesses that have no physical location within the City limits, shall be exempt from the provisions of this Article.

(History Ord. No. 474)

2.21.00 MERCHANDISING OF TOBACCO PRODUCTS

2.21.01 Definitions

Business means any sole proprietorship, joint venture, partnership, corporation, limited liability company or other business formed for profit making or non-profit purpose in the City of Cedar Key including all retail establishments where goods and services are sold.

Person means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee or other legal entity.

Self-service merchandising means the open display of tobacco products to which the public has access without the intervention of the vendors, store owners, or other store employees

Tobacco products means loose tobacco leaves, products made from tobacco leaves including but not limited to cigarettes, cigars, snuff, snuff flour, plug and twist tobacco, fine cuts and other chewing tobaccos, electronic cigarettes (also known as e-cigarettes, electronic nicotine delivery systems, vapors, vaporizers, nicotine vaporizers or hookah pens) and other kinds and forms of tobacco or nicotine products, either now in existence or developed in the future,

prepared in such manner as to be suitable for chewing, dipping, inhaling, smoking or ingesting in any manner.

Tobacco retailer means any person or business that operates a store, stand, booth, concession, or other place at which sales of tobacco products are made to purchasers for consumption or use.

Vendor assisted means the customer has no access to tobacco products without the assistance of the vendor, store owner, or other store employees.

2.21.02 Merchandising Prohibited

No Person, Business, Tobacco Retailer, or other establishment subject to this Ordinance shall sell, permit to be sold, offer for sale, or display for sale any Tobacco Products by means of Self-Service Merchandising. Only Vendor Assisted sales are allowed, unless access to the premises by persons under the age of 18 is either 1) prohibited by the Person, Business, Tobacco Retailer, or other establishment or 2) prohibited by law. This limitation precludes any placement of Tobacco Products within the reach of a customer in the areas normally designated for the customer's presence, including any check-out or register counter/area within reach of a customer.

(History: Ord. No. 488)

2.22.00 CERTIFICATE OF BUSINESS USE

2.22.01 Purpose

A. The purpose of this ordinance is to protect the City's residents and citizens from the harmful effects of illegal business operations by establishing a Certificate of Business Use requirement, which shall provide a review procedure to ensure that new business occupancies and uses, and changes of existing business occupancies and uses, comply with the City's Land Development Code, Code of Ordinances, building code and life safety

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requirements, and other applicable codes and regulations. The Planning and Development Administrator shall administer the Certificate of Business Use program in coordination with the City Clerk, Police Chief, Fire Chief, and other personnel of the City.

B. Certificate of Business Use required. No building, location, or structure used for the purpose of exercising the privilege of doing business within the City limits shall be used or occupied for any business, profession or occupation without first obtaining a Certificate of Business Use pursuant to this ordinance. Home occupations, as defined in Section 7.02.02 of the Land Development Code, shall not be required to obtain a Certificate of Business Use.

C. Requirements. A separate Certificate of Business Use shall be obtained for each place of business. It shall be the duty of every person owning, operating, or purchasing any business within the City limits to comply with the requirements of this ordinance prior to opening any business, profession, or occupation within any building, structure, or location within the City.

D. Term of Certificate of Business Use and transfer.

1. Once issued, a Certificate of Business Use shall remain valid until there is a change of the use, business, business ownership, business name, or business location from that specified on the approved Certificate of Business Use.

2. When there is a change of the use, type of business, business ownership, business name, or business location from that specified on the approved Certificate of Business Use, a new Certificate of Business Use application shall be required.

E. Due date for payment of Certificate of Business Use fee. Payment of the Certificate of

Business Use fee shall be required prior to issuance of the Certificate of Business Use.

F. Penalty. Any person or entity engaging in or managing any business without first obtaining a Certificate of Business Use, if required under this ordinance, shall be subject to a penalty equal to 100 percent of the fee determined to be due. For the purpose of code enforcement proceedings, a penalty of \$100.00 per day will apply.

G. Fees. The Planning and Development Administrator or designee shall collect the Certificate of Business Use fee, which shall be as provided in the City's adopted fee schedule.

H. Existing businesses; effective date. All existing businesses, professions, and occupations as of the effective date of this ordinance, shall be considered to have an active Certificate of Business Use.

I. Inspections. Any person applying for or obtaining a Certificate of Business Use shall be subject to an inspection of the place of business to ensure compliance with all zoning regulations, life safety code requirements, and all applicable local and state regulations. For the purpose of enforcing the provisions of this ordinance, inspectors designated by the Planning and Development Administrator or designee, shall have the right of inspection, provided that said inspection shall be reasonable and scheduled at the convenience of the applicant or certificate holder and the inspector. Failure to permit inspection of the premises shall be grounds for denial of an application for a Certificate of Business Use or revocation of an existing Certificate of Business Use.

2.22.02. Application and Issuance Procedures.

A. Procedures for issuance. No Certificate of Business Use shall be issued or granted to any person to engage in any business, profession, or occupation unless:

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1. An application is filed with the Planning and Development Administrator or designee on forms provided for that purpose;

2. There has been a site inspection of the applicant's business premises;

3. The Planning and Development Administrator or designee has reviewed and approved the zoning use classification; and

4. The Planning and Development Administrator or designee has verified compliance with all applicable laws and regulations and has collected all applicable fees due to the City.

B. Legality of use. In the event there is a question as to the legality of a use, the Planning and Development Administrator or designee, as appropriate, may require affidavits and such other information s/he may deem appropriate or necessary to establish the legality of the use, before a Certificate of Business Use shall be issued.

C. Obtaining a certificate of occupancy prior to issuance of Certificate of Business Use. All businesses required to obtain a certificate of occupancy must do so prior to the issuance of a Certificate of Business Use.

D. State license, certification, registration required. All businesses and professions regulated by the state must submit a copy of their current state license, certification, and/or registration prior to the issuance of a Certificate of Business Use.

E. Grounds for denial. The Planning and Development Administrator or designee, as appropriate, shall have the authority to deny an application for a Certificate of Business Use on the following grounds:

1. That the applicant has failed to disclose or has misrepresented a material fact or any

information required by this ordinance in the application;

2. That the applicant desiring to engage in the business, profession, or occupation, as described in the application, has selected a proposed site or type of business activity, which does not comply with the City's Land Development Code;

3. That the applicant has failed to obtain a certificate of occupancy, if required;

4. That the certificate of occupancy for the proposed location has been denied, suspended or revoked for any reason;

5. The issuance of a Certificate of Business Use is based on the applicant's compliance with specific provisions of federal, state, City or county ordinance, with respect to the specific use, and the applicant has violated such specific provisions;

6. The applicant has violated any provision of the Code of Ordinances or Land Development Code, and has failed or refused to cease or correct the violation within 30 days after notification thereof;

7. The premises have been condemned by the local health authority for failure to meet sanitation standards or the premises have been condemned by the local authority because the premises are unsafe or unfit for human occupancy;

8. The applicant is delinquent in the payment of the applicable Certificate of Business Use fee, or is delinquent on any code compliance lien, special assessment lien and/or any other debt, fee, or obligation due to the City;

9. The applicant failed to permit inspection by the City as required by Section 1.9.

F. Appeal. Any person whose application has been denied as provided herein shall have

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the right to appeal by requesting a formal quasi-judicial hearing before the City Code Enforcement Hearing Officer, according to the procedures contained in Article XII of the Land Development Code.

2.22.03. Display of Certificate; Duplicates.

A. Display. Each Certificate of Business Use issued by the City shall be displayed conspicuously at the place of business and in such a manner as to be viewable to the public and subject to the inspection of all duly authorized officers of the City. Failure to display the certificate in the manner provided for in this section shall subject the owner/operator to applicable code compliance procedures and/or any other remedies as permitted by law.

B. Duplicate. A duplicate Certificate of Business Use shall be issued by the Planning and Development Administrator or designee, as appropriate, to replace any valid and duly issued certificate which has been lost, stolen, defaced or destroyed without any willful conduct on the part of the certificate holder. A duplication fee shall be charged for each duplicate certificate.

2.22.04 Revocation of Certificate of Business Use; Enforcement.

The Planning and Development Administrator or designee, is granted the authority and charged with the duty to revoke or suspend any Certificate of Business Use as follows:

A. Revocation A Certificate of Business Use issued pursuant to this ordinance may be revoked, suspended on the following grounds:

1. The certificate holder has failed to disclose or has misrepresented a material fact or information required by this ordinance in the application;
2. The certificate holder does not engage in the use described in the application or has changed the use without authorization through

approval of a new certificate for the changed use, as required herein;

3. The certificate of occupancy for the business location has been denied, suspended or revoked for any reason;

4. In the event of a conviction of any owner, operator, manager, supervisor, or any employee acting at the direction or with the knowledge of the owner, operator, manager, or supervisor, by a court of competent jurisdiction, for the violation of any criminal statute committed in conjunction with the business operation;

5. The certificate holder has violated any provision of this ordinance and has failed or refused to cease or correct the violation after notification thereof;

6. The premises have been condemned by the local health authority for failure to meet sanitation standards or the premises have been condemned by the local authority because the premises are unsafe or unfit for human occupancy; or

7. The holder of the Certificate of Business Use, or the holder's designated manager, operator, or supervisor, refuses to permit an authorized law enforcement officer or code enforcement officer to inspect the premises during normal business hours for the purpose of investigating a complaint which has been filed against the business operation.

B. Procedure.

1. The Planning and Development Administrator or designee shall issue a written notice of intent to revoke and/or suspend the Certificate of Business Use, which shall set forth the grounds upon which the notice is issued, the corrections necessary for compliance, and the certificate holder's right to request an administrative hearing in front of the City Code Enforcement Hearing Officer, and that said

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appeal must be taken within 30 calendar days of the service of said notice.

2. The 30 calendar days shall be considered a warning period during which the noticed certificate holder may come into compliance as required herein. If compliance is achieved within said warning period the Planning and Development Administrator or designee shall void the revocation proceeding and the certificate holder shall dismiss any pending appeal.

3. The notice shall be sent certified mail, return receipt requested, to the address provided in the application or the last known address of the applicant. Alternate service may be made by delivery of the notice of hearing to the place of business and/or posting such notice thereon.

4. The request for an administrative appeal hearing before the Code Enforcement Hearing Officer to appeal the revocation notice shall stay any revocation action, and the Certificate of Business Use shall remain in effect unless, within the sole discretion of the department, it is determined that the grounds for denial represent an immediate threat to the health, safety, and/or welfare of the public.

C. Scheduling and conduct of hearing.

1. At any time prior to the expiration of 30 days following the service of the notice of intent to revoke and/or suspend the Certificate of Business Use, the certificate holder may request, in writing, a formal quasi-judicial appeal hearing

on the basis that he/she wishes to appeal the pending revocation notice. The hearing shall be conducted by the City Code Enforcement Hearing Officer in accordance with the procedures of Article XII of the Land Development Code.

2. Upon the expiration of 30 days following the service of the notice of intent to revoke and/or suspend the Certificate of Business Use, and no such appeal having been filed, or upon the affirmation of the revocation decision pursuant to the hearing before the special master, the Certificate of Business Use shall be revoked and no new Certificate of Business Use shall be issued. Upon revocation, the certificate holder shall immediately cease doing business in any location listed therein.

2.22.05 Additional Violations-Property Owner. It shall be unlawful for a property owner to allow by lease, license, grant or other written or oral agreement, the use of any real property for the operation of a business without a valid and current Certificate of Business Use. Violations of this section shall be subject to prosecution and enforcement pursuant to any means allowed under the Laws of Cedar Key or State statute. For the purpose of such enforcement proceedings, a penalty of \$100.00 per day will apply.

(History: Ord. No. 489)

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ARTICLE III: CITY EMPLOYEES

3.00.00. EMPLOYEE BENEFITS

3.00.01. Purpose

It is hereby declared to be the policy and purpose of the City of Cedar Key, Florida, to extend effective as of January 1, 1962, to the employees and officials thereof, not excluded by law, nor excepted herein, the benefits of the system of Old Age and Survivors Insurance as authorized by the Federal Social Security Act and Amendments thereto, and by Chapter 650, Florida Statutes, as amended; and to cover by such plan all services which constitute employment as defined in Section 650.02, Florida Statutes, performed in the employ of said City by employees and officials thereof, except (1) Service of an emergency nature service in any class or classes of elective positions; (2) Service in any class or classes of elective positions; (3) Service in any class or classes of part-time positions; (4) Service in any class or classes of positions the compensation for which is on a fee basis.

3.00.02. Exclusion

There is hereby excluded from this ordinance any authority to include in any agreement entered into under Section 3.00.03 hereof any service, position, employee, or official now covered by or eligible to be covered by an existing retirement system.

3.00.03. Authorization

The Mayor (or other chief executive officer) is hereby authorized and directed to execute all necessary agreements and amendments thereto with the Division of Retirement , as a State Agency for the purpose of extending the benefits provided by said system of Old Age and Survivors Insurance to the employees and

officials of this City as provided in Sections 3.00.01 and 3.00.02 hereof, which agreement shall provide for such methods of administration of the plan by said City as are found by the State Agency to be the necessary and proper, and shall be effective with respect to services in employment covered by such agreement performed on and after the 1st day of January, A.D. 1962.

3.00.04. Withholdings

Withholdings from salaries, wages, or other compensation of employees and officials for the purpose provided in Section 3.00.01 hereof are hereby authorized to be made, and shall be made, in the amounts and at such times as may be required by applicable State or Federal laws or regulations, and shall be paid over to the State Agency designated by said laws or regulations to receive such amounts.

3.00.05. Funding

There shall be appropriated from available funds, derived from the general fund, such amounts, at such times, as may be required to pay promptly the contributions and assessments required of the City as employer by applicable State or Federal laws or regulations, which shall be paid over to the lawfully designated State Agency at the times and in the manner provided by law and regulation.

3.00.06. Records.

The City shall keep such records and make such reports as may be required by applicable State or Federal laws or regulations of the State Agency.

3.00.07. Adoption

The City does hereby adopt the terms, conditions, requirements, reservations, benefits,

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privileges, and other conditions there unto appertaining, of Title II of the Social Security Act as amended, for and on behalf of all officers and employees of its departments and agencies to be covered under the agreement.

3.00.08. Custodian

The City Clerk of the City is hereby designated the custodian of all sums withheld from the compensation of officers and employees and of the appropriated funds for the contribution of the City, and the Clerk of said City is hereby made the withholding and reporting agent and charged with the duty of maintaining personnel records for the purposes of this ordinance.

(History: Ord. No. 87)

3.01.00. PERSONNEL

3.01.01. General Provisions

A. Departments. The city commission establishes departments and appoints a city commissioner to be a liaison to each department, establishes policies, rules, regulations and duties for each department and delegates administration of each department to the department administrator, department director or chief in charge, unless otherwise determined by the commission.

B. Compensation. Compensation of employees is determined by the city commission. All employees are salaried through appropriations established in the city budget. Amounts stated in the budget determine the maximum amount employees may receive during a budget year.

C. Appointment, Term and Annual Reorganization. All city officials provided for in Article I, Part 1.06.00 serve at the pleasure of the city commission. The term of any appointment made by the City Commission begins on the date determined by the city commission and shall terminate on the thirtieth

(30th) of May of each year, or until his or her successor takes office.

D. Employee Handbook. The City Commission shall adopt by resolution an Employee Handbook establishing personnel policies covering all city employees and officials and may amend the Employee Handbook by resolution from time to time.

(History: Ord. No. 468 and 479)

(History: Ord. Nos. 468, 471)

(History: Ord. No. 422, 468)

(History: Ord. Nos. 229, 238, 269, 272, 376)

3.02.00. MUNICIPAL PENSION: CITY RETIREMENT PLAN

3.02.01. Plan Established

A Retirement Plan and Trust for the Employees of the City of Cedar Key, Florida, is hereby established, effective the first day of October, 1991. The instrument which represents the terms of said Plan and Trust will be and remain an exhibit to this ordinance, remanded to the custody of the City Clerk who will maintain such for public inspection.

3.02.02. Amendment

The City Commission of the City of Cedar Key, Florida shall have the power to amend said Plan and Trust at such time or times as considered in the best interest of the City, its employees and its citizens.

3.02.03. Administration

The City Commission of the City of Cedar Key, Florida hereby expressly authorizes the participation of said Plan and Trust in the Florida Municipal Pension Trust Fund and hereby authorizes the administration of said Plan and Trust, and the investment of the funds of the funds of said Plan and Trust, within the

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procedures, policies and methods outlined in the Fund's Master Trust Agreement.

3.02.04. Execution

The City Commission of the City of Cedar Key, Florida hereby empowers the Mayor of the City of Cedar Key with the authority to execute such documents and agreements as are required for participation in the Florida Municipal Pension Trust Fund.

3.02.05. Police Officers Retirement

All police officers employed by the City on or after January 1, 2009, except those excluded by law, shall be compulsory members of the Florida Retirement System ("FRS") as set out in Chapter 121, Florida Statutes. The City shall by Resolution authorize administration of the FRS.

(History: Ord. Nos. 256, 366, 465)

ARTICLE IV: MARINE ACTIVITIES

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4.00.02 Required Amenities.

The City shall provide and maintain restrooms which are available to the public at the Cedar Key Marina.

(History: Ord. No. 402)

4.00.03. General Regulations

A. There shall be no cleaning of fish or discarding of fish carcasses anywhere within the Cedar Key Marina.

B. All persons leasing space anywhere within the Cedar Key Marina shall purchase and maintain an annual boat launch pass covering all periods during which the lease is in effect.

C. All persons leasing space and operating a business or maintaining a vessel for hire at the Cedar Key Marina shall have an occupational license from the City of Cedar Key at all times during which the lease is in effect.

D. In the aftermath of a storm or other event that damage s or demolishes, through no fault of the lessee, docking facilities at the Cedar Key Marina, the City Commission may waive the lease payments during the period in which the docking facilities are not useable.

E. No "live-aboards" shall be allowed anywhere within the Cedar Key Marina. A "live-aboard" is defined as any boat with a person or persons living aboard for ten days in any thirty-day period.

F. Except for the signs allowed by subsection 4.00.04.D.12.1 below, there shall be no commercial solicitation within the Cedar Key Marina either through leafletting, signs, or verbal contact with marina users.

4.00.04. Boat Slips and Dock Space: Cedar Key Marina—Inside

The following regulations in this Section 4.00.03 apply to the boat slips and dock space located in the Cedar Key Marina--Inside as defined above.

A. The city shall lease on a monthly basis, up to fifty percent of the available, municipally-owned boat slips pursuant to the agreement with the State of Florida. These spaces shall be numbered and marked as "Leased". The City shall establish by resolution the lease rates.

B. The slips will be available to the general public on a non-discriminatory basis after having been advertised. If in the event more applications are received than are slips available, the city clerk, after due public notice will hold a drawing to determine the order of the leasing list from the applications. The drawing will establish the priority of leasing to the applicants and when all slips are leased out, the applicant next on the list will be entitled to preference when a slip becomes available. When the applicant list is depleted and more boat slips are made available, by whatever means, the city will re-advertise as above set forth. Only one slip will be leased to one individual or entity, and the said leases will be non-transferable.

C. The lease will be for space between the docks and not the dock itself nor any parking area or other part of the marina. The docks and adjacent areas (ramp, parking lot, etc.) must be kept clear at all times. No signs may be erected except reserved signs provided by the city.

D. The City Clerk or designee shall determine at the time a marina slip is leased whether the slip will be used by a vessel for hire. All lessees who use the slip for a vessel for hire shall provide evidence to the City Clerk or designee that they have Protection and Indemnity liability insurance coverage naming the City as an additional insured. The minimum amounts of required insurance coverage shall be: \$300,000.00 per occurrence.

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E. Six boat slips or dock spaces shall be provided for use by the general public while parking a vehicle and boat trailer after launching a boat or while waiting for a vehicle and trailer on which to load said boat. These spaces shall be clearly marked as: "FIVE MINUTE TIE-UP ONLY."

F. Four boat slips shall be provided to the general public for docking not to exceed three consecutive hours. These spaces shall be clearly marked as: "TEMPORARY: MAXIMUM 3-HOUR TIE-UP."

G. Twelve boat slips shall be provided to the general public for docking not to exceed twenty-four consecutive hours. These spaces shall be clearly marked as: "SHORT-TERM: MAXIMUM 24-HOUR TIE UP."

H. Two boat slips or dock spaces shall be reserved for official governmental boats. These spaces shall be clearly marked as: "LAW ENFORCEMENT USE ONLY."

(History: Ord. No. 283)

4.00.05. Boat Slips and Dock Space: Cedar Key Marina—Outside

The following regulations in this Section 4.00.04 apply to the boat slips and dock space located at the Cedar Key Marina--Outside as defined above.

A. The city may lease all of the available, municipally owned boat slips and/or dock space in the Cedar Key Marina—Outside area. These spaces shall be numbered and marked as "Leased". The City shall establish by resolution the lease rates.

B. The boat slips and dock space shall be reserved for and made available to persons or entities offering boat-related services to the general public, such as tours or group fishing, or to governmental entities operating governmental programs.

C. A lease of a boat slip and or dock space to a person or entity offering boat-related services shall contain, at a minimum, the following provisions:

1. A clear definition of the leased premises and the activities that may take place on the premises. This may include dock space, space between docks, and the designation of not more than one parking space within the marina to be used by the lessee in a manner specifically set forth in the lease.

2. Identification of the lessee and the address to which notices shall be sent.

3. The amount of rent, taxes or other fees to be charged on a monthly basis.

4. Identification of the vessel or vessels that will be moored on the leased premises.

5. Authority of the city to terminate the lease upon any violation of lease provisions by the lessee.

6. Authority of the city to go onto the leased premises to inspect the premises to ensure that the premises are safe, clean, and otherwise in compliance with the lease and city regulations.

7. A requirement of payment by the lessee of one-month's rent plus a security deposit of one month's rent at the time of signing the lease, and that upon termination of the lease, the amount held in deposit may be applied by the city to any unpaid rent, or to repair damage to the leased premises, or to any other amounts owed by the lessee to the city.

8. A requirement that the lessee provide proof to the City Clerk or designee that they have Protection and Indemnity liability insurance coverage naming the City as an additional insured. The minimum amounts of required insurance coverage shall be \$300,000 per occurrence.

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9. Agreement by the lessee as follows:

a. To comply with all ordinances of the City of Cedar Key.

b. That failure to pay rent within thirty (30) days of the date due shall result in termination of the lease.

c. That no activities of the lessee, including, but not limited to, posting signs, storing materials, parking business vehicles, and erection of tents or other temporary structures, shall extend beyond the boundaries of the leased premises.

d. To not make any alterations, additions, or improvements to the leased premises without prior approval of the City. Further, that unless otherwise agreed to in writing by the city and lessee, that any alterations, additions or improvements authorized by the city shall become property of the city and shall remain upon and be surrendered with the premises.

e. To not sub-let the leased premises, or any part thereof, or assign the lease without the written consent of the City.

f. To maintain the leased premises in a clean, neat and safe condition at all times.

g. That, upon the termination of the tenancy, the premises shall be surrendered to the city in as good a condition as when received, ordinary wear excepted.

h. That damage to the leased premises caused by wind, waves, flood, or other forces of nature shall be repaired by the lessee.

i. That nothing contained in the lease shall be construed as waiving any of the City's rights under the laws of the State of Florida.

j. That if any action is brought for the recovery of rent or other money due under the lease, or by reason of a breach of any term of the lease by the lessee, or to compel the

performance of anything agreed to be done by the lessee, or to recover for damages to the leased premises, or to enjoin any act contrary to the terms of the lease, the lessee shall pay to the city all of the cost in connection with the bringing of the action, including, but not limited to, reasonable attorney's fees, whether or not the action proceeds to judgment.

k. To not display on the leased premises more signage than the following:

i. Two accessory signs for the purpose of identifying the business not to exceed a total of 20 square feet and no single such sign may exceed 16 square feet; and

ii. Two accessory signs for the purpose of displaying business hours and tour schedules with a maximum combined total square footage of eight (8) square feet and no single sign shall exceed five (5) square feet.

l. To limit the use of the Cedar Key Marina--Inside to loading and unloading of passengers using five minute tie-up space marked for that purpose.

m. To maintain garbage service for the business throughout the term of the lease.

4.00.06. Launch Fee

The City will charge a launch fee for the boat ramps at the Cedar Key Marina--Inside and Cedar Key Marina--Outside as established by resolution of the city. A frequent user pass will be sold to members of the general public at the city hall or other designated location. The frequent user pass will be good for one year from the date of issue. A city taxpayer annual pass may be issued and renewed by the city clerk's office beginning October first of each year upon application by a city property taxpayer with a maximum of one such pass issued per taxpayer.

4.00.07. Penalties

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A. Fines.

1. Launch Fee:

a. Fee. There shall be a fine of twenty-five dollars (\$25.00) for each failure to pay a launch fee when the citation is uncontested pursuant to Part 1.03.00, Civil Citations of this chapter. Said fines shall be due and payable within thirty (30) days following issuance of the notice of violation, and said fine shall be fifty dollars (\$50.00) if paid after the thirtieth day.

b. Immobilization.

i. Any code enforcement officer who comes into contact with an unoccupied parked vehicle for which there are two or more unpaid recorded launch fee violations shall immobilize the vehicle in the manner prescribed in subsection b.2. below.

ii. Immobilization of vehicles pursuant to subparagraph b.1. shall be accomplished by means of a Denver boot or other nondestructive device which prevents the vehicle from moving under its own power. The code enforcement officer who causes the vehicle to be immobilized shall attach a notice to the vehicle advising the owner of the vehicle of the information necessary to enable the owner to have the immobilization device removed. The notice shall be signed by the code enforcement officer.

iii. The cost of booting or removing an immobilization device under this section shall be chargeable against the vehicle owner. The owner of the vehicle shall pay these charges and any outstanding fines owed before the vehicle will be released.

iv. It shall be unlawful for any person to tamper with an immobilization device or remove such device without proper authorization from the City of Cedar Key.

2. There shall be a fine of twenty-five dollars (\$25.00) for each violation of the five

minute tie-up time limit in such spaces. Said fines shall be due and payable ten (10) days following issuance of notice of violation, and said fine shall be fifty dollars (\$50.00) if paid late.

3. There shall be a fine of fifty dollars (\$50.00) for unauthorized use of spaces designated for law enforcement use only. Said fines shall be due and payable ten (10) days following issuance of notice of violation, and said fine shall be one hundred dollars (\$100.00) if paid late.

4. There shall be a fifty dollar (\$50.00) fine for each day of unauthorized use of leased spaces.

5. There shall be a fine of one hundred dollars (\$100) for each violation of a lease agreement or any violation of Sections 4.00.03.C. or 4.00.04.E.

B. Removal of Offending Boats.

1. After a boat has remained in a space for twenty-four (24) hours beyond the time that it is authorized to remain in a space, the Chief of Police may post a notice on the boat that it will be towed if not moved within the next forty-eight (48) hours. At the conclusion of the forty-eight (48) hour period, the Chief of Police may have the offending boat removed from the city marina and stored at a safe and secure location.

2. The notice posted on the boat shall inform the owner of the location where the boat may be retrieved in the event that the boat is removed. The boat owner shall be responsible for providing reimbursement to the City for all costs associated with the removal and storage of the offending boat, and the owner may not retrieve the boat until all such costs are paid.

3. The Chief of Police is authorized to contract with a private entity, subject to the

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approval of the City Commission, for the services of removing, transporting and safely and securely storing offending boats. The private entity shall be adequately insured against all losses that may occur as a result of the removal, transportation, and storage of offending boats. Once an offending boat is in the possession of the private entity, such entity shall comply with the procedures set forth in Section 713.78, Fla. Stats. (1999).

(History: Ord. Nos. 252, 319, 352, 480 and 483)

4.01.00. BOATING: IDLE ZONES ESTABLISHED

4.01.01. Definitions

For purposes of this ordinance, the following shall have the meanings as established below. Words and phrases not defined herein shall, unless the context clearly indicates otherwise, have the same meaning as the same or similar words and phrases contained in the Florida Vessel Registration and Safety Law, Chapters 327 and 328, Florida Statutes, and Section 369.309, Florida Statutes.

Airboat means any boat, sled, skiff, or swamp vessel that is pushed, pulled, or propelled by air power generated by a non-detachable motor of more than ten (10) horsepower.

Idle speed or idle speed-no wake means the minimum speed that will maintain the steerage way of a vessel. At idle speed the boat shall not be emitting a wake.

Operate means to be in the actual physical control over or steer a vessel upon the waters of Cedar Key, or to exercise control over or steer a vessel being towed by another vessel upon the waters of Cedar Key.

4.01.02. Speed Zone Designations and Prohibitions

A. All water within the corporate limits of the City of Cedar Key are designated as Idle Speed Zones.

B. It is unlawful and prohibited for any person to operate an Airboat at a speed greater than idle speed.

4.01.03. Violations

A. The violation of Section 4.01.02 of this provision is a non-criminal violation and each occurrence is a separate offense.

B. The maximum civil penalty per occurrence shall be five hundred dollars (\$500.00) A citation may be issued, personally, or by mail.

C. The citation shall be in a form prescribed by the city attorney and shall contain:

1. The date and time of issuance,
2. The name of the person to whom the citation is issued
3. The date and time the infraction was committed,
4. The facts describing the violation,
5. The number of the section violation,
6. The name and authority of the issuing officer,
7. The procedure for the person to follow in order to pay the civil penalty or to contest the citation, and
8. The applicable civil penalty if the person elects to contest the citation and the applicable civil penalty if the person elects not to contest the citation. The person may elect not to contest the citation, and may pay a civil penalty of fifty dollars (\$50.00) within five days after the issuance of the citation, or within ten (10) days if the citation was mailed. If the person does not pay the citation within the

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aforesaid time, the citation shall be deposited in the County Court and disposed of in accordance with procedures established by the Court. The Court may impose any civil penalty up to the maximum civil penalty.

D. The City hereby adopts the procedure for issuance of citation authorized by Section 327.22, Florida Statutes. The City may enforce non-criminal violations of Section 327.33, F.S. Relating to careless operation of vessels which results in the endangering or damaging of property, by citation mailed to the owner of the vessel.

E. The City may also enforce this provision through other civil means, including, without limitation, action for nuisance, revocation of permits or licenses, or other action at law or in equity.

4.01.04. City Parks: Idle Zones for Boats

It shall be unlawful for any person or persons, firm or corporation to propel, either manually or by motor, and boat, skiff or other water craft at a speed in excess of two (2) miles per hour in the following described area:

Begin at the Southeast corner of the bulk head on "A" street and run in a straight line in a northeasterly direction and at right angles to the

bulk head on the east side of "A" street, a distance of approximately four hundred and ten (410) feet to a point that would intersect with the east line of the State Park, if east line of said City Park were extended southeasterly; Thence at right angles in a northwesterly direction to the shore or water line of said City Park; thence at right angles in a southwesterly direction along said water line of "A" street; thence at right angles in a southeasterly direction along the east line of "A" street to the point of beginning. Said description comprising the swimming area of the State Park in Cedar Key, Florida.

(History: Ord. Nos. 71, 289)

4.02.00. SPEARING FISH AND OTHER SEA LIFE PROHIBITED

It shall be unlawful for any person or persons to spear fish or other sea life by the use of spear guns, spears, arrows, gigs, or other similar devices from docks, boats, rafts or by using any form of diving equipment within the city limits of the City of Cedar Key, Florida. It shall be unlawful to fish in the aforesaid manner anyplace within said city limits.

(History: Ord. No. 59 and 478)

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ARTICLE V: FINANCE AND TAXATION

5.00.00. DESIGNATION OF INDIVIDUAL TO SIGN ALL CHECKS, VOUCHERS, OR DISBURSEMENT OF FUNDS FOR THE CITY

It shall be the duty of the City Clerk, or Acting City Clerk, to sign all checks, warrants or vouchers issued by the City of Cedar Key, Florida, on any and all banks in disbursing of funds on deposit in said bank or banks, and all checks, warrants or vouchers so issued shall be countersigned by the Mayor, then in the same absence, sickness or disqualification of the Mayor, then said checks, warrants or vouchers shall be signed by the Vice Mayor.

(History: Ord. No. 43)

5.01.00. LOCAL BUSINESS TAX

5.01.01. Levy of Tax.

There is hereby levied a Local Business Tax in the amount of \$25.00 per year for the privilege of engaging in or managing any business, profession or occupation within the corporate boundaries of the City. The tax imposed hereunder shall be administered in accordance with all provisions of Chapter 205, Fla. Stat.

5.01.02. Required Payment.

No person shall engage in or manage any business, occupation or profession for which there is a tax required by this article, unless such person shall first pay the tax to the City Clerk and obtain a receipt therefor.

5.01.03 Receipt.

All Local Business Tax Receipts shall be signed by the City Clerk or designee and shall be upon a form furnished by the City.

5.01.04. Other Requirements.

Payment of the Local Business Tax shall not be interpreted to indicate compliance with any other applicable law, regulation, ordinance, rule or requirement which may be applicable to the business, occupation or profession.

(History: Ord. No. 486)

5.02.00. PUBLIC SERVICE TAX: ELECTRICITY METERED, & BOTTLED GAS

5.02.01. Public Service Tax

Pursuant to the provisions of Section 166.231, Florida Statutes, there is hereby levied a tax in the amount of eight percent (8%) of the payments received by the seller from the purchaser of utility services, including electricity, metered or bottled gas (natural liquefied petroleum gas or manufactured).

(History: Ord. No. 445, 499, 526)

5.02.02. Natural Gas

For the purposes of this ordinance, the sale of natural gas to a public or private utility, including municipal corporations and rural electric cooperative associations, either for resale or for use as fuel in the generation of electricity shall not be deemed to be a utility service and purchases thereof under such circumstances shall not be taxable hereunder.

5.02.03. Collection and Remittance

The tax shall be collected from the Purchaser of such utility service and paid by such purchaser for the use of the city to the Seller of such utility service at the time of the Purchaser paying the charge therefore to the Seller. It is the duty of every seller of such utility service, in acting as the tax collection medium or agency for the city,

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to collect from the Purchaser, for the use of the city or town, any tax imposed and levied by this Ordinance and to report and pay over unto the city or town all such taxes imposed, levied and collected in accordance with this Ordinance. All taxes so collected shall be remitted to the City monthly, on or before the 10th day of the next month following the month in which such taxes were collected.

5.02.04. Exempt Organizations

Federal, state, county and municipal governments and their commissions and agencies and other tax supported bodies, public corporations, authorities, boards and commissions, are exempted from the payment of the taxes imposed and levied pursuant to this Ordinance.

5.02.05. Public Sales

Except as otherwise provided herein, this Ordinance shall apply to all sales of public utility services within the municipal limits of the city of Cedar Key.

5.02.06. Violations

Violation of this Ordinance shall constitute a misdemeanor and shall be punishable as provided by law.

(History: Ord. No. 231)

5.03.00. ADDITIONAL HOMESTEAD EXEMPTION

5.03.01. Definitions

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 Section 62 of the United

States Internal Revenue Code, of all members of a household.

5.03.02. Establishment of Exemption

In accord with Section 196.075, Fla. Stat. (2007), there is hereby created an additional homestead exemption in the amount of fifty thousand dollars (\$50,000.00) for any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, who has attained age sixty-five (65), and whose household income does not exceed twenty thousand dollars (\$20,000). Beginning January 1, 2001, the \$20,000 income limitation shall be adjusted annually based on the average cost of living index in accordance with Section 196.075(3), Fla. Stat. (2007).

(History: Ord. No. 433)

5.03.03. Applicability

This exemption shall apply only to those taxes levied by the City of Cedar Key. All taxes levied by the City of Cedar Key shall be subject to this exemption.

5.03.04. Procedures

A taxpayer claiming this exemption must annually submit to the Levy County Property Appraiser, not later than March 1, a sworn statement of household income on a form, and with supporting documents, as prescribed by rules of the Department of Revenue.

(History: Ord. No. 337)

5.04.00. COMMUNITY REDEVELOPMENT TRUST FUND

5.04.01. Establishment

There is hereby established a trust fund, to be separately administered and accounted for, to be known as the Community Redevelopment Trust Fund.

5.04.02. Purpose of Fund

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The Community Redevelopment Trust Fund shall be used for the deposit of all tax increment funds obtained by the community redevelopment agency to finance or refinance community redevelopment projects within the community redevelopment area and all such funds shall be used to carry out redevelopment activities included in the community redevelopment plan.

5.04.03. Duration of Fund

Until all redevelopment projects included in the community redevelopment plan are completed and paid for, the trust fund shall receive the annual tax increment, as hereinafter defined, from all taxing authorities except the county school board, Suwannee River Water Management District, and the Cedar Key Water & Sewer District, for the area described in the redevelopment plan adopted by the Community Redevelopment Agency on October 10, 2000.

5.04.04. Amount of Allocation to Fund

The amount allocated to the Community Redevelopment Trust Fund shall be determined as set forth in Section 163.387, Florida Statutes.

5.04.05. Base Assessed Value

It is hereby determined that the total of the assessed value of the taxable property in the area described in the Community Redevelopment Plan adopted by the Community Redevelopment Agency on October 10, 2000, as shown by the most recent assessment roll prior to the effective date of this ordinance is sixty-eight million nine hundred twenty-three thousand seven hundred fourteen dollars (\$68,923,714.00).

(History: Ord. No. 338)

5.05.00. CITY OF CEDAR KEY HISTORIC PROPERTY TAX EXEMPTION RELATED TO THE IMPROVEMENT OF HISTORIC PROPERTIES

5.05.01. Purpose

This section creates two ad valorem tax exemptions for property owners who make improvements to historic properties. The first exemption grants tax relief on the increase in value of the historic property due to qualifying improvements. The second exemption grants tax relief on the full value of the historic property when qualifying improvements account for more than half the value of the property and the property is used for nonprofit or governmental purposes. The purpose of these tax exemptions is to provide a positive financial incentive for designation as an historic property, to increase the affordability of the restoration, rehabilitation and renovation of historic structures, and to preserve Cedar Key's historic properties making the City a better place to live, work and visit.

5.05.02. Definitions

Ad valorem tax means a tax based upon the assessed value of property.

Assessed value of property means an annual determination of the just or fair market value of an item or property or, if a property is assessed solely on the basis of character or use or at a specified percentage of its value, pursuant to Sections 4(a) or 4(b), Article VII of the State Constitution, its classified use value or fractional value.

City means the City of Cedar Key, Florida.

Commission or City Commission means the City Commission of the City of Cedar Key, Florida.

Contributing Property means a building, site, structure, or object which meets the National Register of Historic Places criteria for evaluation set forth in 36 CFR Part 60.4, incorporated by reference.

Division means the Division of Historical Resources of the Department of State.

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Improvements mean 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 shall include additions and accessory structures (i.e., a garage, cabana, guest cottage, storage/utility structure) so long as the new construction is compatible with the historic character of the building and site in terms of size, scale, massing, design and materials, and preserves the historic relationship between a building or buildings, landscape features and open space.

National Register of Historic Places means the list of historic properties significant in American history, architecture, archeology, 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.

Planning and Development Department means the Planning and Development Department created by Section 11.05.01., Chapter Four, Laws of Cedar Key charged with performing all functions related to the administration of the Cedar Key Land Development Code.

Preservation exemption covenant or Covenant means the Historic Preservation Property Tax Exemption Covenant, in substantially similar form to the Florida DOS Form No.

HR3E111292 or meeting the requirements of 1A-38.006(2), F.A.C., indicating that the owner agrees to maintain and repair the property so as to preserve the architectural, historical, or archaeological integrity of the property during the exemption period.

Property appraiser means the Levy County Property Appraiser, a Levy County officer charged with determining the value of all property within the City, and with maintaining certain records connected therewith.

Renovation or Rehabilitation. For historic properties or portions thereof which are of historical or architectural significance, "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. For historic properties or portions thereof which are of archaeological significance or are severely deteriorated, "renovation" or "rehabilitation" means the act or process of applying measures designed to sustain and protect the existing form and integrity of a property, or reestablish the stability of an unsafe or deteriorated property while maintaining the essential form of the property as it presently exists.

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.

5.05.03. Exemption from ad valorem taxes

A. The City Commission authorizes the following two exemptions from ad valorem taxation for historic properties:

1. Exemption for improvements to historic property (Pursuant to § 196.1997, F.S.). The City Commission authorizes an ad valorem tax exemption of 100 percent (100%) of the assessed value of all improvements to eligible properties which result from the restoration, renovation, or rehabilitation of such properties,

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subject to the application and approval processes of this Section.

2. Exemption for historic properties open to the public (Pursuant to § 196.1998, F.S.). If the assessed value of an improvement made to an eligible property is equal to at least 50 percent (50%) of the total assessed value of the property as improved, and the property is used for nonprofit or governmental purposes and is regularly and frequently open for the public's visitation, use, and benefit, the City Commission authorizes the exemption from ad valorem taxation of 100 percent (100%) of the assessed value of the property, as improved. The exemption applies only to real property to which improvements are made by or for the use of the existing owner, and is subject to the application and approval processes of this Section.

B. These exemptions are subject to the following limitations:

1. The exemptions shall only apply to improvements to real property that are made on or after November 14, 2006.
2. The exemptions shall apply only to taxes levied by the City of Cedar Key, and do not apply to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to Sections 9(b) or 12, Article VII of the State Constitution.
3. The exemption shall take effect on January 1 following substantial completion of the improvement. Notwithstanding Subsection 5.05.03.B.4., any exemption granted shall remain in effect for ten (10) years with respect to any particular property, regardless of any change in the authority of the City to grant such exemptions or any change in ownership of the property. However, for purposes of the exemption under Subsection 5.05.03.A.2., a property shall be removed from eligibility for the exemption if the property is sold or otherwise transferred from the owner who made

application and was granted the exemption, or the property no longer qualifies as historic property open to the public in accordance with Section 5.05.04.B. of this Chapter.

4. In order to retain the exemption, the historic character of the property, and the improvements which qualified the property for exemption, must be maintained over the period for which the exemption is granted.

5.05.04. Designation of type and location of historic property eligible for exemption

A. Property is eligible for the exemption described in Subsection 5.05.03.A.1. of this Section if:

1. At the time the exemption is granted, the property:

i. Is individually listed in the National Register of Historic Places; or

ii. Is a contributing property as defined in § 5.05.02. of this Chapter; or

iii. Is listed individually on the Local Register of Historic Places or is within the Historic District as identified by the City of Cedar Key historic preservation ordinance, Section 3.01.00, Chapter Four, Laws of Cedar Key; and

2. In order for an improvement to a historic property to qualify the property for an exemption, the improvement must:

i. Be consistent with the United States Secretary of Interior's Standards for Rehabilitation; or

ii. Be determined by the Division or the Planning and Development Department, whichever applicable, to meet criteria established in the rules adopted by the Department of State; and

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3. The Division of Historical Resources or the Planning and Development Department, whichever applicable, has certified that the property for which an exemption is requested satisfies paragraph A.1. of this section; and

4. The property is located within the jurisdictional boundaries of City of Cedar Key.

B. Property is eligible for the exemption described in Subsection 5.05.03.A.2. of this Section if:

1. The property meets the requirements of Subsection 5.05.04.A. of this Section; and

2. The assessed value of the improvement is equal to at least 50 percent (50%) of the total assessed value of the property as improved; and

3. The property is being used for government or nonprofit purposes meaning the occupant or user of at least 65 percent (65%) of the useable space of a historic building or of the upland component of an archaeological site 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 § 617.0125, F.S.; and

4. The property is regularly and frequently open to the public meaning 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.

5.05.05. Designation of body to review application

A. The City hereby designates the Division of Historical Resources of the Department of State ("Division") to review the applications for exemption.

B. Alternatively, the City designates the Planning and Development Department to review applications for exemption in the event

the Division certifies the Planning and Development Department as set forth in 1A-38.007, F.A.C.

5.05.06. Application process.

A. The applicant shall be the owner of a qualifying property or the authorized agent of the owner.

B. Application for the property tax exemption shall be made on the three-part Historic Preservation Property Tax Exemption Application, DOS Form No. HR3E101292.

C. Review.

1. The Division of Historical Resources or the Planning and Development Department, whichever applicable, shall review the application in the manner set forth in 1A-38.003, 1A-38.004, and 1A-38.005 F.A.C. and shall recommend that the City Commission grant or deny the exemption. The recommendation, and the reasons therefore, must be provided to the applicant and the City Commission before consideration of the application at an official meeting of the City Commission.

2. The Commission shall deliver a copy of each application for a historic preservation ad valorem tax exemption to the Property Appraiser. Upon certification of the assessment roll, or recertification, if applicable, pursuant to § 193.122, F.S. for each fiscal year during which this section is in effect, the Property Appraiser shall report the following information to the City Commission:

a. The total taxable value of all property within the City for the current fiscal year.

b. The total exempted value of all property in the City which has been approved to receive historic preservation ad valorem tax exemption for the current fiscal year.

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D. The applicant must enter into a covenant with the City as provided in Section 5.05.07. of this Chapter before the City Commission may approve an application for exemption.

E. Approval of a written application for exemption must be by a resolution of the City Commission. A resolution approving an exemption under this Section must include the following information:

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 Section.

5.05.07. Covenant with applicant.

A. To qualify for an exemption, the property owner must enter into a preservation exemption covenant ("Covenant") with the City for the ten years for which the exemption is granted. Such covenant must be executed before a final application for exemption can be approved by the City commission. The Mayor or the Planning and Development Department Administrator may execute the covenant on behalf of the City.

B. The property owner qualifying for the exemption and the local government granting the exemption shall execute the Historic Preservation Property Tax Exemption Covenant, DOS Form No. HR3E111292 as provided in 1A-38.006, F.A.C. The Covenant shall require that the character of the property, and the qualifying improvements to the property, be maintained during the period that the exemption is granted. The covenant shall be binding on the current property owner, transferees, and their heirs, successors, or assigns.

C. Any violations of the covenant shall result 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 § 212.12(3), F.S.

(History: Ord. No. 414)

5.06.00. CITY OF CEDAR KEY HISTORIC PROPERTY TAX EXEMPTION RELATED TO THE USE OF HISTORIC PROPERTY FOR COMMERCIAL OR NONPROFIT USES

5.06.01. Purpose

This section creates an ad valorem tax exemption of up to fifty percent (50%) of the assessed value of a property which is used for certain commercial or nonprofit purposes. The purpose of this tax exemption is to provide a positive financial incentive for designation as an historic property, and to encourage owners of Cedar Key's historic properties to provide public access.

5.06.02. Definitions

Ad valorem tax means a tax based upon the assessed value of property.

Assessed value of property means an annual determination of the just or fair market value of an item or property or, if a property is assessed solely on the basis of character or use or at a specified percentage of its value, pursuant to Sections 4(a) or 4(b), Article VII of the State Constitution, its classified use value or fractional value.

Property appraiser means the Levy County Property Appraiser, a Levy County officer charged with determining the value of all

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property within the City, and with maintaining certain records connected therewith.

5.06.03. Provision for the assessment of historic properties used for commercial or certain nonprofit uses

Pursuant to § 193.503, F.S., the City of Cedar Key provides for the property appraiser to assess historic properties used for commercial or certain non-profit purposes as described in § 193.503, F.S., solely on the basis of character or use as provided in § 193.503, F.S. The character or use assessment shall apply only to the City of Cedar Key.

5.06.04. Exemption for historic property used for certain commercial or nonprofit purposes.

A. City of Cedar Key hereby elects, pursuant to the provisions of Section 196.1961, Florida Statutes to provide for an ad valorem tax exemption of fifty percent of the assessed value of historic property used for commercial or certain nonprofit purposes as provided in Section 196.1961, Florida Statutes.

B. This exemption shall apply only to taxes levied by the City of Cedar Key. The exemption does not apply to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution.

C. In order to be eligible for this exemption, an historic property must meet each of the following criteria:

1. The property must be used for commercial purposes or used by a not-for-profit organization under s. 501(c)(3) or (6) of the Internal Revenue Code of 1986. Only those portions of the property used predominantly for the purposes specified in this subparagraph shall be exempt. In no event shall an incidental use of property qualify such property for an exemption

or impair the exemption of an otherwise exempt property.

2. The property must be listed in the National Register of Historic Places, as defined in § 267.021, F.S.; or must be a contributing property to a National Register Historic District; or must be listed individually on the Local Register of Historic Places or be within the Historic District as identified by the City of Cedar Key historic preservation ordinance, Section 3.01.00, Chapter Four, Laws of Cedar Key. In order to retain the exemption, the historic character of the property must be maintained in good repair and condition to the extent necessary to preserve the historic value and significance of the property.

3. The property must be regularly open to the public. This means that there are regular hours, a minimum of 40 hours per week, for 45 weeks per year, or an equivalent of 1,800 hours per year, when the public may visit to observe the historically significant aspects of the building. A fee may be charged to the public; however, it must be comparable with other entrance fees in the immediate geographic locale.

5.06.05. Application and compliance with state law

A. A taxpayer claiming the exemption must, on or before March 1 of each year, file an application for exemption with the property appraiser that complies with the requirements of § 196.011, F.S.

B. Receipt of the exemption is subject to the requirements and limitations of state law including §§ 193.503, and 196.1961, F.S.

(History: Ord. No. 414)

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ARTICLE VI: TRANSPORTATION

6.00.00. TRAFFIC REGULATIONS

6.00.01. Uniform Traffic Law Adopted

A. The provisions of Title XXII, Chapter 316 of Florida Statutes as applicable to municipalities are hereby expressly adopted by the City of Cedar Key.

B. It shall be unlawful to violate any of the provisions of said Chapter 316 within the limits of the city and whosoever shall violate said provisions, or the provisions of this Part 6.00.00, shall be subject to the procedures and penalties set forth in the Florida Uniform Disposition of Traffic Infractions Act, Chapter 318, Florida Statutes.

6.00.02. Speed Limits

No driver, owner or operator of any automobile or other motor-driven vehicle shall drive or cause to be driven any automobile or other motor-driven vehicle on the streets, within the corporate limits of the City of Cedar Key, Florida, at a speed exceeding the posted speed limit.

6.00.03. Golf Carts

A. The safe operation of golf carts on streets over which the City has primary jurisdiction pursuant to Section 316.006, Fla. Stat. (2008) is hereby authorized pursuant to Section 316.212, Fla. Stat. (2008).

B. Except as may be authorized by the Florida Department of Transportation, golf carts shall not be operated on State Road 24.

C. All golf carts operated on streets over which the City has primary jurisdiction must be equipped with efficient brakes, reliable steering,

safe tires, a rearview mirror, and red reflector warning devices in both the front and rear.

D. In addition to the requirements of subsection C herein, all golf carts operated on streets over which the City has primary jurisdiction between the hours of sunset and sunrise must be equipped with headlights, brake lights, turn signals, and a windshield.

E. Violations of this section may be enforced by any lawful means available to the City.

(History: Ord. Nos. 18, 136, 235, 251, 325, 395 459 & 521)

6.01.00. PARKING

6.01.01. Definitions

Recreational Vehicle means any travel trailer, motor home, camping trailer or other similar vehicle, whether motivated by its own power or drawn by another vehicle, which is occupied or intended for occupancy on a temporary or transient basis for travel, camping, vacation or other recreational purposes.

(History: Ord. No. 431)

6.01.02. Generally

A. Any and all violations of the following sections of this article relating to the parking of vehicles are hereby declared to be a public nuisance and trespass:

1. General parking regulations contained at sections 6.01.04 through 6.01.10; and

2. Curb loading zone regulations contained at sections 6.01.11 through 6.01.12;

B. Any person cited for a violation of the sections specified above shall be deemed to be

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charged with a noncriminal infraction and shall be cited for such an infraction. Each day any violation occurs or continues shall constitute a separate offense.

C. The registered owner of a vehicle is declared to be directly responsible to the city for the payment of the fine and fees for the vehicle when the vehicle is parked or left standing in violation of these regulations. The registered owner is the person or entity that is lawfully registered as the owner of the vehicle with the department of highway safety and motor vehicles on the day the violation occurs.

D. When any law enforcement officer finds a vehicle parked in violation of any of the parking regulations specified in this section, the following actions shall occur:

1. Notice of violation. The officer shall issue a notice of violation to the vehicle and shall place the notice in a conspicuous place on the vehicle. The notification form shall contain language informing the registered owner of the vehicle which section of this chapter has been violated, the procedures available to the registered owner under this section, and the administrative fee which the registered owner may pay to avoid citation for a noncriminal traffic infraction for the violation.

2. Affidavit of explanation / first delinquency notice.

i. Any person who fails to respond to the original parking violation notice within the time period specified shall be deemed to have waived the right to contest the merits of such parking violation.

ii. The Chief of Police may waive the specified administrative fee, after receipt of an affidavit of explanation, received or postmarked within 72 hours of the writing of the original notice of violation, under the following circumstances:

- a. Valid and verifiable emergencies
- b. Error in issuance of the notice of violation

2. If the administrative fee, as provided for in this section, is not paid within 72 hours of the date of the notice of violation being issued or within 96 hours of the date of denial of an affidavit of explanation, whichever is later, the city shall mail a copy of the notice of violation and citation for the violation to the registered owner of the vehicle demanding payment of the administrative fee, plus an additional delinquency fee of \$5.00. The registered owner is directed to pay the administrative fee and the delinquency fee within ten days.

4. Second Delinquency. If the specified administrative fee and delinquency fee are not paid within ten calendar days after the date of the citation being issued, a second delinquency fee of \$5.00 is added to the fees described in subsection 4 below. If the total administrative and delinquent fees are not paid within 20 calendar days of the citation being issued, the entire administrative fee and delinquent fees owed, including any and all collection costs will be referred for collection to an agency designated by the city commission.

5. Amount of fee. The administrative fee provided for violations of any of the parking regulations specified in this section shall be in accordance with the following schedule:

- i. Improper parking pursuant to Section 6.01.04, 6.01.05, 6.01.07 and 6.01.09 \$30.00
- ii. Improper parking pursuant to Section 6.01.10 \$250.00
- iii. Use of Handicapped parking space without a permit \$150.00
- iv. Parking in area marked for fire hydrant \$100.00

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v. Parking in a no parking zone \$30.00

vi. All other parking violations \$25.00

E. At any hearing of the case involving illegal parking in which the owner of the vehicle is being tried under this chapter, it shall be sufficient evidence on which the court may rely to establish the name of the registered owner of such vehicle if a police officer of the city shall state on oath that he/she has made inquiry of the department of highway safety and motor vehicles or similar agency of the state where the vehicle is registered and has been advised of the identity of the registered owner. If the person on trial denied that he/she is the registered owner, and such fact cannot be otherwise established, the court may defer the final determination of the case until a certified record or appropriate certification

F. At any hearing of a case involving illegal parking in which the owner of the vehicle is being tried under this chapter, the judge may, in his/her discretion, allow any person, whether the registered owner or not, to testify or otherwise give evidence if the person admits under oath or affirmation to have parked the vehicle at the time and place of the alleged offense.

G. The City shall supply the department of highway safety and motor vehicles with data listing persons who have three or more outstanding parking violations, including violation of F.S. §316.1955. The department shall mark the appropriate registration records of persons so reported.

(History: Ord. No. 431)

6.01.03. Designation of Parking Spaces

The City Commission shall designate recreational vehicle spaces and shall place and maintain appropriate signs indicating such spaces and, where applicable, stating the hours during which such parking is allowed.

(History: Ord. No. 431)

6.01.04. Prohibited parking in specified places or under certain circumstances

Except when necessary to avoid conflict with other traffic, or in compliance with law or the direction of a police officer or official traffic-control device, no person shall:

A. Stop, stand or park a vehicle:

1. On a roadway side of any vehicle stopped or parked at the edge or curb of a street;

2. Within an intersection;

3. On a crosswalk;

4. At any place where official signs or yellow curb markings prohibit stopping, standing or parking;

5. Alongside or adjacent to any curb painted yellow;

6. In such a manner as to block a traffic lane, or interfere with the orderly flow of traffic or so as to constitute a hazard to passage of emergency vehicles;

7. Within any specially designated and marked handicap parking space provided in according with F.S. § 316.1955, unless such vehicle displays a parking permit issued pursuant to F.S. §§ 316.1958 or 320.0848, and/or such vehicle is transporting a person eligible for the parking permit;

8. Within any specially designated and marked access area adjacent to a designated and marked handicap parking space.

B. Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

1. In front of or within five feet of a public or private driveway;

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2. Within 15 feet of a fire hydrant;

3. At any place where official signs prohibit standing.

C. Park a vehicle, whether occupied or not, except temporarily for the purpose of, and while actually engaged in, loading and unloading merchandise or passengers at any place where official signs prohibit parking.

6.01.05. Diagonal Parking

Diagonal parking is permitted only when signs or other markings so indicate but in no case shall any vehicle in excess of 20 feet in length park in a diagonal parking space or diagonally to the curbline on any paved street within the corporate limits of the city.

6.01.06. Backing up to curb

No vehicle shall be backed up to any curb on a public street except during the time the vehicle is actually being loaded or unloaded. This section shall not apply to motorcycles.

6.01.07. Limited on-street parking

A. On-street parallel parking shall be permitted at the locations designated by the city commission and, where applicable, approved by the Florida Department of Transportation.

B. Parallel on-street parking is permitted pursuant to this section and where applicable, only during the time specifically posted on signs. Time limitations, where applicable, shall be strictly enforced.

6.01.08. Driving over raised street curb

It shall be unlawful for any person to drive a motor vehicle over a raised street curb for the purpose of parking on public property or on private property without permission

6.01.09. Parking within spaces required

It shall be unlawful for any person to park or leave standing any vehicle in such a position that the same shall not be entirely within the area designated for parking.

6.01.10. Parking Recreational Vehicles

A. It is unlawful to park recreational vehicles on City streets, City Rights-of-Way or City Property except in parking spaces designated by the City for recreational vehicle parking.

B. It is unlawful to park a recreational vehicle on any public property, including designated RV parking spaces, between midnight and sunrise, unless an exception for a special event is authorized by the City Commission.

(History: Ord. No. 431)

6.01.11. City Commission to designate curb loading zones

The City Commission shall determine the location of passenger and freight curb loading zones and shall place and maintain appropriate signs indicating the same and, where applicable, stating the hours during which the provisions of this division are applicable.

6.01.12. Standing in freight curb loading zone

No person shall stop, stand, or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any space marked as a freight curb loading zone during hours, where applicable, when the provisions applicable to such zones are in effect.

6.01.13. Impoundment or immobilization of vehicle in violation of this Code

A. Authority of police.

1. When any vehicle is parked or left standing in violation of this Code on any city or

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publicly owned property, including city streets, highways, roads, alleys, parking lots or any other premises of this city, the Chief of Police is authorized to take possession of such vehicle and to remove such vehicle from such property and to store and possess such vehicle in conformity with this section.

2. When any vehicle is parked or left standing in violation of this Code on any private property, the Chief of Police is authorized, after receiving a written complaint from the owner or lawful possessor of such property, to store and possess such vehicle in conformity with this section.

B. Immobilization

1. Any law enforcement officer who comes into contact with an unoccupied parked vehicle, either on a public street or off-street parking facility, which he/she reasonably believes to be a vehicle for which there is two or more unpaid recorded parking violations, shall immobilize the vehicle in the manner prescribed in paragraph (b)(2).

2. Immobilization of vehicles pursuant to paragraph (b)(1) shall be accomplished by means of a Denver boot or other nondestructive device which prevents the vehicle from moving under its own power. The law enforcement officer who causes the vehicle to be immobilized shall attach a notice to the vehicle advising the owner of the vehicle of the information necessary to enable the owner to have the immobilizing device removed. The notice shall be signed by the law enforcement officer and indicate his/her identification number.

C. Impoundment

1. Any law enforcement officer who comes into contact with an unoccupied parked vehicle, either on a public street or off-street parking facility, which he/she reasonably believes to be a vehicle for which there is five or more unpaid

recorded parking violations, shall impound the vehicle in the manner prescribed in paragraph (c)(2).

2. Impoundment of vehicles pursuant to subsection (c)(1) shall be accomplished by means of removal of the vehicle to the nearest facility or other place of safety, or to a facility designated or maintained by the city.

D. Owner responsibility and storage charges. The cost of towing, booting, or removing a vehicle impounded or immobilized under this section and the cost of storing the same or removing the immobilization device shall be chargeable against the owner and shall be a lien upon the vehicle. The owner of the vehicle shall pay these charges and any outstanding administrative delinquency, or collection fees owed, before the vehicle will be released. The vehicle may be stored in a public or private place. If the vehicle is stored in a private place, the amount charged for storage shall be the amount the city must pay for the vehicle's storage. If the vehicle is stored on city property, the charges for storage shall be \$2.00 per day. The charges to the owner for towing shall be the cost of towing to the city.

E. Notice to owner. Upon taking possession of any such vehicle, as provided in this section, the police department shall endeavor to notify the owner thereof that such vehicle has been impounded and is being held for the towing and storage charges. A notice shall be given to the person to whom the vehicle is licensed in accordance with the registration list furnished by the register of motor vehicles. The notice shall be given within a reasonable time by registered mail and the actual charge for the giving of such notice shall be collected at the time the vehicle is returned to the owner thereof.

F. Recovery. The registered owner of such vehicle shall be entitled to recover such vehicle only after making payment for the charges and

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expenses to the police department for the cost of towing or immobilizing such vehicle, plus the cost of storage and any outstanding administrative delinquency, or collection fees owed of such vehicle herein specified. The registered owner of such vehicle shall be responsible for paying the charges and fine as herein provided whether such registered owner was the person who unlawfully parked or left standing such vehicle, or not, and in each instance the police department shall require payment of the sums herein provided for before the restoring to the registered power possession of such vehicle.

G. Sale of unredeemed vehicles. If the impounded vehicle is not claimed and all charges paid within 30 days after the police have taken possession of such vehicle an action may be commenced in the county court or in any other court by the city attorney in the name of the city as plaintiff and against the name of the owner as defendant for the amount of the charges due and after judgment is obtained in favor of the city the vehicle may be levied upon and sold for the purpose of satisfying the judgment as required by law.

H. Tampering or unauthorized removal of an immobilization device. It shall be unlawful for any person to tamper with an immobilization device or remove such device without proper authorization from the Cedar Key Police Department.

(History: Ord. Nos. 380, 431 and 480)

6.02.00 PASSENGER TRANSPORT FOR HIRE VEHICLES.

6.02.01. Definitions.

Passenger Transport For Hire Vehicle: means any vehicle that is used for transporting passengers for hire, fee, or compensation of any kind, including compensation derived from tips

or advertising, upon or along the streets within the City of Cedar Key. Examples of Passenger Transport For Hire Vehicles include, but are not limited to, taxicabs, bicycles, pedicabs, animal drawn carriages, golf carts and low speed vehicles.

Rental vehicle: means any vehicle that is rented on a short term basis for use by the person or persons renting the vehicle upon or along the streets within the City of Cedar Key. The term shall not include automobiles, campers or recreational vehicles. Examples of Rental Vehicles include, but are not limited to, bicycles, mopeds, motorcycles, motorized scooters, golf carts and low speed vehicles.

Unless specifically defined in this ordinance, definitions of terms as set forth in Title XXIII, Florida Statutes, shall apply to terms contained in this ordinance.

6.02.02. Regulations.

No driver of a Passenger Transport For Hire Vehicle, (the vehicle), shall:

- A. Operate the vehicle without first registering with the City as a vehicle driver;
- B. Operate the vehicle while carrying a number of passengers that exceeds the number of passengers that the seats were designed to accommodate;
- C. Allow a passenger to stand in the vehicle while the vehicle is in motion;
- D. Collect fares while the vehicle is in motion;
- E. Solicit patrons in an attempt to divert patronage from another business;
- F. Operate the vehicle in a manner that results in damage to public property;
- G. Leave the vehicle unattended on a street or other publicly owned property at any time;

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H. Allow a passenger or anyone to sit anywhere other than the passenger seat within the vehicle;

I. Obstruct vehicular traffic by stopping, standing or driving carelessly;

J. Stop, stand, or load or unload passengers where parking and standing is prohibited;

K. Operate the vehicle without having a communication device, such as a cell phone or radio, in the driver's possession;

L. Operate the vehicle on bike paths, sidewalks, roadway shoulders, on SR 24, or any other location prohibited by Florida statutes.

6.02.03. Safety certificate.

Prior to the issuance or renewal of any permit by the City pursuant to this ordinance, the applicant shall certify under oath on the application required to be filed pursuant to section 5 that the applicant has read the provisions contained in this article and agrees to comply with the terms and that each vehicle contains all of the equipment necessary to be operated on the streets legally, including the equipment required by F.S. ch. 316, and is in safe operating condition. The City shall inspect all vehicles listed in the application for compliance with this standard, or, alternatively, the applicant may furnish a certificate from a qualified mechanic that the mechanic has inspected all of the vehicles, that the vehicles comply with this standard. At any time after issuance of the permit, based upon either observation by the City, or by complaint filed with the City, any vehicle shall be subject to inspection by the City at any time, to determine compliance with these safety standards.

6.02.02. Liability insurance coverage required.

A. No permit shall be issued or renewed by the City unless there is in force a Commercial

General Liability Insurance policy with minimum amount of \$300,000 per occurrence, combined single limit, for bodily injury, personal injury, and property damage. Such Liability Insurance policy shall specifically include the City as an additional insured and require each policy to be endorsed to state that coverage shall not be canceled by the applicant or carrier except after thirty (30) days written notice sent via certified mail, return receipt requested, to the City. It is the applicant's responsibility to ensure notice to the City in accordance with the above requirement is met.

B. The Applicant will provide the City with a certificate or certificates of insurance showing the existence of coverage as required and will, upon written request by the City, provide certified copies of all policies of insurance. New insurance certificates and, when requested in writing, certified copies of policies shall be provided to the City whenever any policy is renewed, revised, or obtained from other insurance carriers.

6.02.05. Permit Required; application.

Before any business shall begin operation providing Passenger Transport For Hire Vehicles or Rental Vehicles, a permit shall be obtained from the City, based on an application signed under oath, which shall contain:

A. The name, residence address, and proposed place of business of the applicant, the name of the applicant's business and the trade name, if applicable, under which the business will operate;

B. The number, type, year, model, VIN number of all Passenger Transport For Hire Vehicles or Rental Vehicles proposed to be operated or controlled by the applicant, and a copy of the Florida registration for each. Additionally, a color photograph of each public conveyance proposed to be operated or controlled by the applicant shall be included

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with the application clearly depicting any license tag on the vehicle;

C. The names, addresses, driver's license numbers for all drivers in the applicant's employ; and

D. A safety certificate, as required in section 3, above, and proof of insurance, as required in section 4, above.

6.02.06. Review of applications; issuance or denial.

A. The permit shall be issued or denied within five (5) business days after receipt of a completed application. In making a determination as to whether a permit will be issued to the applicant, the City shall consider the following criteria:

1. Completeness of the application as required by this ordinance;
2. Completion of the application support documentation and payment of an application fee of \$25.00;
3. Accuracy and truth of the information and documentation provided by the applicant.

B. The certificate shall expire on September 30 following the date of issuance. However, any certificate issued between July 1 and September 30 shall expire on September 30 of the next calendar year. If the City finds that the applicant is not qualified to be issued a certificate to engage in business, then a permit will not be issued and written notice will be given to the applicant setting forth the reason for the refusal of the permit.

C. Any applicant who has been denied the issuance of a permit shall have the right of appeal. Within ten (10) calendar days from the date the city notifies the applicant of the city's decision to deny the issuance of a permit, the applicant shall file with the city clerk a written

statement fully setting forth the grounds for such appeal. Upon the filing of such written statement, the city clerk shall schedule and conduct a hearing before the City Commission within thirty (30) days after the filing of the written statement. The applicant shall be given at least five (5) days written notice of the hearing. The applicant and the City shall have an opportunity to present evidence, to cross examine witnesses, and to be represented by counsel. The applicant shall have the initial burden of proving the right to the permit. The City Commission shall make a decision based on competent, substantial evidence and shall issue a written order supported by findings of fact and conclusions of law no later than the next regular meeting after the hearing. The decision of the City Commission shall be final and conclusive, subject to judicial review by common-law certiorari in the Circuit Court for Levy County.

6.02.07. Renewal of permit to engage in business.

After the initial issuance of the permit, the permit may be renewed upon providing proof that the public conveyance company continues to possess the requirements necessary to obtain and maintain a permit as set forth in this ordinance and upon paying a renewal fee of \$25.00. The permit renewal period shall be from October 1 through September 30.

6.02.08. Revocation of permit to engage in business.

A. A permit may be revoked by the City, for any of the following reasons:

1. Providing false information in connection with the permit issued;
2. Permitting an unregistered driver to operate a Passenger Transport For Hire Vehicle;

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3. Committing or permitting a driver or a patron of the business to commit a violation of any of the provisions of this ordinance or any violation of City Code or Florida law pertaining to the operation of a vehicle on public streets.

B. A permit holder may appeal the permit revocation pursuant to the appeal procedure set forth in Sec. 6, above.

C. After revocation of a permit pursuant to this section, no application for a certificate to engage in business shall be accepted or considered for a period of six (6) months from the date of revocation.

(History: Ord. No. 517)

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ARTICLE VII: FRANCHISES

7.00.00. PUBLIC FRANCHISE: CENTRAL FL. ELECTRIC, CO-OP

7.00.01. Grant of Franchise

That for the period of thirty (30) years, the City of Cedar Key (herein sometimes referred to as Grantor) does hereby give and grant to Central Florida Electric Cooperative, Inc., a corporation organized and existing under the laws of the State of Florida, and to its legal representatives, such successors and assigns (herein called grantee), the right, privilege and franchise to construct, operate and maintain in the said City of Cedar Key, all electric power facilities and appurtenances, required by the Grantee for the purposes of supplying electricity to Grantor, its inhabitants and the places of business located within the Grantor's boundaries.

7.00.02. Term and Geographical Boundaries

That with respect to the right, privilege and franchise granted to Grantee in Section 1 above, and said Grantee shall have for a period of thirty (30) years the right, privilege, franchise, power and authority to use the streets, avenues, alleys, easements, wharves, bridges, public thoroughfares, public grounds and/or other public places of Grantor as they now exist or may hereafter be constructed, opened, laid out or extended beyond the present geographic boundary lines of Grantor and to cut or trim all trees or shrubbery as necessary to keep them clear of Grantee's facilities.

7.00.03. Rates

The rates to be charged by the Grantee for electric services rendered under this franchise shall be the Grantee's standard public tariffs now in effect or as subsequently approved by the Rural Electrification Administration or such State agency as may have proper jurisdiction under the general laws of the State of Florida.

Said rates shall not exceed the rates for like service to other similar areas served by Grantee.

7.00.04. Facilities and Standard of Service

The Grantee's electric facilities shall be constructed, operated and maintained in a proper workmanlike manner so as to afford all reasonable safeguards to the public. The electric facilities including all poles, wires and other fixtures and necessary appurtenances which are set, erected, operated and maintained along, across or under any of the streets, avenues, alleys, or lanes of the Grantor shall be so placed as not to interfere with traffic on the traveled portions of such thoroughfares; and the Grantee, after the construction or reconstruction of said electric works or any part thereof, will restore to their original condition the streets, avenues, alleys, or lanes on which said electric facilities have been set or erected insofar as this is practicable. Whenever the poles, wires or other fixtures set, erected and maintained along, across or under any of the streets, avenues, alleys or lanes interfere with the widening or improvement of any such streets, avenues, alleys or lanes, the Grantee shall, at the request of the Grantor, move its pole, wires or other fixtures at its own expense to such other reasonable location as may be designated by an authorized representative of the Grantor. Electric service rendered by the Grantee shall be continuous except that the Grantee shall not be held accountable for failure of service which is caused by actions of the elements, Acts of God, or other causes beyond the control of the Grantee. The Grantee will comply with all reasonable rules and regulations of the Grantor and with all ordinances now in effect or which may hereafter be passed insofar as they do not conflict with the terms or purposes of the franchise herein granted. The Grantee shall have the right to make reasonable rules and

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regulations for the conduct of its business, and to govern its relations with its consumers.

7.00.05. Accounting and Fees

As a consideration for the granting of this franchise, the said Grantee shall, during the term of this franchise, commencing as of the effective date thereof, pay to the Grantor as a burden imposed by this ordinance and as one of the expressed conditions and considerations for the franchise, rights and privileges granted and conferred by this ordinance, a fixed percentage of its gross receipts from the sale of electric energy within the City of Cedar Key for the term of this franchise. The Grantee shall be required to keep proper books of account showing monthly gross receipts from the sale of electric energy within the corporate limits of the City of Cedar Key and shall make a statement, in writing, showing such receipts for such semi-annual period ending June 30th and December 31st of each and every year, and based on such statements shall make payment to the City Tax Collector the amount due. The semi-annual statements and semi-annual payments shall be made within thirty (30) days of the end of each semi-annual period. During the initial ten (10) year period of this franchise, the Grantee will pay to Grantor three percent (3%) of its gross receipts, excluding cost of power adjustment, taxes or other charges for which the Grantee does not receive any revenue, and during the next two (2) succeeding ten (10) year periods of the franchise, the Grantee will pay to Grantor a percentage that is agreed upon and fixed as required in this section. Not less than six (6) months prior to the end of the additional ten (10) year period of this franchise, Grantor and Grantee will negotiate a franchise fee for the second ten (10) year period, and likewise, not later than six (6) months prior to the end of the second ten (10) year franchise period, Grantor and Grantee shall negotiate a franchise fee for the final ten (10) year period of the franchise.

Such negotiations shall be conducted in good faith and the parties will be guided by an analysis of similar franchise fees paid by Grantee in other municipalities as well as those franchise fees paid by other electric utilities in the State of Florida, both regulated and unregulated. Modification of the amount of such franchise fee shall be arrived at by agreement of the parties using such other franchise fees as guides to determine a reasonable sum to be paid by Grantee to Grantor. If the parties fail to agree to any such modification the amount of such franchise fee in effect for the period immediately preceding such negotiations shall continue and remain in effect until the same is modified by agreement of the parties.

7.00.06. Right to Purchase

As a condition precedent to the granting of this franchise, Grantor, at and after the expiration of this franchise, shall have the right to purchase the electric plant and facilities of Grantee located within the corporate limits of Grantor which are used under or in connection with this franchise or right, at a valuation of the property desired, real and personal, which valuation shall be fixed by arbitration as may be provided by law. Excepted from this reservation are electrical facilities owned by Grantee and connected with its general system of distribution and used for the purposes of serving consumers other than the Grantor herein. Grantee shall be deemed to have given and granted such right of purchase and satisfied this condition precedent by its acceptance of this franchise.

7.00.07. Liability

That Grantor shall in no way be liable or responsible for any accident or damage that may occur in the construction, operation or maintenance by Grantee of its facilities hereunder, and the acceptance of this ordinance shall be deemed an agreement on the part of Grantee, to indemnify Grantor and hold it

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harmless against any and all liability, loss, cost, damage or expense, which may accrue to Grantor by reason of the neglect, default, or misconduct of Grantee in the construction, operation or maintenance of its facilities hereunder.

7.00.08. Annexation

In the event of annexation of any territory to the present corporate limits of Grantor, any and all portions of the electric system of Grantee located in said annexed territory shall be subject to all of the terms and conditions of this grant as though it were an extension made hereunder.

(History: Ord. No. 155)

7.01.00. TELEPHONE FRANCHISE: BELL SOUTH

7.01.01. Grant of Franchise

That permission be and the same is hereby granted to the Southern Bell Telephone and Telegraph Company, its successors and assigns, to construct, maintain and operate lines of telephone and telegraph, including the necessary poles conduits, cables, fixtures and electrical conductors upon, along, under and over the public roads, streets and highways of the City of Cedar Key, Florida, as its businesses may from time to time require, provided that all poles shall be neat and symmetrical.

7.01.02. Construction of Facilities

The work of erecting poles and constructing underground conduits under this ordinance shall be done subject to the supervision of the City and the Company shall replace or properly relay and repair any sidewalk or street that may be displaced by reason of such work, and upon failure of the Company to do so, after 20 days notice in writing shall have been given by the Mayor of the City to the Company, the City may repair such portion of the sidewalk or street that

may have been disturbed by the Company, and collect the cost so incurred from the Company.

7.01.03. Fees

In consideration of the rights and privileges granted, the Company shall pay to the City annually a sum equal to one percent (1%) of the gross receipts of the Company from rentals derived from the telephones in use within the corporate limits of the City, provided that there shall be credited against such sum the amount of all taxes, licenses, fees and other impositions (except ad valorem taxes and amounts for assessments for special benefits, such as sidewalks, street pavings and similar improvements) levied or imposed by the City upon the Company's property, business or operations and paid during the preceding fiscal year as defined herein. Payment shall be made to the City for each of the years that this ordinance is in effect and shall be based on the receipts of the Company for the preceding fiscal year. For the purpose of this payment, such fiscal year shall end on the last day of the month on which the ordinance becomes effective. Payment shall be made within (6) months of the end of such fiscal year.

7.01.04. Liability

The Company shall indemnify the City against, and assume all liabilities for, damages which may arise or accrue to the City for any injury to persons or property from the doing of any work herein authorized, or the neglect of the Company or any of its employees to comply with any ordinance regulating the use of the streets of the City, and the acceptance by the Company of this ordinance shall be an agreement by it to pay to the City any sum of money for which the City may become liable from or by reason of such injury.

7.01.05. Acceptance

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The Company shall file with the City Clerk of the City its acceptance of this ordinance within (60)days from the date of its adoption.

7.01.06. Powers

Nothing in this ordinance shall be construed as a surrender by the City of its right or power to pass ordinances regulating the use of its streets.

(History: Ord. No. 187)

7.02.00. [Reserved]

7.03.00. COMMUNITY ANTENNA TELEVISION: QUALITY MEDIA CORPORATION

7.03.01. Short Title

This Part shall be known and may be cited as the Cedar Key Community Antenna Television Franchise for Quality Media Corporation.

7.03.02. Definitions

For the purposes of this Part, the following terms, phrases, words, and derivations shall have the meaning given herein. When not inconsistent with the context, 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. The word "shall" is always mandatory and not merely directory.

City is the City of Cedar Key, Florida.

Company is Quality Media Corporation, a Florida corporation, the grantee of rights under this Franchise.

City Commission is the City Commission of Cedar Key, Florida.

Person is any person, firm, partnership, association, corporation, company, or organization of any kind.

System shall mean the lines, fixtures, equipment, attachments, and all appurtenances thereto which are used in the construction, operation and maintenance of the community antenna television system herein authorized.

7.03.03. Grant of Authority - Exclusive

There is hereby granted by the City to the Company the exclusive right and privilege to construct, erect, operate, and maintain in, upon, along, across, above, over and under, the streets, alleys, public ways and public places, now laid out or dedicated and all extensions thereof and additions thereto in the City, wires, poles, cable, underground conduits, conductors and fixtures necessary for the maintenance and operation in the City of a community antenna television system for the reception and distribution of television signals and energy, frequency modulated radio signals, commercial and non-commercial visual and aural signals which are not otherwise herein prohibited. The Company shall have the right in the operation of the system to make attachments to City owned property at such rates and upon such terms and conditions as shall from time to time be determined by the Commission.

The right to use and occupy said streets, alleys, public ways and places for the purposes herein set forth, shall not be exclusive and the City reserves the right to grant the use of streets, alleys, public ways and places to any person at any time during the period of this Franchise.

The Company shall have the right to enter into agreements not inconsistent with this Franchise for the attachment onto and use of facilities owned and operated by public utilities operating within the City, whereby the Company shall strictly comply with the terms, provisions. and restrictions of said agreements.

7.03.04. Acceptance of Authority to Grant Franchise

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The Company, by acceptance of this Franchise, expressly acknowledges and accepts the right of the City to issue such Franchise and agrees that it shall not at any time hereafter challenge this jurisdiction in any State or Federal Court or administrative agency; provided, further, that in the event the FCC or the State Government acquires or assumes jurisdiction over the issuing of any Community Antenna Television System (CATV) franchise the Company hereby agrees that it will use its best efforts to conform such jurisdiction to the purpose and intent of this franchise.

7.03.05. Compliance with Laws, Regulations and Ordinances

The Company shall, at all times during the life of this Franchise, be subject to all lawful exercise of the police power by the City. The construction, operation, and maintenance of the system by the Company shall be in full compliance with the National Electric Code of 1975, and as from time to time amended and revised, and in full compliance with all other applicable rules and regulations now in effect or hereinafter adopted by the Federal Communications Commission, the State of Florida, and the United States Government.

7.03.06. Subsequent Action by the State or Federal Authorities

A. Should the State of Florida or the FCC require the Company to perform, or refrain from performing any act the performance or non-performance of which is inconsistent with any of the provisions of this Franchise, the Company shall so notify the City which shall thereupon, if it determines that a material provision herein is affected, have the right to modify any of the provisions herein to such reasonable extent as may be necessary to carry out the full intent and purposes of the Franchise.

B. Beginning on July 1, 1980, any amendment by the Federal Communications

Commission of Section 76.31, Part 76, Federal Communications Commission's Rules and Regulations shall be incorporated into this Franchise by this reference one (1) year after the date of the adoption of such amendment; provided, the City may at its discretion, implement and incorporate such amendment into this Franchise at any time prior to said one (1) year should they so desire.

7.03.07. Company Liability and Indemnification

A. **Liability Coverage.** It is expressly understood and agreed by and between the Company and the City that the Company shall save the City harmless from all loss sustained by the City including damages, liability, costs or expenses on account of any suit, judgment, execution, claim, or demand whatsoever arising out of the construction operation and maintenance of the system by the Company. The Company agrees to maintain and keep in full force and effect at all times during the term of this Franchise liability insurance coverage to protect the City against any such claims, suits, judgments, executions or demands in a sum not less than one hundred thousand dollars (\$100,000.00) per person in any one claim, three hundred thousand dollars (\$300,000.00) as to any one accident or occurrence, and not less than fifty-thousand dollars (\$50,000.00) for property damage as to any one accident or occurrence.

B. **Workman's Compensation Coverage.** The Company shall also maintain in full force and effect throughout the duration of this Franchise sufficient workman's compensation insurance coverage to adequately and fully protect employees as required by law.

C. **Resident Company and Agent.** All insurance policies and bonds as are required of the Company in this Franchise shall be written by a company or companies authorized and qualified to do business in the State of Florida. Certificates of all insurance coverage required

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shall be promptly filed by the Company with the City.

7.03.08. Conditions on Street Occupancy and System Construction

A. Use. All transmission and distribution structures, lines and equipment erected by the Company within the City shall be so located as to cause minimum interference with the proper use of streets, alleys, and other public ways and places and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of said streets, alleys, or other public ways and places.

B. Restoration. In case of any disturbance of pavement, sidewalks, driveways, or other surfacing, the Company shall, at its own expense and in a manner approved by the City, replace and restore such places so disturbed in as good condition as before said work was commenced, and shall maintain the restoration and replacement in a condition approved by the City for the full period of this Franchise.

C. Relocation. Whenever the City shall require the relocation or reinstallation of any property of the Company in any of the streets, easements, or rights-of-way subject to its control, it shall be the obligation of the Company upon notice of such requirement to immediately remove and relocate or reinstall said property as may be reasonably necessary to meet the requirements of the City. Such relocation, removal or reinstallation by the Company shall be at the sole cost of the Company. The Company shall at its expense. protect, support, temporarily disconnect, relocate or remove any property of the Company located on rights-of-way and easements of the City whenever required by the City because of traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade installation of sewers, drains, water pipes, power lines, signal

lines or any type of structures or improvements by the City; provided, however, that when such request is made by private entities the Company shall be entitled to reasonable compensation paid prior to work being performed. If the Company fails to relocate as provided herein, the City may cause the necessary work to be completed and the Company shall pay the City the cost thereof within ten (10) days of receipt of an itemized account of such cost thereof.

D. Placement of Fixtures. The Company shall not place any fixtures or equipment where the same are or may become dangerous to the traveling public or where the same will interfere with any existing gas, electric, telephone, water lines or sewer lines, fixtures, or equipment, and the location by the Company of its lines and equipment shall be in such manner as to not interfere with the usual travel on said streets, alleys, and public ways or the prior use of the same by gas, electric, telephone. water lines or sewer lines or equipment. Further, whenever, in any place within the City, all or any part of the electric utilities shall be located underground, it shall be the obligation of the Company to locate or to cause its property to be located underground within such places. If the electric utilities shall be located or relocated underground after the installation of the CATV system in an area the Company shall nevertheless remove and relocate its property underground in such areas immediately thereafter. If the Company shall in any case be unable for operational reasons to locate or relocate, any part of its property underground, the City upon being satisfied as to the facts thereof, may permit such property to remain above the ground even though other facilities may be placed underground in the area. However, any such permission shall be upon such conditions as the City may require for the public welfare. Further, at such time as said operational reasons no longer prohibit said underground location, the Company shall

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immediately locate or relocate its system underground in conformance with this Section.

E. Temporary Removal of Wires for Building Moving. The Company shall, on the request of the City, temporarily raise or lower its wires to permit the moving of buildings at the Company's expense; provided, however, that when such request is made by private entities the Company shall be entitled to reasonable compensation paid prior to work being performed and, provided further, except in emergency situations, the Company shall be given at least seven (7) days notice.

F. No Property Right. Nothing in this Franchise shall grant to the Company any right of property in City owned property, nor shall the City be compelled to maintain any of its property any longer than, or in any fashion other than in the City's judgment its own business or needs may require.

G. Permits, Easements, and Agreements. The City shall not be required to assume any responsibility for the securing of any rights-of-way or easements on behalf of the Company, nor shall the City be responsible for securing any permits or agreements with other persons or utilities.

H. Non-Liability of City. The City shall not be liable for any damage occurring to the property of the Company caused by employees of the City in the performance of their duties, nor shall the City be held liable for the interruption of service by actions of City employees in the performance of their duties, nor shall the City be held liable for the failure of the Company to be able to perform normal services due to acts of God; provided, this subsection shall not exempt the City from any liability to the Company because of the negligence of the City's employees.7.03.09. Construction Drawings to be Furnished

The Company shall furnish the City a complete set of "as built" construction drawings (excluding individual house drops).

7.03.10. Number of Channels

The Company will immediately install for the operation of the system in the City a usable capacity of twelve (12) channels, and the Company shall immediately place into operation not less than four (4) channels and at all times make available to the subscribers to this system as many channels as may be necessary to provide subscribers with all national television networks (NBC, CBS, ABC, etc.) as may be available. The Company will continue to maintain and relay to the subscribers to this system in the City not less than four channels unless the transmitting television station or stations ceases or curtails its transmission by act of God or other cause not within the control of the Company.

7.03.11. Pay Television, Music Service, Advertising, and/or Regulated Utilities

A. Pay Television Music Service. The Company may engage in the business of Pay Television (i.e., the sale of programs on a program by program basis) upon such terms and conditions allowed by the Federal Communications Commission (FCC), and the Company may also provide music service to its customers, but only upon such terms and under such conditions, as the FCC may reasonably require.

B. Advertising. The Company may use the system for advertising purposes for itself or others during origination cablecast programming in accordance with FCC rules and regulations.

C. Regulated Public Utilities. The Company shall not use the system to interfere or conflict with services offered by public utilities regulated by the Florida Public Service Commission.

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7.03.12. Service Standards

D. The Company shall maintain and operate the system and render efficient service in accordance with rules and regulations as are, or may be, set forth by the FCC.

E. The Company shall furnish to its subscribers and customers for all services, with no discriminatory or unreasonable delay in the Company's installation of full service within the various neighborhoods in the serviceable franchise area, the best possible signals available under the circumstances existing at the time in accordance with FCC regulations.

7.03.13. Maintenance of and Service to the System

A. The Company shall put, keep and maintain all parts of the Community Antenna Television System in good condition throughout the term of the Franchise.

B. The Company shall respond to all service calls within seven (7) days and correct malfunctions as promptly as possible, but, except for emergencies not at the fault of the Company, at least within fourteen (14) days after notice thereof.

C. The Company may interrupt service for the purpose of repair or upgrading of the Community Antenna Television System only for a reasonable period of time.

D. The Company shall at all times use ordinary care and install available devices to prevent accidents, damage, injury or nuisance to the public.

E. The requirements of this section may be waived by the City upon appropriate application therefrom which includes a statement of the substantial factors beyond the Company's control which prevent compliance herewith.

7.03.14. Company Rules

The Company shall have the authority to promulgate such rules, regulations, terms, and conditions governing the conduct of its business as shall be reasonably necessary to enable the Company to exercise its rights and to perform its obligations under this Franchise and to assure an uninterrupted service to each and all its customers, provided, however, that such rules, regulations, terms, and conditions shall not be in conflict with the provisions hereof.

7.03.15. Rates to Customers

A. The Company may make such charges for its services as are reasonable, provided any change in rates by the Company above the maximums set below must be filed with the Clerk of the City Commission sixty (60) days before same shall become effective.

B. The Company shall give to the City free of any charge whatsoever two standard service outlets at such public place or places as the City may designate within the franchised area. The Company shall also give free of any charge whatsoever one standard service outlet to each school within the franchised area. The Company may provide no more than ten (10) standard service outlets free of any charge at such place or places as the Company may designate. Except for the foregoing provisions of this subsection, the Company shall not provide free service or installation to any person.

C. Maximum monthly charges shall be:

Eight dollars (\$8.00) per month for the first cable outlet to each subscriber; and

Three dollars (\$3.00) per month for each additional outlet to each subscriber.

D. Maximum connection fees shall be:

1. Where the service drop is already in place:

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- i. Fifteen dollars (\$15.00) for first outlet connection;
- ii. Five dollars (\$5.00) for each additional outlet;
- iii. Five dollars (\$5.00) for each outlet disconnected at customer's request;
- iv. Ten dollars (\$10.00) for each reconnection after disconnection for delinquent account; and
- v. Ten dollars (\$10.00) for on premises relocation of service.

2. Where the service drop is not already in place:

Thirty dollars (\$30.00) for first outlet connection.

E. A deposit may be collected by the Company from its subscribers to secure the payment of the approved monthly service fees, but such deposit shall not exceed the total of two (2) months' service fees.

F. The Company is prohibited from requiring a subscriber to continue to receive service beyond the end of a monthly service period if the subscriber so notifies the Company.

7.03.16. City Rules

The right is hereby reserved in the City to adopt, in addition to the provisions herein contained and in applicable ordinances, such additional regulations as the City may find necessary in the exercise of the police power; provided, such regulations shall be reasonable and not in conflict with the rights herein granted.

7.03.17. Complaint Procedure

A. Any person aggrieved by the operation of the Company's system may submit a complaint regarding the Company in writing to the Company or to the designated official of the City Commission.

B. The Company shall designate one of its officers or agents to deal with complaints from any person within the franchise area. The Company shall answer all complaints as soon as possible, and shall attempt to resolve all of the complaints it receives including complaints filed with the City and forwarded to the Company.

C. The Company shall notify each new subscriber individually of the Company's complaint procedure including the appropriate address.

7.03.18. Utility Tax Collection

Upon request, the Company will, without charge to the City, collect from its customers any taxes levied upon the CATV service and will forward same to the City as directed.

7.03.19. Transfer Prohibited

The Company shall not sell or transfer its plant or system or any controlling portion thereof, nor any right, title, or interest in the same, nor shall any rights under this franchise be transferred without prior written approval of the City Commission.

Nothing in this section shall be deemed to prohibit a mortgage or pledge of the system, or any part thereof, on the leasing by the Company from others of a part or all of the system for financial purposes; provided any such mortgage, pledge or lease shall be subject and subordinate to this Franchise.

7.03.20. Company Office, Records, Accounting.

A. The Company, for the duration of this Franchise shall designate an agent for the System and such person shall reside in Levy County and be active in the management of the system. The Company shall designate an officer for the place where all notices, directions, orders, service of process and requests may be served or delivered. The City shall at all times be notified of the location of such office and the

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name and title of such System Manager and any changes thereto.

B. The Company shall keep complete and accurate books of account and records of its business and operations under this Franchise.

7.03.21. Time Limit

A. The Company shall within thirty (30) days of the FCC's Certification commence construction of the system, and twelve (12) months after the Company commences construction of the system the same shall be in service and with the capability of providing television circuit reception to customers within the City. In the event the Company fails to commence construction of the system within the City within thirty (30) days of the FCC's certificate of compliance, or in the event the Company fails to complete construction of the system and make the system completely operable as provided in Section 10 and otherwise in this Franchise within twelve (12) months following commencement of construction, then and in either event all the Company's rights, privileges and authority shall become void and terminated at the exclusive option of the City without the necessity of any notice to the Company whatsoever other than the writing and mailing of a letter to the Company at its last known address declaring such forfeiture.

B. CATV services must be provided within twelve (12) months of a request to potential customers within three hundred (300) feet of an existing distribution line within the Company's franchise area. The three hundred (300) foot distance will be satisfied if the distance from the CATV distribution line divided by the number of potential customers requesting service is three hundred (300) feet or less per potential customer. In measuring this three hundred (300) foot distance, it is not the actual distance from the CATV distribution line, but rather the

distance which the Company would be required to run a service line which is applicable.

C. The Company may make a timely and appropriate application to the City Council to be temporarily relieved from any of the requirements of this section. The Company has the burden in such application to make a reasonable showing that substantial factors beyond the Company's control prevent or make it extremely impractical for the Company to comply with the special terms herein.

7.03.22. Waiver of the Requirements of this Franchise

A. Waiver of the requirements of this franchise shall be granted only upon approval of the City Council. Waivers shall be effective only if in writing and signed by a duly authorized officer of the City.

B. Any written waiver executed pursuant to this section shall only be effective as to the specific requirement therein waived.

7.03.23. Continuity of Service

A. The Company expressly agrees that it will at no time suspend service to the serviced areas of the Franchise without the express written consent of the City.

B. This section shall apply to the Company at all times this Franchise is in effect, as well as the time required for renegotiation or discussion, not to exceed ninety (90) days, of the Franchise at the times or under the conditions herein specified.

C. The objective of continuity of service is hereby agreed by all parties hereto to be of such a paramount nature that failure of the Company to conform to the requirements of this section automatically subjects the Company to the cancellation of the franchise and forced sale of the system, as well as any other remedy available in this Agreement.

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D. The requirements of this Section are meant to prevent only intentional discontinuances of service and shall not apply if the Company demonstrates affirmatively that it has made every effort to comply herewith.

7.03.24. Cancellation and Termination

A. Except as otherwise provided in this Franchise, should the Company, its successors or assigns, materially violate any of the provisions of this Franchise or any reasonable rules and regulations or other laws, or should the Company fail to promptly perform any of the provisions hereof, the Company shall forfeit all its rights hereunder to the City after written notice to the Company and continuation of such violation, failure or default for a period of more than thirty (30) days. In the event of the bankruptcy or receivership of the Company, at the City's option, all rights herein given to the Company shall be forfeited and forever terminated, or the procedures of Section 7.03.25 herein may be utilized by the City.

B. Notwithstanding the above, except in emergency situations, if for thirty (30) consecutive days the Community Antenna Television System, or any part thereof is inoperative, or if the same is inoperative for ninety (90) days out of any consecutive twelve (12) months, the City may cancel this Franchise.

C. Upon cancellation or expiration of this Franchise, the City shall have the right to purchase the Community Antenna Television System and the City may direct the Company to cease operation of the Community Antenna Television System. If the City elects to purchase the System, the Company shall promptly execute all appropriate documents to transfer title to the City or its designee and shall assign all other contracts, leases, licenses, permits, and any other rights necessary to maintain continuity of service to the public. The Company shall cooperate with the City or with another person

authorized or directed by the City to operate the Community Antenna Television System for a temporary period, in maintaining continuity of service. Nothing herein is intended as a waiver of any other rights the City may have.

D. If the franchise terminates, expires or is canceled for any reason, the purchase price to the City for the Community Antenna Television System shall be its then fair market value. Such fair value shall be the fair value of all tangible and intangible property forming part of the Community Antenna Television System. The fair value shall be established by a mutually agreed upon appraiser, but failure of the City and the Company to agree on a single appraiser will require each of them to name an appraiser, each of whom will be mandated to name a third appraiser whose decision on the value will be binding. Costs of the appraisal will be equally paid by City and Company. If the City does not purchase the System, the Company shall, at the option of the City, remove the part of the Community Antenna Television System located in the streets and restore the streets to a condition satisfactory to the City.

7.03.25. Receivership

A. The City shall have the right to cancel this Franchise one hundred twenty (120) days after the appointment of a receiver, or trustee, to take over and conduct the business of the Company whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or unless:

B. Within one hundred twenty (120) days after his election or appointment, such receiver or trustee shall have fully complied with the provisions of this Franchise and remedied all faults thereunder; and

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C. Such receiver or trustee, within said one hundred twenty (120) days shall have executed an agreement duly approved by the Court of jurisdiction, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Franchise.

7.03.26. Payments to City

A. As part of the consideration for the granting of this franchise, the Company agrees to annually pay the City a sum equal to the greater of one hundred dollars (\$100.00) per year or one dollar (\$1.00) per customer, per year for each of the Company's customers within the City. In addition to the amount specified in the preceding sentence, the Company confirms its prior agreement to pay the City a one-time charge equal to one-half (½) of the required publication costs of this Franchise.

B. Manner of Payment. The first payment hereunder shall be due one (1) year after the effective date of this Franchise and shall be due in the same month and on the same day every year thereafter for the duration of this franchise.

C. Late Charge. In the event that any payment due the City is not made within thirty (30) days after the date fixed in subsection (b), interest on such payment shall apply from such date at two percent (2%) above the then prevailing prime rate of interest.

D. Reports. At the request of the City, the Company shall furnish information required by the City so that the City will be able to ascertain amounts due for the preceding twelve months' period.

7.03.27. Duration of Franchise

This Franchise shall remain in full force and effect for a period of thirty (30) years.

7.03.28. Severability

In the event any section or part of this Franchise shall be held invalid, such invalidity shall not affect the remaining sections or portions of this Franchise.

7.03.29.Repeal Conflicting Ordinances

All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict hereby repealed.

7.03.30. Effective Date

The effective date of this Franchise is March 25, 1980 as provided in Ordinance 170.

(History: Ord. Nos. 170, 322)

**LAWS OF CEDAR KEY-CHAPTER THREE
COMPREHENSIVE PLAN**

**CHAPTER THREE: COMPREHENSIVE PLAN:
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LAWS OF CEDAR KEY-CHAPTER THREE COMPREHENSIVE PLAN

ELEMENT 1: FUTURE LAND USE GOALS, OBJECTIVES, AND POLICIES

GOAL 1

To ensure that the character and location of land uses maximize the potential for economic benefit and the enjoyment of natural and man-made resources by citizens while minimizing the threat to health, safety and welfare posed by hazards, nuisances, incompatible land uses and environmental degradation. Future growth and development is specifically intended to implement the vision as articulated in the Community Redevelopment Area Planning Process, ensuring continuation of the water dependent heritage of the City, and ensuring a working, water dependent and water related community.

OBJECTIVE 1-1 Land Development Regulations

The City shall continue to implement the single map approach, using the Future Land Use Map to define use districts. The City shall maintain land development regulations to manage growth and development. Permissible growth and development shall be consistent with the availability of public facilities and services, protection of natural resources, protection of the working, water-dependent heritage of the City and shall discourage the proliferation of urban sprawl.

POLICIES:

1-1.1 Land development regulations shall provide for the following:

A. Regulate the subdivision of land.

B. Regulate the use of land and water consistent with this plan.

C. Ensure compatibility of adjacent land uses and provide for open space.

D. Protect lands designated as conservation areas on the Future Land Use Map.

E. Regulate development in the coastal high hazard area or areas subject to periodic or seasonal flooding and provide for drainage and stormwater management.

F. Protect potable water wellfields and aquifer recharge areas.

G. Regulate signs and street graphics.

H. Provide needed vehicle parking and ensure safe and convenient on-site traffic flow.

I. Provide that development orders and permits shall not be issued which result in a reduction of the level of services for affected public facilities below the level of service standards adopted in this Comprehensive Plan.

1-1.2 Redevelopment in the historic district shall be permitted at existing or documented historic density if such redevelopment is consistent with the historic character of the area and conforms to the Federal Emergency Management Agency and coastal management construction standards.

1-1.3 The City shall protect the working fishing village character of the City. The working fishing village character shall be protected and preserved, in part, through land use categories and land development regulations that identify

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appropriate uses and appropriate densities and intensities of development.

1-1.4 The Land Development Code shall be updated to implement the provisions of the Plan and provide a more efficient system of administration.

1-1.5 Subdivision of land, including the re-subdivision of existing single-family residential lots, into two or more parcels shall conform to Chapter 177, Florida Statutes, as amended.

1-1.6 Home occupational uses may be permitted within areas designated as residential, based on City regulations regarding home occupations.

1-1.7 The City shall adopt and implement land development review and permitting programs that are coordinated with the wetlands permitting and mitigation programs of applicable local, state, and federal jurisdictional agencies and ensure efficient and ongoing enforcement.

1-1.8 The City hereby adopts as a Historic District the area depicted on the Future Land Use Map, which is that area bordered by 1st Street, 3rd Street and F Street, inclusive of both sides of the street but excluding the area known as Dock Street and the proposed site of the expanded sewer treatment plant at 3rd and C Streets.

1-1.9 Historical and archaeological sites shall be protected from the adverse effects of development.

1-1.10 Land development regulations shall assure that development does not destroy or harm archaeological or historic resources through an assessment of the impact of proposed development on historic and archaeological sites.

1-1.11 Land development regulations shall assess, limit, or prohibit activities which have the potential to contaminate land, water, or

natural resources such as shellfish harvesting areas and marine breeding grounds.

1-1.12 All development proposals shall document compatibility, through location and/or mitigating design, with soils, topography, public facilities or services, and Conservation Areas designated on the Future Land Use Map.

1-1.13 The City may consider regulations for planned unit developments as one means of implementing the mixed use land use category.

1-1.14 Reserved.

1-1.15 The City shall identify important view corridors and identify mechanisms to protect the view corridors during consideration of amendments to the Plan as well as during consideration of development and redevelopment proposals.

1-1.16 Flood-prone areas shall be regulated by ensuring compliance with elevation requirements.

1-1.17 The City shall implement sign regulations that provide adequate visual identification and ensure that signs are compatible with architectural and historic styles of the neighborhood where the signs are proposed.

OBJECTIVE 1-2 Future Land Use Map

The Future Land Use Maps, Exhibits 1-6 and 1-10, are hereby adopted.

POLICIES:

1-2.1 Land Use Districts

The following land use categories are adopted as shown on the Future Land Use Map. The general range of uses, densities, and intensities allowed in each land use districts are described below, and may be described in more detail in the Land Development Code.

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A. Residential – Uses include single-family, multi-family, accessory dwelling, special needs housing, essential utilities, outdoor recreation, public schools, and home occupations. Such uses shall be permissible when consistent with compatibility and density standards. Uses which may be permissible subject to conditional use approval procedures and standards include hotels and motels, community facilities such as day care facilities, churches, public safety facilities, civic or cultural facilities, aquacultural nurseries, and parking for aquacultural uses.

B. Commercial – Permissible uses are retail, entertainment, and eating establishments; recreational vehicle parks subject to design standards in the Land Development Code; water-dependent commercial, such as marinas, commercial fishing, and water-oriented recreation; general, professional, and medical offices; public schools; trades or performing arts schools; retail and service establishments for tourists; hotels and motels; recreation; essential utilities; and one dwelling unit on one commercial parcel or platted lot. Uses which may be permissible subject to conditional use approval procedures and standards include public lodging with eating or cooking facilities. In addition, aquaculture shall be permissible within the commercial land use category, subject to the issuance of an administrative special use permit.

Aquaculture Overlay Map (See Exhibit 1-10 of the Future Land Use Element) The following uses shall be allowed in the area designated within Overlay Map Exhibit 1-10: (i) Aquaculture, which shall be subject to issuance of an administrative special use permit; and (ii) Residential. Commercial uses described in 1-2.1(B), above, are permissible subject to conditional use approval procedures. Aquaculture, for the purpose of this paragraph, means commercial fishing, other shell fishing

that is lawful, the cultivation of aquatic organisms and associated activities, including, but not limited to grading, sorting, transporting, harvesting, holding, storing, growing, and planting. In addition, aquaculture is considered agriculture.

C. Mixed use – Permissible uses include single-family, multi-family residential, commercial uses as described for the commercial land use category, and public/semi-public uses as described for the public/semi-public land use category.

D. Public/Semi-public – Permissible uses are community facilities such as schools, day care facilities, cemeteries, religious establishments, medical facilities with or without overnight stay, public safety facilities, civic and cultural facilities, buildings to house government offices and government services, utilities and utility facilities, and recreation facilities.

E. Recreation – Permissible uses include public indoor and outdoor recreation facilities, camping facilities, outdoor cultural and civic facilities, and specifically excludes firing ranges and race tracks.

F. Conservation – Permissible uses are specifically limited to low intensity and passive outdoor recreation, facilities to provide access to the water as further described and limited in the Conservation and Coastal Management Element. The conservation land use category is represented on the Future Land Use Map with three different colors illustrating conservation (landward), conservation (unbridged islands/submerged lands), and conservation (submerged lands).

1-2.2 The following are density and intensity standards for development in the City:

A. Maximum density for the residential land use category is 4.9 dwelling units per acre;

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except that the City shall allow one dwelling unit per parcel of record or lot of record. A lot of record means a platted lot in existence on February 17, 1997. A parcel of record means any parcel of land recognized as a single parcel for ad valorem taxation purposes by the County Property Appraiser's office on February 17, 1997. Additionally, in the area shown on Exhibit 1-6a, the City shall allow development that conforms to the historical building patterns of the defined area. Maximum impervious surface is 40 percent in the Coastal High Hazard Area and 50 percent otherwise.

B. Maximum intensity for commercial, public/semi-public, and recreation is measured by impervious surface and height standards. Impervious surface is limited to 40 percent within the Coastal High Hazard Area and 50 percent in other locations.

C. The height of structures, but not appurtenances, shall not exceed 32 feet for structures with flat roofs, and 38 feet for structures with pitched roofs.

1. Height shall be measured from the base of the structure to the highest point on the roof of the structure. The base of the structure shall be the highest point of the natural or existing ground elevation immediately adjacent to the subject building or structure; except that in those area of the City located within the Coastal High Hazard Area as delineated on the Flood Insurance Rate Map, the base is the Base Flood Elevation as established on the Flood Insurance Rate Map.

2. Exceptions from the height limitation for church spires, chimneys, water towers, transmitter towers, smoke stacks, flagpoles, television antennae, parapets, and similar structures and their necessary mechanical appurtenances may be provided for in the Land Development Code.

D. Aquaculture land uses shall be limited to 40 percent impervious surface on the upland portion of parcels used for aquacultural purposes.

E. Maximum intensity for development in the conservation land use category is 10 percent impervious surface coverage.

F. Development within the mixed use category shall not exceed the impervious surface and height limits established for commercial uses. Residential densities shall not exceed 4.9 dwelling units per acre. Residential uses shall not exceed 75 percent of the land area within a block designated for mixed-use development. Public/semi-public uses shall not exceed 25 percent of the land area within a block designated for mixed-use development. Commercial uses may be 100 percent of the land area within a block designated for mixed-use development. (The mixed-use ranges are shown in the following table.)

Type of Use	Minimum*	Maximum*
Residential	0%	75%
Public/Semi-public	0%	25%
Commercial	0%	100%

*The calculation of percentage of each use shall be based on a full block, bounded on all sides by public right-of-way, or on three sides by public right-of-way and the fourth side by water. Each block within the designated mixed use area on the Future Land Use Map shall be tracked separately for purposes of determining compliance with this policy.

The City shall provide specific regulations to address infill situations to ensure that development is appropriate for the neighborhood.

1-2.3 The City will monitor the implementation of the Future Land Use Map to ensure the

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availability of suitable land for utility facilities necessary to support proposed development.

OBJECTIVE 1-3 Compatibility

The City shall ensure compatibility of adjacent uses, including the elimination or reduction of land uses that are inconsistent with the future land use map and character of surrounding areas. Compatibility requirements shall not be construed to require specific similarity of uses and styles, but shall accommodate a wide range of situations in keeping with the development patterns and styles that have occurred over time in the City.

POLICIES:

1-3.1 Compatibility may be ensured through such requirements as buffering; consideration of scale; consideration of textures, colors and architectural styles; and consideration of site design features, including setbacks, heights, lot coverage, and location of site features such as parking, storage buildings, and other accessory uses and buildings. In keeping with the traditions of Cedar Key to encourage and allow a wide range of styles, compatibility shall not be construed to require strict similarity of specific features and styles but shall encourage diversity of style.

1-3.2 Expansion or replacement of land uses which are inconsistent with the Future Land Use Map shall be prohibited.

1-3.3 Regulations for the buffering of incompatible land uses, if appropriate, shall be set forth in the Land Development Code.

1-3.4 Strip commercial, meaning development where individual buildings exceed 60 feet in length measured parallel to State Road 24, will be actively discouraged along State Road 24. Limiting building length along State Road 24 is for the purpose of protecting views of the water.

OBJECTIVE 1-4 Amendments to the Comprehensive Plan

Amendments to the Comprehensive Plan and Future Land Use Map shall ensure the implementation of the City's vision, consistency of the established land use pattern, and protection of the historical integrity of the City, including consideration of the natural environment, aquaculture, residents, and visitors. The following policies will guide decisions regarding amendments to the Plan.

POLICIES:

1-4.1 Proposed amendments shall be evaluated for potential impacts on natural resources and shall demonstrate that the proposed changes will not result in greater adverse impacts to protected resources, aquaculture, and conservation land.

1-4.2 Proposed amendments shall be supportive of, and not detrimental to, the long-term economic health of the City.

1-4.3 Proposed amendments will be evaluated to determine the potential and cumulative impacts of permissible uses on public services and facilities.

1-4.4 Proposed amendments will be evaluated for consistency with the City's vision, including documentation of consistency with the working fishing village character of the City.

1-4.5 The City has identified actions to encourage and accomplish redevelopment in the Community Redevelopment Area Plan. At such time as specific design plans and redevelopment strategies are prepared and approved, the Future Land Use Element will be amended to incorporate provisions of those plans and strategies.

1-4.6 Conservation areas (saltwater marshes, tidal creeks, mangroves, beaches, bays, pine scrub, needlebrush, and temperate hammock) will be preserved in their natural state.

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OBJECTIVE 1-5 Public School Facilities

Provide for public schools through ongoing coordination with the Levy County School Board and the identification of land use categories that allow school locations.

POLICIES:

1-5.1 Public schools shall be permissible in the following land use categories and districts: residential, commercial, and public/semi-public.

1-5.2 Collocation of public schools with other community facilities will be considered when:

A. New or replacement schools are funded in the School Board's Capital Budget and are adjacent to other existing public facilities;

B. New facilities are funded in the City's Capital Improvement Element and can be located adjacent to public schools; and/or

C. Joint use projects are created and implemented.

1-5.3 The City will encourage the collocation of public facilities such as libraries, parks, and community centers with public schools to the extent practical and financially feasible. The following criteria shall be considered for collocating public schools and public facilities:

A. Availability of vacant land of suitable size and dimensions for the collocated public uses;

B. Compatibility of the collocated public uses with the adjacent land uses (ex: noise, glare, debris, dust, traffic, high voltage transmission lines, etc.) and the compatibility of the collocated public uses' future land use designation(s) with the future land use designations of adjacent uses;

C. Availability of infrastructure, public services, (i.e.: roadways, potable water, sanitary

sewer, drainage, and aquifer recharge) and utilities (electricity, gas, etc.);

D. Environmental limitations (i.e.: wetlands, uplands, soil conditions, contaminated sites, etc.)

E. Access approaches, including roadways, bikeways, recreational trails and pedestrian ways;

F. Proximity to residential areas, particularly urban residential areas, and areas of very low, low, and moderate housing; and

G. Demographic base for purposes of encouraging diversity.

1-5.4 The City shall utilize the Interlocal Agreement Steering Committee meetings as the mechanism for coordinating the school collocation planning process.

OBJECTIVE 1-6 Coordination with other Regulatory Agencies

The City shall ensure appropriate intergovernmental coordination mechanisms are in place and implemented to ensure coordination with affected and appropriate governments and agencies to maximize their input into the development process and prevent or mitigate potential adverse impacts of future development and redevelopment.

POLICIES:

1-6.1 Requests for development orders or permits shall be coordinated, as appropriate, with the county, special districts, the regional planning council, the water management district, and federal agencies.

1-6.2 The City shall coordinate with any appropriate resource planning and management plan prepared pursuant to Chapter 380, Florida Statutes, as amended, and approved by the Governor and Cabinet.

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OBJECTIVE 1-7 Electrical Substation

The City shall allow electrical substations as a permitted use by right within all land use classifications, except Conservation future land use category and any Historic Preservation Overlay district as depicted on the Future Land Use Plan Map.

POLICY:

1-7.1 New distribution electric substations should be constructed to the maximum extent practicable, to achieve compatibility with adjacent and surrounding land uses. The following standards intended to balance the need for electricity with land use compatibility shall apply to new distribution electric substations.

A. In nonresidential areas abutting residential areas, a setback of 100 feet between

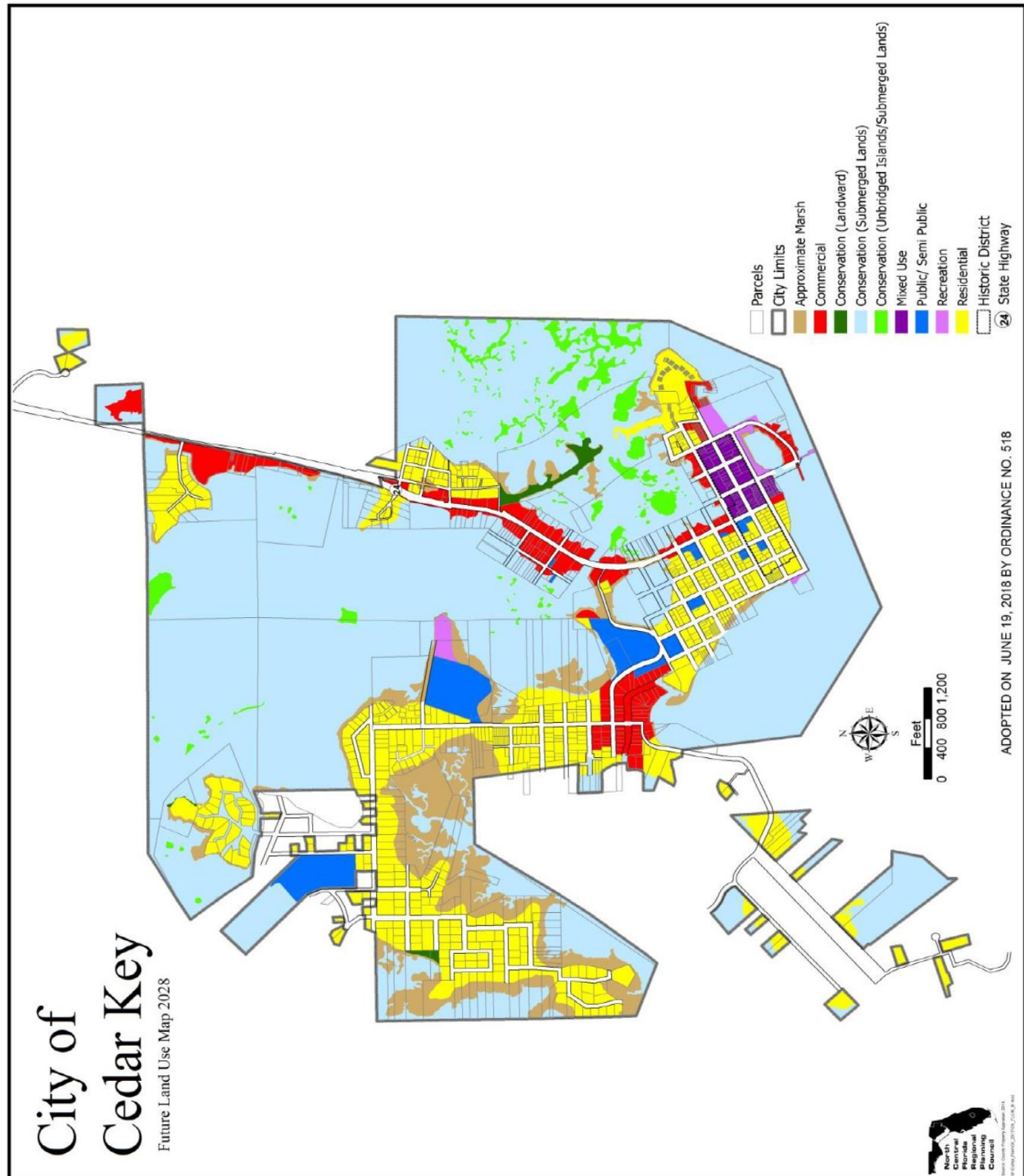
the distribution electric substation property boundary and permanent equipment structures shall be maintained. An open green space shall be formed by installing native landscaping, including trees and shrub material. Substation equipment shall be protected by a security fence.

B. In residential areas, a setback of 100 feet between the distribution electric substation property boundary and permanent equipment structures shall be maintained. An open green space shall be formed by installing native landscaping, including trees and shrub material. Substation equipment shall be protected by a security fence.

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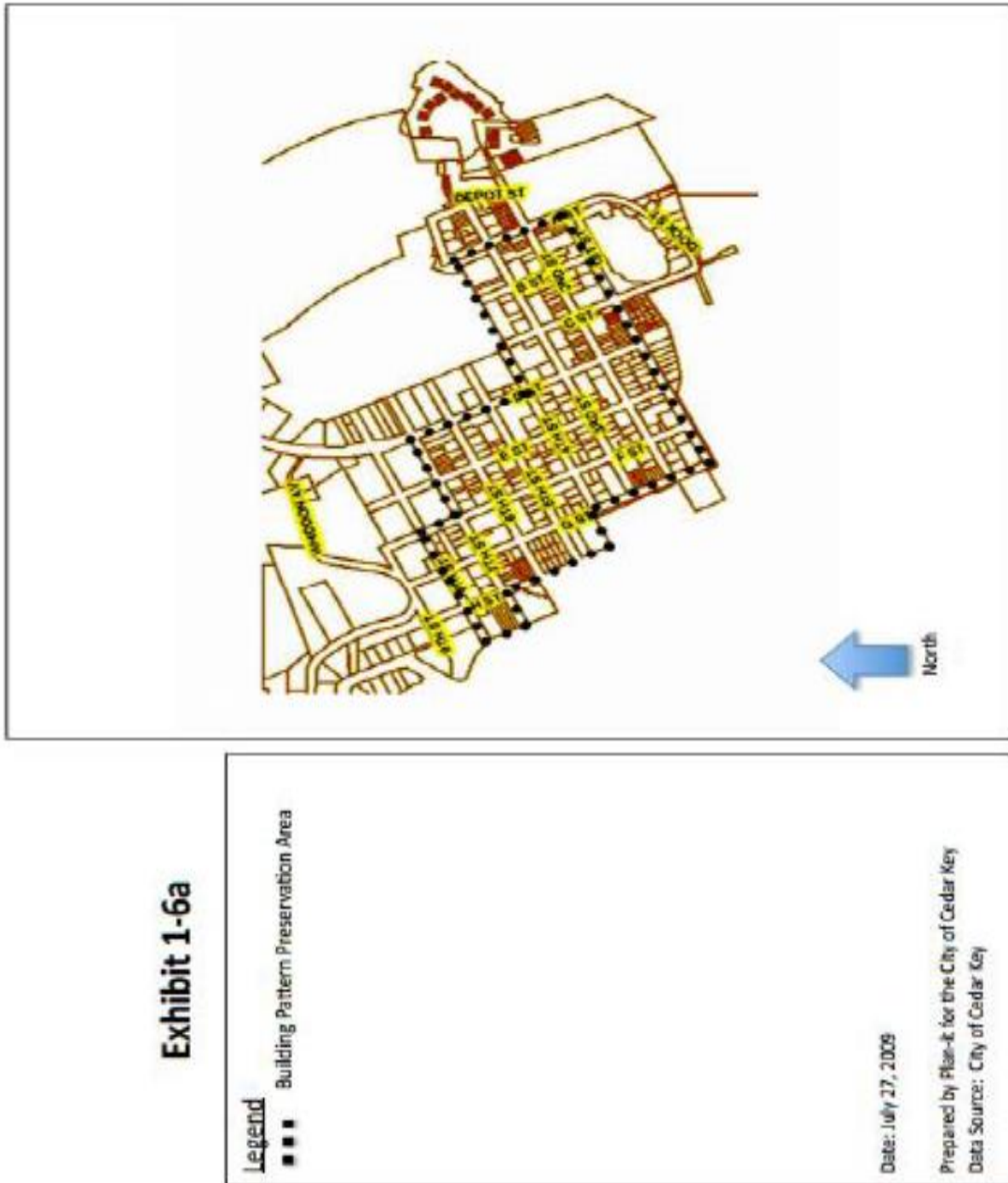
[Exhibit 1-6]

Future Land Use Map 2028



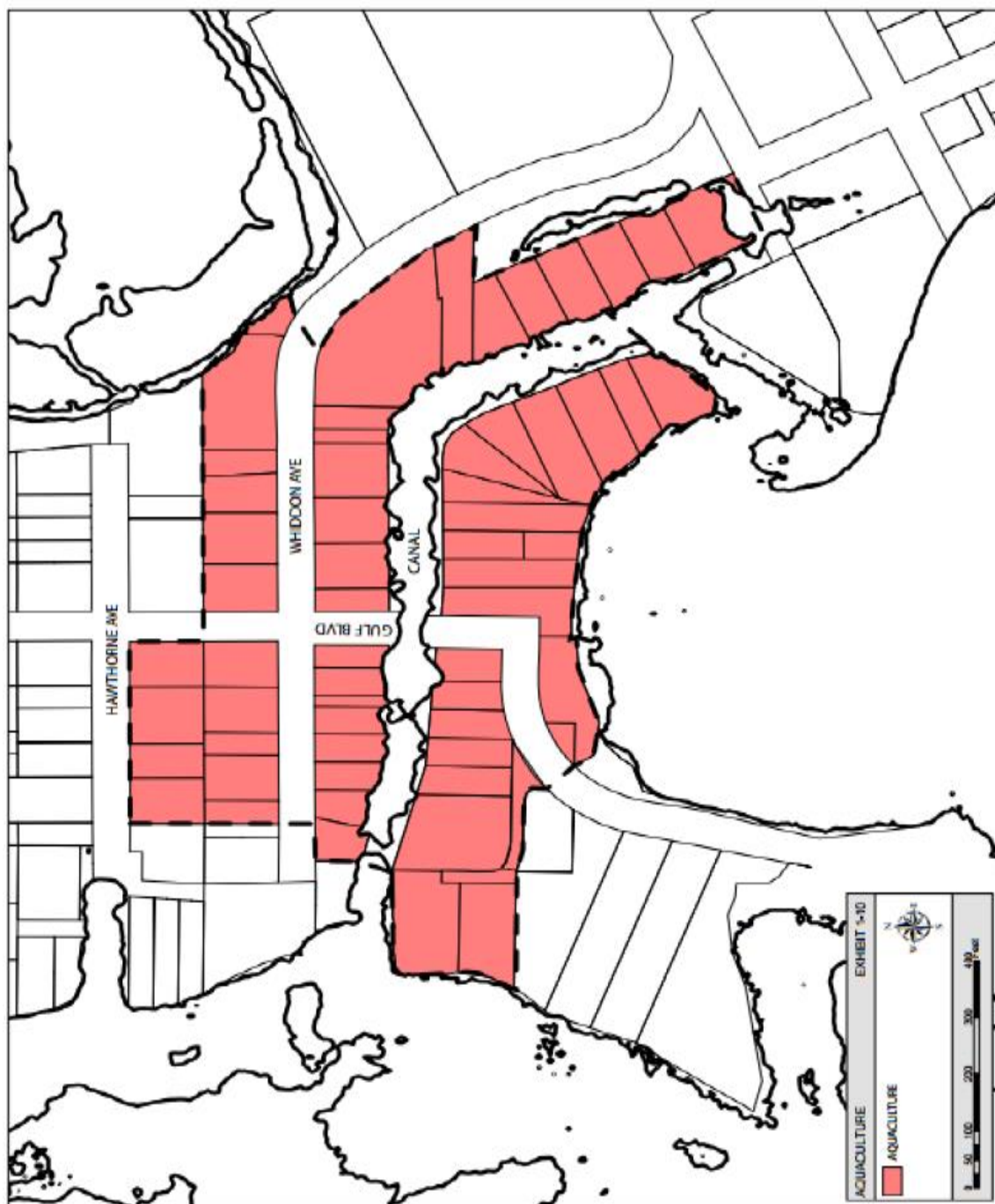
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Exhibit 1-6a



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[Exhibit 1-10]



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ELEMENT 2: TRANSPORTATION GOALS, OBJECTIVES, AND POLICIES

GOAL 2

To maintain the existing City roadway network and parking facilities, correct existing network deficiencies and provide economical, efficient, safe, and environmentally sound transportation facilities to ensure that the City area traffic operates above acceptable levels of service.

OBJECTIVE 2-1

Provide for a safe, convenient, and efficient motorized and non-motorized transportation system, by monitoring Annual Average Daily Traffic of State Road 24, when provided by Florida Department of Transportation or the County, to determine consistency with level of service standards or to identify deficiencies.

POLICIES:

2-1.1 The peak hour level of service standards for roads in the City is C as defined within the most recent version of the Florida Department of Transportation Quality/Level of Service Handbook.

2-1.2 As a general rule connections and access points of driveways and roads to the local highway network will be limited to a minimum spacing as follows (NB: There are no federal highways in the City.):

Functional Class	Minimum Spacing
Arterial	50 feet
Collector	40 feet
Local	20 feet

For State Roads, the number and frequency of connections and access points shall be in

conformance with Chapter 14-97 and 17-97, Florida Administrative Code.

Specific design criteria for turn lanes, aprons, radii, and other design and construction standards will be incorporated into the subdivision regulations, zoning ordinance, and a public works manual.

2-1.3 All development proposals shall address and include provisions for safe and convenient on-site and off-site traffic flow, both pedestrian and vehicular; and shall provide for adequate standards for number of parking spaces, and aisle and space dimensions. Drainage, landscaping, curve radii, and construction materials shall be maintained as part of the subdivision regulations, zoning ordinance and/or public works manual, as appropriate.

2-1.4 The City Commission will consider the establishment of special tax district to provide paved streets in residential areas not subject to subdivision regulations.

2-1.5 The City will continue to allow for shared roadways for bicycle, golf carts (except on State Road 24), and motorized vehicles. Existing sidewalks will be maintained and new sidewalks will be required during new construction.

2-1.6 To the maximum extent feasible, the City will seek county, state, and federal funding for transportation improvements, including resurfacing and construction projects, sign or traffic signal installation, and development of a comprehensive system of bicycle paths and sidewalks.

2-1.7 The Cedar Key Police Department will continue to be responsible for safe evacuation of

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traffic during announced voluntary or mandatory evacuations.

OBJECTIVE 2-2

Exhibit 2-2, Future Traffic Circulation Map, is adopted, to depict the road system. No other facilities are planned in Cedar Key. The City will continue to coordinate land use categories on the Future Land Use Map series with the transportation system on the Future Transportation System map.

POLICIES:

2-2.1 Reserved

2-2.2 No additional roads will be constructed or paved until the existing system of local roads is brought up to acceptable standards.

2-2.3 The City will continue to implement a scheduling and priority system for paving, resurfacing, and general improvements based upon the following factors:

- A. Number of residences and/or business affected,
- B. Present road conditions,
- C. Cost of improvements,
- D. Public demand,
- E. Presence of public utilities,
- F. Projected future traffic volumes,
- G. Mail routes,
- H. Whether the road is connected to county or state roads,
- I. Past and current safety problems,
- J. Whether it is on evacuation route,

K. Whether arterial, collector or local road, and

L. Intergovernmental coordination with the Cedar Key Water and Sewer District County Road Department, and Florida Department of Transportation.

OBJECTIVE 2-3

The City shall continually coordinate the City transportation system with the Florida Department of Transportation. Adopted Work Program and transportation plans of Levy County.

POLICIES:

2-3.1 The state shall be requested to help maintain the existing boat channels in proper condition. Any facilities needed for boat transportation shall be provided, if deemed to be in the overall public interest. These facilities shall be provided in an environmentally sound manner.

2-3.2 Reserved

2-3.3 Efforts to obtain regular trucking service shall be supported by the City.

OBJECTIVE 2-4

The City shall ensure the protection of existing and future rights-of-way from building encroachment through land development regulations.

POLICIES:

2-4.1 The City shall ensure that land use decisions do not have a negative impact on the capacity of State Road 24 through including the following requirements in its land development regulations:

A.. Criteria to be considered in reviewing development applications.

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B. Minimum standards for curb cuts, setbacks, frontage roads, etc., according to functional classification of the highway system.

2-4.2 Development and signs along roads shall be planned and constructed in a manner which does not impede or impair the safe and efficient flow of goods, people, or services through or within the City.

2-4.3 The City shall adopt continue to enforce existing regulations to protect any rights-of-way deemed necessary, require developers to provide well-constructed streets, prevent the installation of signs and buildings which impair the aesthetics and public safety, promote energy efficiency in transportation, and generally ensure that safe and convenient on-site traffic flow will be provided. Traffic plans will include sidewalks for pedestrians, bicycle paths, and parking for motorized and non-motorized vehicles.

2-4.4 The City Commission will regulate subdivisions to provide higher controls on residential development and the roads proposed therein.

2-4.5 The City will continue to maintain the existing system of local roads and to widen, where practical and economically feasible, those pavements which do not meet minimum width standards.

2-4.6 In accordance with Section 163.3180(5)(h)1.c. and 163.3180(5)(h)2. Florida Statutes, as amended, the City shall provide a means by which the landowner will be assessed a proportionate share of the cost of providing the transportation facilities necessary to serve the proposed development. However, the landowner shall not be held responsible for contributing to deficient transportation facilities.

2-4.7 Reserved

2-4.8 No internal combustion engine road traffic vehicles shall be routinely allowed on

unabridged islands except as required for construction and maintenance.

2-4.9 Reserved

2-4.10 Developers or residents of unbridged islands approved for development by the Trustees of the Internal Improvement Fund or Florida Department of Environmental Protection shall be required to provide off-street parking and boat docking facilities in Cedar Key.

2-4.11 Developers shall provide good quality transportation systems involving a minimum of roadway.

OBJECTIVE 2-5

The City shall maintain parking standards to ensure that adequate and appropriately designed facilities are available, while also ensuring that parking requirements do not result in a negative impact on historic resources and the historic district.

POLICIES:

2-5.1 Asphalt, and/or concrete parking lots shall be landscaped to minimize adverse impacts related to aesthetics, energy conservation, safety, and environmental impact.

2-5.2 Reserved

2-5.3 The City will, in conjunction with business operators in the dock area, continue to develop and implement solutions to the parking problem in that area. To the extent feasible and appropriate, the business operators and dock users will be required to finance the solution.

OBJECTIVE 2-6

The City will continue to encourage the continued operation of the George T. Lewis (Cedar Key) Airport at its present location.

POLICIES:

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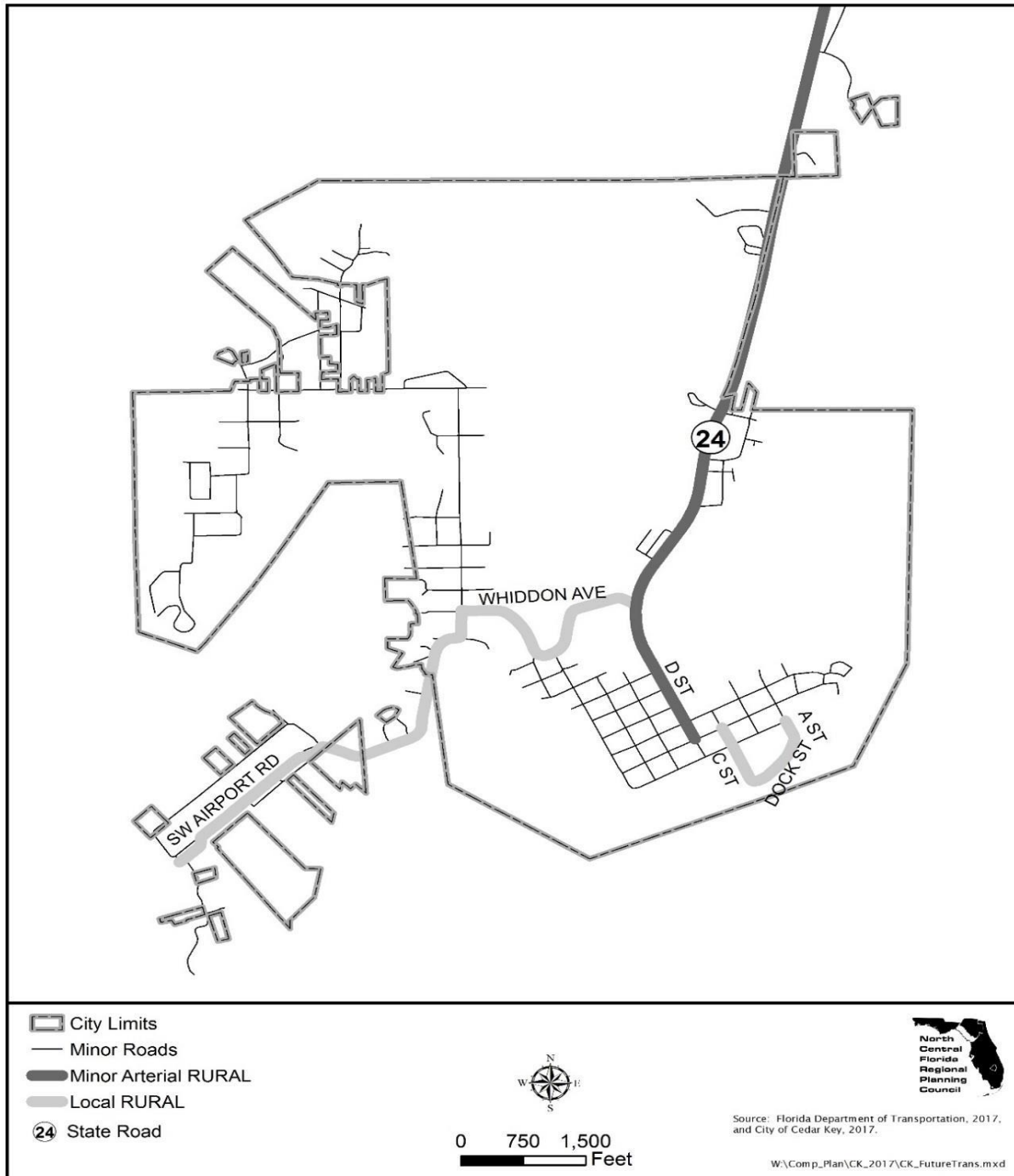
2-6.1 The City endorses and supports the Withlacoochee Regional Planning Council Hurricane Loss Study (1987) finding that this airport is not a major facility and therefore does not require relocation.

2-6.2 In accordance with Objective 2.3 of this element, the City shall coordinate with and

communicate to the Board of County Commissioners this objective to continue the operation of the airport at its present site in order to assure the economic welfare and public convenience benefits to the area.

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[Exhibit 2-2 Future Traffic Circulation Map – 2028 Traffic



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ELEMENT 3: INFRASTRUCTURE GOALS, OBJECTIVES, AND POLICIES SANITARY SEWER SUB-ELEMENT

GOAL 3A

The Cedar Key Water and Sewer District and the City shall protect public health and safety by providing adequate sewer collection, treatment and disposal systems.

OBJECTIVE 3A-1

Deficiencies in sewer treatment and capacity shall be corrected through the following policies.

POLICIES:

3A-1.1 Sewer system improvements are the first priority of the City and Cedar Key Water and Sewer District. Towards that end the City and the Cedar Key Water and Sewer District shall enter into interlocal agreements to assure that the best interest of the citizens are served.

3A-1.1.a Interlocal agreements shall address funding, formal exchange of minutes, appointment of staff and/or elected official liaisons, concurrency management systems, joint or several communications to state or federal agencies and arbitration mechanisms.

3A-1.1.b Upon refusal, rejection, or noncompliance by the Cedar Key Water and Sewer District to abide by the provisions of this plan, the City shall take the following steps:

A. Request an informal mediation hearing through the North Central Florida Regional Planning Council.

B. If not successfully resolved, request a state administrative hearing under the provisions of Chapter 120, Florida Statutes, as amended.

C. If not therein resolved, request the Governor and Cabinet of the State of Florida to declare the district service area an area of critical state concern and to impose on the district all sanctions and interventions necessary to preserve the health and safety of the citizens.

3A-1.2 No additional connections to the sewer facility, which increase capacity demand beyond current levels of service, shall be made unless authorized by Florida Department of Environmental Protection. Current level of service is 89 gallons per day per capita Annual Daily Flow and 83 gallons per day per capita Peak Flow for the Cedar Key Water and Sewer District.

3A-1.3 The Cedar Key Water and Sewer District, City and/or County shall jointly or severally, through interlocal agreement, seek grant funding. The Cedar Key Water and Sewer District shall independently seek loan or grant funding sources as appropriate.

3A-1.4 The Cedar Key Water and Sewer District shall study and recommend to the City any required increases in ad valorem taxes and connection/impact fees needed for debt service and principal repayment and shall dedicate such funds for that purposes.

OBJECTIVE 3A-2

The City and Cedar Key Water and Sewer District shall cooperate in meeting or controlling future sewer treatment needs by jointly preparing annual summaries of capacity and demand.

POLICIES:

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3A-2.1 The City's land development regulations shall reflect the future sewer capacity, septic tank limitations and levels of service needs through its concurrency management system. If necessary, the City shall modify land uses, coverage, and density/intensity standards to assure that growth does not exceed available services or the financial means of the Cedar Key Water and Sewer District to provide those services.

3A-2.2 The Cedar Key Water and Sewer District shall assure compliance with this plan by allocating usage on a time/population basis consistent with availability of service and level of service standards for future growth projections.

3A-2.3 The Cedar Key Water and Sewer District shall expand the wastewater treatment facility to serve future population and shall control future need through water conservation programs, which mitigate expansion requirements beyond the economic feasibility or means of the Cedar Key Water and Sewer District.

OBJECTIVE 3A-3

The City shall not issue any building permit for a development which is not permitted for sewer system connection and shall request that the county sanitation section of County Health Department cease to permit septic tanks in the coastal high hazard area.

POLICIES:

3A-3.1 Reserve capacity allocated to the City shall be based on the proportionate capacity existing at the time of plan adoption: 93 percent.

3A-3.2 The following priorities for new connections shall be followed:

Priority 1. Existing structures in Service Areas

1A. Existing large volume commercial users presently using marginal septic tanks

1B. Existing extremely low-, very low, low and moderate-income residences in a service collection line area and any public use applications

1C. Existing residences on a service connection/collection line

Priority 2. New Construction in Existing Service Areas

2A. New extremely low-, very low, low and moderate income residences under governmental subsidy programs.

2B. New commercial applicants in existing service areas which provide pretreatment.

2C. New residential applicants in existing service collection line areas.

Priority 3. Non-Service Line Areas

3A. New City commercial or residential appellants for connection in an area where no collection lines exist, to the extent that the applicant is willing and able to fund a reasonable portion of the cost of extending collection/connector lines and it is economically feasible for the district to do so.

3B. New applicants in the unincorporated portions of the islands under the conditions cited in Priority 3A, and only to the extent of proportionate capacity allocated to the unincorporated area at the time of plan adoption.

3C. Off-island district service area applicants under the conditions cited in Priority 3A, and only to the extent that large volume applications shall not decrease the level of service required for future use in the City.

Priority 4. High Volume Users in Any Area

4A. Any application for connection which will exceed a volume equivalent to or greater than three percent of projected remaining capacity existing at the time of the application,

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subject to the conditions cited in Priorities 3A and 3C.

3A-3.3 The City and Cedar Key Water and Sewer District shall continue to cooperate in maintaining regulations that require the maximization of the use of existing or expanded facilities through the following criteria:

- A. Ultra-low flow water devices shall be a condition of any new commercial or multi-family residential construction.
- B. Tiered rates or lower rates for ultra-low flow devices shall be adopted by the Cedar Key Water and Sewer District.
- C. Existing large volume commercial or multi-family users shall be required to retrofit to

ultra-low flow devices or surcharge for usage that exceeds the average monthly flow rate for the previous 3-year period.

D. Any large volume commercial or multi-family user who fails to retrofit to ultra-low flow water devices shall be assessed a monthly premium.

E. Detention tanks to regulate flow to the wastewater treatment plant shall be required for any new high volume users.

F. Existing high volume users who install detention, flow-regulating systems shall not be subject to surcharges specified in policy 3A-3.3.4.

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POTABLE WATER SUB-ELEMENT

GOAL 3B

The Cedar Key Water and Sewer District and the City shall provide a safe and healthful public water supply for the citizens of the planning area.

OBJECTIVE 3B-1

The City shall maintain coordination mechanisms that assure the extension of, or increase in, the capacity of potable water facilities that will correct existing facility deficiencies.

POLICIES:

3B-1.1 The Cedar Key Water and Sewer District and City shall execute an interlocal agreement to coordinate provision of water supply.

3B-1.2 The City Commission places top priority upon providing adequate fire flow, and any future improvements to the water distribution system need to address pumping capacity, storage capacity, and reserve (residual) pressure.

3B-1.3 The level of service standards for fire control are:

A.. Pumping Capacity: 200 gpm or 150,000 gallons per 10-hour period

B. Pressure: 50 pounds per square inch static

C. Rating: Insurance Standards Office

D. Storage Capacity: 250,000 gallons

E. Minimum Design Fire Flow: 500 gpm at 20 psi

3B-1.4 The Cedar Key Water and Sewer District should coordinate with the Insurance Services Office and provide the City Commission with a cost estimate for meeting fire flow standards.

3B-1.5 Prior to the approval of a building permit or its functional equivalent, the City shall consult with the Cedar Key Water and Sewer District to determine whether adequate water supplies to serve the new development will be available no later than the anticipated date of issuance of a certificate of occupancy or its functional equivalent.

OBJECTIVE 3B-2

When capacity is reached, the Cedar Key Water and Sewer District should have in place a funding mechanism and design to increase potable water treatment capacity to serve the projected population of the City.

POLICIES:

3B-2.1 All water system improvement activities will be coordinated with the City, the County, and other affected agencies. Reserve capacity allocated to the City shall be based on the proportionate capacity existing at the time of plan adoption: 90 percent.

3B-2.2 The Cedar Key Water and Sewer District, in coordination and cooperation with the City Commission, will examine funding alternatives for maintaining and expanding water supply.

3B-2.3 Funding for the water system improvement projects will (at a minimum) be derived from affected property owners and water system users, the Cedar Key Water and Sewer District, the City, and the County.

3B-2.4 The Cedar Key Water and Sewer District shall provide the City with annual reports on average water use.

3B-2.5 The Cedar Key Water and Sewer District engineer will be asked to provide the Cedar Key Water and Sewer District with cost estimates for

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preliminary engineering, design and construction.

3B-2.6 Future developments will provide 12-inch water lines, or larger as required by the development. In addition to impact fees, developers will be required to fund any off-site improvements necessary to provide the needed level of service to the development.

3B-2.7 Local units of government, i.e., City and County officials, will be represented on the governing board of the Cedar Key Water and Sewer District.

OBJECTIVE 3B-3

The Cedar Key Water and Sewer District and City shall continue to cooperate in adopting, evaluating, and maintaining policies that maximize the use of existing facilities within the City.

POLICIES:

3B-3.1 Cedar Key Water and Sewer District policies shall provide water service only to areas that have been annexed.

3B-3.2 City and Cedar Key Water and Sewer District policies shall give priority to

development proposed as infill within the planning area over any new extensions of water lines, and extensions of water lines shall be at the expense of the developers.

OBJECTIVE 3B-4

The City and the Cedar Key Water and Sewer District shall continue to coordinate in the implementation of water conservation objectives.

POLICIES:

3B-4.1 The Cedar Key Water and Sewer District is responsible for promoting water conservation by municipal customers, and for coordinating with the Suwannee River Management District to comply with its conservation policies.

3B-4.2 The minimum design flow level of service standard for water is 200 gallons per capita per day. Design standards for fire flow are specified in policy 3B-1.3.

3B-4.3 The City shall maintain a landscape ordinance which encourages the use and preservation of native vegetation as a means to decrease the need for irrigation.

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SOLID WASTE SUB-ELEMENT

GOAL 3C

The City shall provide for the collection and disposal of solid wastes in the City in a manner that protects the well-being of the community.

OBJECTIVE 3C-1

The City shall prepare and implement a recycling program to reduce the amount of solid waste disposed in landfills by 30 percent of the City's volume.

POLICIES:

3C-1.1 The City Commission will require compliance by all City residences, commercial and industrial establishments with the City-provided disposal service.

3C-1.2 The City Commission will continue to coordinate with the Board of County Commissioners in regard to landfill operations, recycling programs, and waste reduction efforts.

3C-1.3 The City Commission will evaluate means of financing future expansions in service and capital equipment to meet waste reduction goals.

OBJECTIVE 3C-2

The City will coordinate the extension of, or increase in, the capacity of its garbage collection to meet future needs.

POLICIES:

3C-2.1 The City hereby adopts the following per capita daily levels of service and mechanism for coordinating with the County regarding its landfill.

3C-2.2 The City hereby adopts the following per capita daily levels of service and reduction goals: 7.50 lb/person/day.

OBJECTIVE 3C-3

Maintain a formal intergovernmental coordination agreement that establishes a mechanism for coordinating with the County regarding its landfill.

POLICY:

3C-3.1 The Commissioner/Department Head assigned as such will be the liaison to coordinate solid waste disposal with the County.

OBJECTIVE 3C-4

Continue to utilize the single county landfill rather than develop a separate municipal landfill.

POLICY:

3C-4.1 Coordinating with the County to provide for future solid waste facility needs is the third priority of the City.

OBJECTIVE 3C-5

The City shall maintain a small quantity hazardous waste disposal program.

POLICIES:

3C-5.1 The City shall prohibit the disposal of batteries, lead-based paints, solvents, used petroleum products, and other small quantity hazardous waste in the regular waste collection system.

3C-5.2 The City shall provide for special free disposal of small quantity hazardous waste on a City-wide basis not less than two times each year. Billing notices and newspaper advertisements shall advise of pickup dates scheduled.

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DRAINAGE SUB-ELEMENT

GOAL 3D

The City shall provide and maintain adequate drainage facilities for Cedar Key.

OBJECTIVE 3D-1

The City shall request the assistance and participation of the Suwannee River Water Management District in the maintenance of a comprehensive stormwater management plan. The plan shall establish a 5-year work schedule with program priorities and a funding schedule.

POLICIES:

3D-1.1 The existing drainage system will continue to be maintained. Areas of ponding shall be corrected and priorities for correcting existing facility deficiencies and expansion to meet future needs, at the adopted level of service standards for water quality and quantity, shall be included in the stormwater management plan.

3D-1.1.a Funding of the system will be through state or federal grants to correct existing deficiencies and by property owners and developers to meet future needs. The City shall continue to fund system maintenance.

3D-1.2 Natural vegetation shall be preserved to the maximum extent possible to provide natural filtration of run-off.

OBJECTIVE 3D-2

The City will coordinate the extension of, or increase in capacity of drainage facilities through land development regulations consistent with Rules 62-330, 40B-4 and 40B-400, Florida Administrative Code.

POLICIES:

3D-2.1 The City hereby adopts the following level of service standards for drainage:

A. Conveyance systems -All drainage swales and ditches shall be designed to convey the runoff generated from a 10-year, 24-hour storm event. For local roadways, culverts and cross drains shall convey the runoff from a 10-year, 24-hour storm event; for state roadways, culverts and cross drains shall convey the runoff from a 25-year, 24-hour storm event, at a minimum.

B. All new development and redevelopment shall conform to the following level of service standards (redevelopment shall be defined as projects where the estimated value of construction exceeds 50 percent of the assessed value of the improvements on the property as shown on the tax assessment roll at the time of construction):

1. All residential development with less than 10,000 square feet of impervious surface and which does not otherwise require compliance with the Suwannee River Water Management District or the Florida Department of Environmental Regulation permitting rules, shall meet the following standards:

i. Lots shall be graded in such a manner as to provide on-site retention volume equivalent to 3/4" of depth over the entire site or lot.

ii. Impervious surface ratios shall be limited to 40 percent.

ii. Erosion and sediment control such as staked straw bales or fabric silt fences shall be used during the construction to prevent transportation of soil or sediment off-site.

2. All other development and redevelopment, not described in B.1 above, shall meet, at a minimum, the following standards as well as any additional requirements of Chapter 40B-4, Florida Administrative Code applicable to the subject project:

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i. Water Quantity: Post-development run-off shall not exceed peak predevelopment run-off rates for a 25-year, 24-hour design storm event. All stormwater facilities shall meet the design and performance standards as established in Chapter 40B-4, Florida Administrative Code. It is intended that all standards in this citation are to apply to all new development and redevelopment and that any exemptions or exceptions in Chapter 40B-4, Florida Administrative Code, including project size thresholds, are not applicable.

ii. Water Quality: Treatment of the first 3/4 inch of run-off on-site in accordance with Chapter 62-330, 40B-4 and 40B-400, Florida Administrative Code, or the runoff from the first 1 1/2 inches of rainfall consistent with design criteria for Florida Outstanding Water and consistent with the requirements of Chapter 40B-4, Florida Administrative Code. Stormwater discharge facilities shall be designed so as to not lower receiving water quality or degrade the receiving water body below the minimum conditions necessary to assure the suitability of water for the designated use of its classification. It is intended that all standards in these citations are to apply to all new development and redevelopment and that any exemptions or exceptions in these citations, including project size thresholds, are not applicable.

3D-2.2 New development and redevelopment shall be required to design for and accommodate the adopted level of service standard and shall control any increase in run-off above pre-development conditions. Stormwater quality and ambient water quality shall be consistent with Chapter 373, Florida Statutes, as amended, and rules of the Department of Environmental Regulation and Suwannee River Water Management District.

OBJECTIVE 3D-3

The City shall require developers to protect the functions of natural drainage features.

POLICIES:

3D-3.1 The functions of natural drainage features shall be protected through regulations requiring the minimization of lot cover, requiring coastal setbacks, providing for natural filtration through vegetative cover buffer zones, requiring porous pavements, and mitigating any increase in predevelopment runoff levels through swales, lot depressions, or best management practices to slow or reduce runoff.

3D-3.2 The City will consider developing a comprehensive storm drainage system in the more densely developed portions of the area. Funding for this system should, at a minimum, be derived from adjacent property owners, the city, and the county.

3D-3.3 New developments shall provide for on-site retention of stormwater run-off in amounts greater than those levels existing before development.

3D-3.4 Land development regulations will define lot coverage and structure density, plus other improvements needed to maintain aquifer recharge.

3D-3.5 The City will support or initiate efforts to cease the disposal of stormwater runoff into coastal waters without pre-treatment to remove pollutants.

3D-3.6 The primary means of treating stormwater run-off shall be through natural filtration in vegetative covers.

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NATURAL GROUNDWATER AQUIFER RECHARGE SUB-ELEMENT

GOAL 3E

The City, in cooperation with the Cedar Key Water and Sewer District, shall continue to provide a safe and adequate public water supply for the citizens of the City.

OBJECTIVE 3E-1

The City and the Cedar Key Water and Sewer District shall protect human health and safety through assurance that a public water supply is available.

POLICIES:

3E-2.1 The City and the Cedar Key Water and Sewer District shall review and comment on County plans regarding City water supplies under County jurisdiction.

3E-2.2 The County will be requested to limit growth in the immediate aquifer recharge area of the City/Cedar Key Water and Sewer District water supply.

OBJECTIVE 3E-2

The function of any future groundwater aquifer recharge area identified within the planning area will be protected upon identification.

POLICIES:

3E-2.1 Any identified recharge area shall be designated by the City as an open space, conservation, or preservation area.

3E-2.2 Identification of recharge areas shall be a function of the Suwannee River Water Management District.

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ELEMENT 4: CONSERVATION & COASTAL MANAGEMENT GOALS, OBJECTIVES, AND POLICIES

GOAL 4

To conserve, protect, restore and use the natural resources of the City in a manner which will sustain the working/fishing village character and shoreline of the City for future generations and to protect human life, manage and protect coastal resources, limit the use of public funds for private developments within Coastal High Hazard Area and restrict development which has a negative impact on coastal zones.

OBJECTIVE 4-1 Air Quality

The City will maintain air quality that meets or exceeds minimum air quality standards in accordance with state and federal standards.

POLICIES:

4-1.1 The City will maintain an ordinance which incorporates, meets, or exceeds minimum air quality standards at state and federal levels.

4-1.2 Industrial land use shall be located where it minimizes impact on current air quality standards.

OBJECTIVE 4-2 Water Quality and Quantity

The City will conserve, protect, and appropriately use groundwater and surface water resources in a manner that does not degrade the quality or quantity of those resources.

POLICIES:

4-2.1 The City will make provisions to restrict any activities and land uses known to adversely affect the quality and quantity of water sources: including natural groundwater recharge areas and surface waters.

4-2.2 Land uses which require large water withdrawals from the Floridan aquifer will be carefully weighed against public benefit before approval is granted by the City or district.

4-2.3 The City shall review the reports of, the Florida Department of Environmental Protection, the Suwannee River Water Management District, the Florida Department of Agriculture and Consumer Services, and the County regarding monitoring groundwater quality and levels.

4-2.4 Where public acquisition of privately-owned coastal properties would help protect adjacent surface waters from stormwater runoff and other negative impacts resulting from development that could otherwise occur, public acquisition of the sites shall be pursued.

4-2.5 The City shall protect the quality of all surface waters, including designated Outstanding Florida Waters, through the regulation of all new development.

4-2.6 The Land Development Code shall provide for the reduction or elimination of practices which degrade the quality of estuarine and coastal waters.

4-2.7 All development or redevelopment shall be required to provide connection to the central sewer treatment facility meeting effluent quality standards and disposal requirements of Florida Department of Environmental Protection.

4-2.8 Low impact development practices shall to the extent practicable and allowed by the Suwannee River Water Management District be promoted by the implementing land development regulations. Low impact

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development is intended to promote development practices that maintain or replicate the pre-development hydrologic regime.

All development approved by the City that implements low impact development stormwater management techniques shall provide the City with proof that a responsible entity, such as a home owners association or Community Development District, will permanently provide for proper maintenance of the low impact development facilities. Low impact development is a site design strategy for maintaining or replicating the pre-development hydrologic regime through the use of design techniques that create a functionally equivalent hydrologic landscape. Hydrologic functions of storage, infiltration, and ground water recharge, plus discharge volume and frequency are maintained by integrated and distributed micro-scale stormwater retention and detention areas, reduction of impervious surfaces, and the lengthening of flow paths and runoff time. Other low impact development strategies include, but are not limited to, the preservation/protection of environmentally sensitive site features such as wetlands, wetland buffers and flood plains. The City shall adopt Land Development Regulations promoting the use of appropriate practices. Such practices may include, but are not limited to:

- A. Clustering of development.
- B. Bioretention areas or ‘rain gardens.’
- C. Grass swales
- D. Permeable pavements
- E. Redirecting rooftop runoff to functional landscape areas, rain barrels or cisterns.
- F. Narrowing street widths to the minimum width required to support traffic, on-street

parking where appropriate, and emergency vehicle access.

- G. Avoidance of curb and gutter where appropriate.
- H. Minimization of impervious surfaces through use of shared driveways and parking lots.
- I. Reduction in impervious driveways through reduced building setbacks.
- J. Reduction in street paving by providing reduced street frontages for lots.
- K. Permanent educational programs to ensure that future owners and residents of the site have an opportunity to fully understand the purpose, function, and maintenance of each low impact development component.
- L. Limitations on the amount of turf allowed within the site and standards for implementation of best management practices for such turf, including minimum fertilizer applications.
- M. Reuse of stormwater.
- N. Use of “Florida Friendly” plant species and preferably native species for landscaping.
- O. Use of low volume irrigation technologies and soil moisture sensors if potable water supply is used for irrigation.

OBJECTIVE 4-3 Soils, Native Vegetative Communities, and Wetlands

The City shall protect environmentally sensitive land, soils, and native vegetative communities, including wetlands.

POLICIES:

4-3.1 Any area identified as a “natural reservation” in the future will be designated a conservation area by amendment of this plan. A natural reservation is an area designated for

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conservation purposes, and operated by contractual agreement with or managed by a federal, state, regional or local government or non-profit agency such as national parks, state parks, lands purchased under the Save Our Coast, Conservation and Recreation Lands or Save Our Rivers programs, sanctuaries, preserves, monuments, archaeological sites, historic sites, wildlife management areas, national seashores, and Outstanding Florida Waters. This definition does not include privately- owned land managed by a state agency on either a voluntary or a short-term contractual basis.

4-3.2 The City shall, protect native vegetation, including but not limited to trees, mangroves, and marsh grasses, and cooperate with Levy County in identifying, conserving, protecting or preserving unique vegetative communities in contiguous areas to assure that development does not degrade the environment, impair aesthetics, damage coastal resources or deny reasonable property rights and uses.

4-3.3 The City shall discourage the use of non-native vegetation. Invasive exotic plant species (such as the Brazilian Pepper) which compete with native vegetation, shall be required to be removed from development sites and replaced with native plant species to prevent soil erosion and encourage habitat that is supportive of native plant and animal species.

4-3.4 The City shall establish a permitting requirement for the removal of protected native vegetation. A permit may only be issued if determined necessary to allow access to the water and may only allow removal of the minimum needed for water access. In addition to those species listed in Rule 5B-40, Florida Administrative Code, "Regulated Plant Index", protected native vegetation shall include smooth cordgrass, black needlerush, saltgrass, glasswort, and saltwort.

4-3.5 Native vegetation within 50 feet of wetlands or waters contiguous to shellfish, harvesting areas, stone crab breeding areas, American Bald Eagle nesting grounds or Outstanding Florida Waters or aquatic preserves shall be preserved. Docks or walkways to allow access to water or wetlands may be permitted consistent with Florida Department of Environmental Protection guidelines.

4-3.6 Not less than 25 percent of on-site native vegetation, exclusive of wetlands or areas seaward of the coastal construction setback line shall be preserved. Upland vegetation communities and wildlife habitat shall be identified and a plan for protection prepared.

4-3.7 When needed to stabilize the shoreline, minimize flood or storm damage, filter non-point source pollutants, and provide wetlands wildlife habitat, proposed shoreline development and redevelopment in areas that lack wetland vegetation shall be planted with native wetland vegetation to create the required native vegetation buffer zone. If site elevation is too high for wetland vegetation, then a buffer zone of upland plants shall be required.

4-3.8 The City shall maintain regulations to protect wetlands, as identified by establishing a jurisdictional line according to State law, from physical or hydrologic alteration and to ensure that:

A. Site plans for new development identify the location and extent of wetlands on the property.

B. Site plans provide measures to assure that normal flows and quality of water will be provided to maintain wetlands after development.

C. Where alteration of wetlands is permissible as set forth in Policy 4-3.9, site plans shall provide for restoration of disturbed

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wetlands or the creation of new wetlands to mitigate any wetland destruction.

D. Where wetland mitigation is required, mitigation activities shall be provided within the City limits.

4-3.9 Development activity shall not be authorized in wetlands or wetland buffers except when all of the following conditions are met:

A. The applicant has taken every reasonable step to avoid adverse impact to the wetland and buffer; and

B. The applicant has taken every reasonable step to minimize adverse impact to the wetland and buffer; and

C. The applicant has provided appropriate mitigation for adverse impact to the wetland and buffer; and

D. The applicant shows that one of the following circumstances applies:

1. Minimal impact activity; or

2. The development activity is a water dependent activity and the public benefit of the activity substantially outweighs the adverse environmental effects.; or

3. All economically beneficial or productive use of the property is otherwise precluded.

E. Notwithstanding the above, development activity may be allowed in any isolated poor quality wetland that is less than 0.5 acre in size, provided that the development activity is allowed by the rules of the Suwannee River Water Management District.

4-3.9a The City shall protect wetlands through the establishment of a minimum 15-foot, average 25-foot wetland buffer.

4-3.10 Mangrove, wetland, and seagrass areas within the City shall be deemed environmentally

sensitive, in recognition of their many natural functions and values, and, to further the public interest, shall be protected from incompatible land uses. The City shall afford protection to all these resources regardless of size.

4-3.11 The location of mangrove and wetland areas shall be identified at the time of site development review on a site-by-site basis.

4-3.12 Permit applications for elevated piers, docks, and walkways of no more than four feet in width within mangrove, seagrass and wetland areas shall comply with the following:

A. All piers, docks and walkways shall be constructed on pilings.

B. No pier, dock, or walkway shall be located on submerged land, which is vegetated with seagrasses except as is necessary to reach navigable waters. The docking terminus shall not be located over a seagrass bed.

C. A permit or letter of exemption from Florida Department of Environmental Protection.

4-3.13 The City shall consider topographic, hydrologic, and vegetative cover factors affecting soil erosion in the site plan review of proposed development.

OBJECTIVE 4-4 Fisheries, Marine Habitat, Wildlife & Wildlife Habitat

The City shall conserve, provide for appropriate use of, and protect fisheries, marine habitat, wildlife, and wildlife habitat with special attention to the continued viability of fisheries of economic importance to the area, including shellfish and crustaceans and their habitat.

POLICIES:

4-4.1 The Land Development Code shall include provisions to protect sensitive coastal areas and saltmarshes in the area. Such provisions may:

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A. Require clustering of dwelling units away from sensitive portions of ecological communities.

B. Discourage the fragmentation of sensitive coastal areas and saltmarshes by limiting use to water-dependent uses, prohibiting dredge and fill activities, and providing for restoration of wetlands.

C. Require buffering of sensitive ecological areas through setback regulations, limitations on land area coverage and density-intensity standards which decrease population concentrations in sensitive areas.

4-4.2 All ecological communities and wildlife, especially endangered, threatened or species of special concerns, shall be identified, managed and protected by:

A. Directing development away from sensitive ecological communities.

B. Limiting densities or intensities of land use in sensitive areas.

C. Controlling land uses which would fragment or divide sensitive areas.

4-4.3 The City shall protect endangered and threatened species and ecologically vulnerable areas through the use of, but not limited to:

A. Conservation easements,

B. Land development regulations,

C. Fee simple acquisition through private, state, or federal grants or voter referendum for tax funds,

D. Any other funding or regulatory mechanisms consistent with local, state, and federal laws.

4-4.4 The habitat of any endangered species shall be totally preserved in the manner prescribed in Policy 4-4.3. Only development which increases the carrying capacity of the

habitat will be permitted in accordance with a management plan endorsed by the Florida Department of Environmental Protection or the Fish and Wildlife Conservation Commission.

4-4.5 Regulations to protect manatees shall include boating speed limits and marina siting criteria in state-designated critical manatee habitats.

OBJECTIVE 4-5 Protection of Unbridged Coastal Islands

The City shall not allow any future development on off-shore islands, as development would be inconsistent with natural processes and constraints and would infringe upon overall public welfare and/or natural environment.

POLICIES:

4-5.1 Development of unbridged coastal islands shall not be allowed.

4-5.2 No public funds shall be used to provide services or infrastructure which support development of unbridged coastal islands. Prohibited public fund uses shall include, but shall not be limited to sewer, water or drainage systems; roads, parking or other transportation systems; recreational, marina or docking facilities; on-site solid waste collection and on-site fire or police protection.

OBJECTIVE 4-6 Dredge and Fill Activities

The City shall limit dredge and fill activities in the coastal area to maintenance dredging. Additional activities should occur only under circumstances supported by the Suwannee River Water Management District, the United States Army Corps of Engineers, and the Florida Department of Environmental Protection.

POLICY:

4-6.1 The City will minimize dredge and fill activities within the City and insure that necessary activities (such as the maintenance of

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navigable water channels and the City marina) pose the least possible adverse environmental, social, and economic impacts.

OBJECTIVE 4-7 Water - Dependent & Water – Related Uses

The City shall provide that shoreline areas designated for commercial use shall give priority to water-dependent uses over water-related uses and shall limit future development of remaining undeveloped shoreline to water-dependent, water-related or residential uses.

POLICIES:

4-7.1 Development permitted within the remaining undeveloped commercial shoreline area shall be limited to the following as an adopted priority:

- A. Water-Dependent Users
- B. Aquaculture & Commercial Fishing.
- C. Marinas.
- D. Other public use water-oriented recreation.
- E. Water-Related Uses
- F. Commercial establishments that supply fishing or marine supplies or services directly associated with water-dependent uses.
- G. Tourism-related business which provides user access to water-dependent uses.
- H. Tourism-related business which provides users with scenic water views as an integral part of the business activity (i.e., restaurants, motels).

4-7.2 Shoreline use outside of commercial areas shall be restricted to conservation, recreation, or low-density residential uses.

4-7.3 Marinas and multislip docking facilities allowed as part of a water-dependent or water-

related use shall meet the following criteria and requirements:

- A. Location of the marina shall not cause an expansion of the area closed to shellfish harvesting as established by the Florida Department of Agriculture, Shellfish Harvesting Classification Maps, revised September 5, 2005.
- B. A manatee protection plan.
- C. Adequate depth for ingress and egress without disturbing productive or vegetated bottoms.
- D. Adequate parking on existing uplands.
- E. A stormwater management plan.
- F. A documented spill containment or clean-up plan.
- G. Sewage connections for live-aboard uses.
- H. Sufficient distance from existing facilities to avoid cumulative impacts.

4-7.4 Land Development Codes will designate the appropriate locational and performance standards for water-related commercial and recreational facilities, to include but not be limited to, setbacks and lot coverage.

OBJECTIVE 4-8 Shoreline Protection

Protection of the shoreline shall be achieved by establishing a coastal construction setback line, adopting coastal construction regulations and standards, limiting the construction of seawalls, and initiating beach and marsh restoration studies and plans.

POLICIES:

4-8.1 A minimum coastal construction setback line of 50 feet from the mean high water line will be maintained on any land adjoining all surface waters. In addition to the 50-foot setback line, an additional setback may be required to

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protect water-dependent vegetation located landward of the coastal construction setback line. An area 10 feet landward of the 50-setback line will be required when water-dependent vegetation is present. Bona fide aquaculture and commercial fishing operations, docks, and accessways will be exempt from this setback requirement. The coastal construction setback line may be interpreted as the average distance from the mean high water line to the side(s) of enclosed structures which face the water.

4-8.1a The mean high water line shall be established at the time of proposed development or redevelopment. Such line shall be depicted on a recent survey of the proposed development parcel. The survey shall be consistent with the requirements of the Coastal Mapping Act as set forth in Florida Statutes.

4-8.2 The Land Development Code may permit hardship variances, including zero setback from road frontage, in those instances where application of the coastal construction setback line would deny any use of lands platted before adoption of this plan and which would constitute a "taking."

4-8.3 The use of vertical coastal armoring shall be limited to the protection of existing endangered structures identified by a certified engineering plan or to approved beach restoration or preservation structures. Rip rap shall be placed at the toe of all replaced bulkheads and seawalls. Coastal armoring is a manmade structure designed to prevent erosion or to protect structures from the effects of coastal wave and current action; examples include seawalls, bulkheads, revetments, riprap and retaining walls. Vertical coastal armoring has a water ward slope steeper than 4 to 1.

4-8.4 Shoreline modification and construction will be regulated through appropriate City ordinances and regulations to protect water quality, natural habitats and adjacent shore

areas. These regulations may include, but not be limited to: storm-water run-off and retention standards; limitations on shoreline modifications; minimum setbacks; requirements for the use of docks and piers for shallow water access rather than dredging and filling, etc.

4-8.5 The City shall, where appropriate, consult federal, state, and county agencies in developing and implementing comprehensive plans for stabilization, modification, or restoration of coastal shorelines.

4-8.6 Proposed shoreline uses shall meet the following criteria:

- A. The proposed land use must be appropriate considering all adjoining land uses.
- B. Upland support services shall be available and adequate to serve the proposed use at or above adopted level of service standards.
- C. A hurricane contingency plan shall be provided for City non-residential use.
- D. Ownership shall be documented.
- E. An environmental protection plan shall be provided, documenting pre-construction, construction, and post-construction protection of the water quality, water depth, marshes, and marine ecosystems; and, including a mitigation plan to restore in the event of damage or destruction to the coastal environment.
- F. Public use or access shall be required if the City determines that it would be in the public interest to do so and that requiring public use or access meets the rough proportionality test set out in *Dolan v. City of Tigard*, 512 U.S. 374 (1994).

4-8.7 Where natural environments have been degraded, especially shoreline environments, the City shall take steps to promote the restoration and enhancement of these areas through such measures as preparation of resource

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management plans and cooperating with other private and/or governmental agencies. Where such sites are privately owned, public acquisition shall be considered.

4-8.8 Highest priority for public acquisition shall be given to coastal properties the purchase of which would promote the following goals:

- A. The provision of public access to the waterfront, especially to public waterbodies, beaches, and other protected shoreline areas.
- B. The provision of public outdoor recreation activities including nature trails or boardwalks, waterway trails, interpretive displays, educational programs, wildlife observation areas, picnic areas, and the like.
- C. The preservation of historical or archeological sites.
- D. The preservation of native upland, wetland, and aquatic vegetation.
- E. The preservation of listed animal species or the habitat of listed animal species.
- F. The enhancement or restoration of shoreline ecosystems.
- G. The protection or improvement of surface water quality.
- H. The linking together or adding to other publicly owned lands.
- I. The creation of a new greenway, or the addition to an existing greenway.
- J. The prevention of development that might be harmful to the marine environment.
- K. The furtherance of resource protection plans of other governmental agencies such as aquatic preserve management plans, Surface Water Improvement and Management plans, habitat conservation plans, manatee protection plans, and estuarine sanctuary plans.

4-8.9 Any public or private individual, group, firm, or agency that disturbs or degrades the natural resources of the shoreline of the City without proper permits shall fully restore them to their original condition. This shall be regulated by City and/or local ordinances and/or state and federal rules.

4-8.10 The City shall develop land development regulations that promote leaving shorelines in their natural state and where that is not practicable, support the use of living shoreline practices, where appropriate, as the preferred method of shoreline management. Living shorelines involve the use of nonstructural shoreline stabilization measures and habitat restoration techniques to reinforce the shoreline, minimize coastal erosion, and maintain coastal processes while protecting, restoring, enhancing, and creating natural habitat. Implementing land development regulations should:

- A. promote practices that minimize or eliminate the use of vertical hard materials as typically used in bulkhead and seawall construction;
- B. maximize the use of soft alternatives such as native vegetation plantings and local, naturally occurring materials;
- C. provide incentives to promote either leaving shorelines in their natural state or the use of living shoreline practices;
- D. encourage the use of certified living shoreline contractors, if and when a state or national certification program is created.

OBJECTIVE 4-9 Coastal High Hazard Area

The City shall limit population concentrations to that which is shown on the Future Land Use Map in the Coastal High Hazard Area and shall reduce hazards to life and property.

POLICY:

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4.9-1 The City hereby designates as Coastal High Hazard Area those areas identified as the area below the elevation of the category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes computerized storm surge model and will direct population concentrations away from these areas and relocate or replace non-essential infrastructure away from these areas. To the extent practicable, the City will limit public expenditures that subsidize development within the Coastal High Hazard Area.

OBJECTIVE 4-10 Hurricane Evacuation

Evacuation time for a category three storm or greater shall be clearance of the islands seaward of No. 4 bridge within eight hours of an evacuation order.

POLICIES:

4-10.1 The City will provide a disaster preparedness plan that will be implemented along the City shoreline in the event of a hurricane or other natural or man-induced disaster.

4-10.2 A plan for the expeditious, effective, and coordinated efforts of federal, state, and local agencies describing those actions to be taken in the identification, organization, and mobilization of resources necessary to assist City residents before, during, and after a natural disaster. This plan will be updated and implemented by the City Commission as necessary. Said plan is hereby adopted as a part of the City Comprehensive Plan by reference.

4-10.3 A hurricane evacuation time of eight hours shall be considered an additional Level of Service standard and the specific and cumulative impacts of development on evacuation time shall be considered before issuing development permits. Fifty percent of Functional Population shall be the base criteria for estimating vehicle evacuation needs.

OBJECTIVE 4-11 Post – Hurricane Recovery & Redevelopment

Upon plan adoption, the City/County Local Peacetime Emergency Plan shall provide for immediate response to post-hurricane conditions and shall establish priorities for recovery and redevelopment consistent with this plan.

POLICIES:

4-11.1 The City Commissioners, along with the City and the County Building Official, the County Emergency Manager, and the Chair of the Board of County Commissioners, will act as a redevelopment task force and shall hear and decide all requests for immediate post-disaster repair needed to protect public health and safety.

4-11.2 Immediate post-hurricane cleanup and repairs required to protect public health and safety shall be the first priority and shall include:

- A. Repairs to the sewage, potable water, and public utility facilities.
- B. Removal of debris and an assessment of the safety of roads, bridges, and habitable structures and posting of warning notices on substantially damaged structures.

4-11.3 Permitting for long-term redevelopment other than for minor repairs to make structures habitable, shall be deferred until identified priorities have been met.

4-11.4 Structures with substantial damage (over 50 percent of pre-storm appraised structure value) shall meet all development and construction standards, regulations and amendments thereto before being permitted for redevelopment.

4-11.5 Existing structures over submerged lands which are substantially damaged shall provide evidence of continued compliance with or renewal of state title land records for a

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determination of then current state owned submerged land rules.

OBJECTIVE 4-12 Public Access to Shoreline

The City shall, without exception, retain existing shoreline access areas; promote public access to shoreline by prohibiting encroachment on public access areas; and increase public access through development of pocket parks at City-owned street end locations on the shoreline.

POLICIES:

4-12.1 City-owned parking facilities as identified herein shall be maintained and improved to assure public access to beaches and shorelines.

4-12.2 Limited access to the shoreline will be improved to increase public use and provide more recreational opportunities while upholding the City's adopted vision as a fishing village. Actions to implement this policy may include, but are not limited to, the identification of existing or potential access points, the types of improvements needed and costs thereof, and priorities.

4-12.3 The City will seek to increase public access opportunities at locations owned or controlled by the City.

4-12.4 The City will seek increased recreation facilities on lands owned or managed by other political jurisdictions (e.g. government-owned islands), where such lands offer a potential for increased public access. Any such uses shall be compatible with and shall not specifically or cumulatively degrade the natural functions of the land or surrounding marine resources and shall be consistent with the management plans of other agencies.

OBJECTIVE 4-13 Reduce Flood Loss and Flood Insurance Claims

The City shall identify site development techniques and best practices to help reduce losses due to flooding and claims made under flood insurance policies.

POLICIES:

4.13.1 Site development techniques and best practices that may be used to reduce the losses due to flooding and claims made under flood insurance policies issued in Florida, shall include, but not be limited to, such requirements as additional shoreline hardening, elevated grade surface, elevated structures, floodable development, buffers and setbacks, higher floor elevations and incorporation of natural infrastructure for increased resilience.

4.13.2 The siting, design and construction of structures in coastal areas subject to the risk of high-tide events, storm surges, flash floods, stormwater runoff and sea level rise shall be consistent with regulations contained in the 6th Edition of the Florida Building Code, as amended, and the City's Flood Damage Prevention Regulations, as amended.

4.13.3 The City shall continue to upgrade its stormwater infrastructure through drainage improvements, installation of tidal backflow preventers, and seawall repair in addition to sustainable flood management actions such as installation of bioswales, use of pervious pavement and maintenance of natural preserves areas.

OBJECTIVE 4-14 Consistency with Flood Plain Management Regulations

The City shall require development to be consistent with flood-resistant construction requirements.

POLICIES:

4.14.1 Any development or redevelopment shall be consistent with, or more stringent than, the flood-resistant construction requirements in the

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6th Edition of the Florida Building Code, as amended, and applicable flood plain management regulations set forth in 44 Code of Federal Regulations Part 60.

4.14.2 The City shall apply to the Federal Emergency Management Agency to participate in the National Flood Insurance Program Community Rating System to achieve flood insurance premium discounts for its residents.

OBJECTIVE 4-15 Best Practices Development and Redevelopment Principles, Strategies and Engineering Solutions

POLICIES:

4.15.1 The City shall encourage the use of best practices development and redevelopment principles, strategies and engineering solutions that will result in the removal of coastal real property from flood zone designations established by Federal Emergency Management Agency. For purposes of this policy, real property is defined as land and structures affixed to the land.

4.15.2 The City shall continue to use the Future Land Use Map and best available data mapping tools provided by such agencies as the National Oceanic and Atmospheric Administration, as the basis for development and redevelopment in

areas of the City that are at high risk for high-tide events, storm surges, flash floods, stormwater runoff and sea level rise.

4.15.3 Redevelopment of existing dwelling units located in the Coastal High Hazard area is prohibited unless an engineering study supports that the redevelopment can occur in a safe manner when considering building construction, design, siting and future storm events.

4.15.4 The City shall consider, whenever feasible, purchasing properties in areas most vulnerable to destructive storm surges for recreation uses and open space.

4.15.5 The City will adopt land development regulations that include development and redevelopment principles, strategies and engineering solutions that reduce the flood risk in coastal areas which result from high-tide events, storm surge, flash flood, stormwater runoff and the related impacts of existing hazards, including sea-level rise, which shall include, but not be limited to, requirements such as additional shoreline hardening, elevated grade surface, elevated structures, floodable development, buffers and setbacks, higher floor elevations and incorporation of natural infrastructure for increased resilience.

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ELEMENT 5: RECREATION & OPEN SPACE GOALS, OBJECTIVES, AND POLICIES

GOAL 5

To maintain and develop a variety of recreation facilities and/or programs and insure adequate open space to satisfy the existing and future needs of the City.

OBJECTIVE 5-1

Public access to recreational areas and open space shall be ensured. The City shall provide and maintain a system of public recreation facilities adequate to meet the needs of current and projected populations.

POLICIES:

5-1.1 The City shall maintain an adopted level-of-service standard for recreation and open space of 10 acres per 1,000 persons.

5-1.2 The City shall continue to identify potential public and private funding sources for beach restoration or rehabilitation and apply for funds as available.

5-1.3 Encroachment on or private use of public lands shall be specifically prohibited.

5-1.4 The State and the County School Board recreational delivery systems and plans shall be

coordinated in a City-wide system for meeting recreational needs.

OBJECTIVE 5-2

Open space shall be required and protected through standards that assure compatible land uses and visual access to the shoreline. The City hereby designates all street end shoreline locations as public open areas.

POLICIES:

5-2.1 Regulations shall assure visual access to the shoreline through not less than twenty percent of development site areas.

5-2.2 Greenbelts and buffer zones shall separate incompatible uses.

5-2.3 Native vegetation shall be used to landscape open space.

5-2.4 Signs and other visual obstructions shall be prohibited in areas designated as open space.

5-2.5 Parking in recreation and open space areas shall be limited to intended site uses.

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ELEMENT 6: HOUSING GOALS, OBJECTIVES, AND POLICIES

GOAL 6

To enhance cost-effective availability and affordability of housing for present and future residents of the City in accordance with income level and with emphasis on self-sufficiency, quality of life and environment, health, safety, the public good and private property rights.

OBJECTIVE 6-1

The City shall continue to provide regulatory controls which assure the availability of affordable housing for existing and future population including families supported by aquaculture, fisheries, and tourism-related industry.

POLICIES:

6-1.1 The City shall review its ordinances, codes, permitting processes, and regulations to ensure that the City has an effective and efficient system to provide an expedited permitting process for the public and private sector participants providing housing that meets the needs of the community.

6-1.2 Concurrent with the development of increased employment through aquaculture projects, the City shall assure the availability of affordable housing for extremely low-, very low, low-and moderate-income families thorough implementation of housing programs in Objective 6-6.

6-1.3 The City shall coordinate with the County Housing Authority to facilitate the production of affordable housing.

6-1.4 The City shall work with the Florida Housing Finance Agency to obtain funding for

affordable housing and to provide information about available funding sources to members of the community.

6-1.5 The City shall include methods within the land development regulations to assist in providing for extremely low, very low, low-and moderate-income housing; these methods may include, but shall not be limited to, the following techniques:

- A. Density bonuses to developers for construction of housing outside the Coastal High Hazard Area.
- B. Reductions in setback, floor-to-area ratios, lot coverage and native vegetation standards.
- C. Flexibility in application of building code standards which does not endanger health, safety or public welfare.
- D. Waivers or reductions in impact fees, connection fees, development and permit fees and ad valorem taxes.

6-1.6 Land development regulations shall provide for the inclusion of affordable and workforce housing in new developments based on the percentage of households who are cost burdened as identified by the Shimberg Housing Center. Alternatively, the regulations may allow the payment of a fee to be used to provide affordable and workforce housing elsewhere.

6-1.7 The City, through an interlocal agreement with the Community Redevelopment Agency, may implement the following strategies to assist

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in the development and provision of affordable housing:

- A. Community Redevelopment Agency bonding potential for subsidies for both renter and owner-occupied units.
- B. The public acquisition of property to be used for the construction of affordable housing together with the private sector.

OBJECTIVE 6-2

The City shall continue to identify unsafe buildings and provide technical assistance in the elimination or rehabilitation of such unsafe structures, including structural and aesthetic improvement consistent with the character and resources of the community.

POLICIES:

6-2.1 The City shall review and implement, as needed, architectural control standards to protect and maintain the quality of housing and to stabilize neighborhoods.

6-2.2 Encourage individual homeowners to maintain and improve their homes through the dissemination of literature and through the application of appropriate code enforcement practices.

6-2.3 The City shall continue to utilize code compliance mechanisms to monitor and implement regulations included in the Florida Building Code, relative to the maintenance of minimum building codes and structural integrity.

OBJECTIVE 6-3

The City shall maintain, through this comprehensive plan and appropriate land development regulations, sufficient sites for housing, including sites for extremely low, very

low, low, and moderate income families, mobile homes, group homes, and foster care facilities.

POLICIES:

6-3.1 In cooperation with the County Housing Authority, the City shall study the feasibility of expanding current government housing to increase on-site accommodations and assure consistency with the historic district. The study will include an assessment of privatization potential, government private sector partnerships and the potential for sale of government housing to eligible renters through low-cost government loans.

6-3.2 The City shall provide for a range of housing locations and residential densities through the adopted Future Land Use Map and Future Land Use Policy 1-2.2.

6-3.3 Mobile home sites shall comply with the provisions of Federal Emergency Management Agency and Coastal Zone Management Plan ordinances adopted by the city.

6-3.4 The City land development regulations shall provide for group homes and foster homes as authorized by appropriate state agencies in all residential zoning districts and shall provide for avoiding any concentration of group homes or foster homes in any neighborhood.

6-3.5 The City shall permit, consistent with the Future Land Use Map, sites for housing extremely low, very low, low and moderate income families in a variety of residential locations and avoid clustering in a single neighborhood.

6-3.6 The City shall assure non-discrimination by compliance with federal and state laws.

OBJECTIVE 6-4

The City shall adopt policies and plans, consistent with the National Register of Historic

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Places and the Florida Master Site File, to conserve and rehabilitate, on a priority basis, historically significant buildings and implement regulations for demolition of hazardous housing or buildings which endanger public safety.

POLICIES:

6-4.1 Principles for the conservation and rehabilitation of historic buildings shall be consistent with state and federal standards. 6-4.2 An inventory of historic buildings in need of rehabilitation shall be monitored for priority consideration in the five- and ten-year planning periods.

6-4.2 Temporary and time-dependent tax relief or other economic incentives shall be considered for private development or rehabilitation of historic structures if consistent with the historic character and architecture of the area.

6-4.3 Standards for condemnation and demolition proceedings shall continue to be implemented and applied to those structures that are unsafe and pose a threat to public safety.

OBJECTIVE 6-5

The City shall continue to make provisions for relocation housing for any person or family

displaced by rehabilitation, condemnation or demolition.

POLICY:

6-5.1 During rehabilitation or upon demolition of any structure by order of the City, the City shall provide alternative housing opportunities within the financial means of the displaced household through local, state or federal subsidies, as appropriate, and shall assist families in identifying relocation housing.

OBJECTIVE 6-6

The City shall continue to monitor housing implementation programs available at the state and federal levels to identify any programs or funding that may provide assistance to the public and private sector housing delivery participants in order to meet identified housing needs.

POLICIES:

6-6.1 The City shall consider various alternative loan programs, including city, state and federal loan funds, to create a revolving loan fund for affordable housing assistance.

6-6.2 The City shall continue to seek partnership with the private sector to improve the regulatory process, provide funding mechanisms and improve employment opportunities.

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ELEMENT 7: PUBLIC SCHOOL FACILITIES GOALS, OBJECTIVES, AND POLICIES

GOAL 7A

COORDINATE AND MAINTAIN HIGH QUALITY EDUCATION SYSTEM

The City shall collaborate and coordinate with the County School District (School District) and other local government entities to ensure high quality public school facilities which meet the needs of the City's existing and future population.

OBJECTIVE 7A-1 Coordination and Consistency

The City shall establish coordination and review procedures to ensure consistency of the City Comprehensive Plan with the plans of the School District, County and municipalities within the County.

POLICIES:

7A-1.1 Pursuant to the executed County School Interlocal Agreement the legislative bodies of the County, the Town of Bronson, the City of Williston, the City of Cedar Key and the City of Chiefland will meet with the School District annually, to provide opportunities to discuss issues of mutual concern. The District will monitor, evaluate and find mechanisms to improve upon, mutually agreed upon criteria in their review of development plans, selection of school sites and construction of schools as needed.

7A-1.2 The City and the School District shall coordinate and base their plans upon consistent projections of the amount, type and distribution

of population growth and student enrollment. Countywide five-year population and student enrollment projections shall be revised annually, as required by the Interlocal Agreement.

7A-1.3 Annually, by April 1st, pursuant to the School Interlocal Agreement, the City shall provide the School District with information on growth and development trends within their respective jurisdictions. This information shall be in tabular, graphic, or textual formats, and shall include the following:

the type, number, and location of residential units that have received zoning or site plan approval;

information about future land use map amendments that might affect school facilities;

building permits issued in the proceeding year, and the locations of the permitted uses;

information about the conversion or redevelopment of housing or other structures into residential units that are likely to generate new students; and

identification of any development orders issued that require provision of a school site as a condition of development approval.

7A-1.4 Pursuant to the County School Interlocal Agreement, the County School District shall appoint one non-voting member of the City Planning Commission to the designated Local

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Planning Agency, as required by Section 163.3174, Florida Statutes, as amended.

OBJECTIVE 7A-2 Public School Facility Siting and Availability

The City shall coordinate with the School District on the planning and siting of new public schools to ensure school facilities are coordinated with necessary services and infrastructure and are compatible and consistent with the City Comprehensive Plan.

POLICIES:

7A-2.1 The City shall ensure consistency between new school construction and related public facilities and the Cedar Key Comprehensive Plan.

7A-2.2 The City will coordinate with the Levy County School District to assure that all proposed public school facility sites are consistent with the applicable land use categories and policies of the comprehensive plans.

7A-2.3 In reviewing all proposed school sites, the City will consider each site, as it relates to environmental, health, safety and welfare concerns, as well as the effects on adjacent property.

7A-2.4 The City will coordinate with the School District for the selection of future school sites based on the following:

A. The acquisition of school sites which allow for future expansions to accommodate future enrollment, in accordance with the adopted level of service standards and other facility needs which coordinate with the development in the City and are deemed beneficial for joint-uses, as identified by the School District and the City, to the extent feasible; and

B. The coordination of the location, phasing, and development of future school sites to ensure that site development occurs in conjunction with the provision of required infrastructure to serve the school facility.

7A-2.5 The City shall coordinate with the School District in the school site selection process to encourage the location of new schools within areas designated for development on the Future Land Use Map.

7A-2.6 In the City, public schools are permitted as a matter of right within Residential, Commercial, and Public/Semi Public Future Land Use categories as depicted on the Cedar Key Future Land Use Map. Public schools are not permitted in the Conservation, and Recreational Future Land Use categories.

7A-2.7 Public schools shall be sited so as to provide access to a collector or an arterial roadway, where feasible.

7A-2.8 High schools should be located and planned so as to provide sufficient buffers to adjacent residential uses and ensure sufficient onsite parking and traffic controls to avoid disruptive traffic congestion.

7A-2.9 The City and the School District will jointly determine the need for and timing of on-site and off-site improvements necessary to support each new school or the proposed renovation, expansion or closure of an existing school.

7A-2.10 The City shall coordinate with the School District to ensure that future school facilities are located outside areas susceptible to hurricane and/or storm damage and/or areas prone to flooding, or as consistent with Chapter 1013, Florida Statutes, as amended, regarding flood plain and school building requirements.

7A-2.11 The City shall provide the School District representatives the opportunity to

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participate in the review process for all proposed developments adjacent to schools.

OBJECTIVE 7A-3 Enhance Community Design

The City shall enhance community and neighborhood design through effective school facility design and siting standards and encourage the siting of school facilities that are compatible with surrounding land uses.

POLICIES:

7A-3.1 The City shall collaborate with the School District on the siting of the City facilities such as parks, libraries, and community centers shall be planned near existing or planned public schools, to the extent feasible.

7A-3.2 The City will look for opportunities to collocate and share use of County facilities when preparing updates to the Comprehensive plan's schedule of capital improvements and when planning and designing new, or renovating existing, community facilities.

7A-3.3 The City shall continue working with the School District to provide recreational programs and facilities.

7A-3.4 All public schools shall be encouraged to provide bicycle and pedestrian access consistent with Florida Statutes, where feasible.

7A-3.5 The City shall coordinate with the County School District to ensure that pedestrian and bicycle facilities are provided adjacent to future school sites in the county to allow safe access for pedestrians and bicyclists.

7A-3.6 Future elementary and middle schools in the county should be located and planned so as to allow adjacent residential uses easy access to the school site through roadway, pedestrian, and bicycle connections, to the extent feasible.

7A-3.7 The City shall coordinate planning activities mandated by the comprehensive plan

related to use of School District property as potential recreation sites.

7A-3.8 The City shall coordinate planning activities mandated by the comprehensive plan with the School District related land use and development plans affecting

7A-3.9 When applicable, the City will continue to coordinate efforts with the School District to build new school facilities, and facility rehabilitation and expansions designed to serve as and provide emergency shelters as required by Section 1013.372, Florida Statutes.

7A-3.10 Encourage the School District to use sustainable design and performance standards, such as using energy efficient and recycled materials, to reduce lifetime costs, where feasible.

OBJECTIVE 7A-4 Coordinate Land Use with School Capacity

The City shall coordinate with the School District petitions for Future Land Use Map amendments, rezonings, and developments of regional impact for residential development with to assure adequate school capacity.

POLICIES:

7A-4.1 As provided for in the Florida Statutes, the City will take into consideration the School District's comments and findings on the availability of adequate school capacity in the evaluation of comprehensive plan amendments and other land use decisions including developments of regional impact.

7A-4.2 Where capacity will not be available to serve students from the property seeking Future Land Use Map amendments and developments of regional impact for residential development, the City Commission will coordinate with the School District to ensure adequate capacity will be available by requiring that the developer enter into a Capacity Enhancement Agreement with

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the School District to assure that capacity is planned and funded to accommodate future students.

7A-4.3 In reviewing petitions for Future Land Use Map amendments, rezonings, or final subdivision plat and site plan approval for residential development, which may affect student enrollment or school facilities, the City Commission will consider the following issues:

- A. School District comments and findings of available school capacity;
- B. Available school capacity or planned improvements to increase school capacity;
- C. Compatibility of land uses adjacent to existing schools and future school sites;
- D. The collocation of parks, recreation and community facilities with school sites;

E. The linkage of schools and parks, with bikeways, trails, and sidewalks for safe access;

F. Traffic circulation plans to serve schools and the surrounding neighborhood;

G. The provision of off-site signalization, signage, access improvements serve schools;

H. The inclusion of school bus stops and turnarounds;

I. Available school capacity or planned improvements to increase school capacity.

7A-4.4 Amendments to the Future Land Use Map will be coordinated with the School District and the Public School Concurrency Service Area Maps, contained within this Element.

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GOAL 7B

IMPLEMENT PUBLIC SCHOOL CONCURRENCY

The City shall assure the future availability of public school facilities to serve new development consistent with the adopted level of service standards. This goal will be accomplished recognizing the School District's statutory and constitutional responsibility to provide a uniform system of free and adequate public schools, and the City's authority for land use decisions, including the authority to approve or deny comprehensive plan amendments, rezonings or other development orders that generate students and impact the County School District.

OBJECTIVE 7B-1 Level of Service Standards

The City, through implementation of its concurrency management system and in coordination with the County School District shall ensure that the capacity of schools is sufficient to support residential subdivisions and site plans at the adopted level of service standards.

POLICIES:

7B-1.1 Annually, the Five-Year District Facility Work Program will be evaluated to ensure that it meets the level of service standards.

7B-1.2 The level of service standards set forth herein shall be applied consistently throughout the County by all local governments and the School District district-wide to all schools of the same type, as agreed upon by the Levy County Interlocal Agreement for Schools.

7B-1.3 Consistent with the Interlocal Agreement, the uniform, district-wide level of service standards shall be adopted in the Public School Facilities and Capital Improvements

Elements of the City Comprehensive Plan. The Level of Service Standard shall be the Permanent Florida Inventory of School House Capacity based on 100 percent utilization rate for all school types.

7B-1.4 A change to the Level of Service Standard shall not be effective until all Comprehensive Plan amendments are effective and until the School Interlocal Agreement is amended to reflect the new level of service standards and is fully executed.

7B-1.5: No level of service standard shall be amended without showing that the amended level of service is financially feasible, supported by adequate data and analysis and can be achieved and maintained within the Five-Year Schedule of the Capital Improvements Plan.

OBJECTIVE 7B-2 Concurrency Service Areas

The City shall establish School Concurrency Service Areas, as the area within which an evaluation is made of whether adequate school capacity is available based on the adopted level of service standards.

POLICIES:

7B-2.1 The six concurrency service areas have been established and documented in the data and analysis support documents for the Public School Facilities Element and a map of these six concurrency service areas shall be provided in the data and analysis.

7B-2.2 Concurrency service areas shall be established and subsequently modified for the following purposes:

A. To maximize available school capacity;

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- B. To make efficient use of new and existing public schools in accordance with the level of service standards,
- C. To take into account minimizing transportation costs,
- D. To limit maximum student travel times,
- E. To achieve socio-economic, racial and cultural diversity objectives, where applicable,
- F. To recognize the capacity commitments resulting from the local governments' within the County's development approvals for the concurrency service area and for contiguous concurrency service areas,
- G. To protect the unique character of the existing schools in the district.

7B-2.3 Concurrency service areas shall be designed so that the adopted Level of Service will be able to be achieved and maintained for each year of the five years of the Five-Year Schedule of Capital Improvements Plan, and that the Five-Year Schedule of Capital Improvements Plan is financially feasible.

7B-2.4 The maps attached to this document as Exhibit A- Existing Schools, Exhibit B - Concurrency Service Areas, and Exhibit C – Future Educational Facilities are hereby adopted.

OBJECTIVE 7B-3 Process for School Concurrency Implementation

In coordination with the School District, The City will establish a process for implementation of school concurrency. The City shall manage the timing of residential subdivision approvals and site plans to ensure adequate school capacity is available consistent with adopted level of service standards for public school concurrency.

POLICIES:

7B-3.1 Development approvals shall be issued for residential development only if adequate school capacity exists or will be under actual construction within three years.

7B-3.2 School concurrency applies only to residential development or a phase of residential development requiring a subdivision plat approval or site plan, proposed or established after the effective date of the Public Schools Facilities Element.

7B-3.3 The following residential development shall be considered exempt from the school concurrency requirements:

- A. Lots of record recorded in the City prior to the adoption of the Public Schools Facilities Element.
- B. Subdivisions having received final subdivision plat approval prior to the effective date of the Public Schools Facilities Element.
- C. Multi-family residential development having received final site plan approval prior to the effective date of the Public Schools Facilities Element.
- D. Amendments to approved residential development, which have received final subdivision plat or site plan approval prior to the effective date of the Public Schools Facilities Element, and do not increase the number of residential units or change the type of residential units proposed.
- E. Amendment to age restricted development that are subject to deed restrictions prohibiting the permanent occupancy of residents under the age of eighteen. Such deed restrictions must be recorded and must be irrevocable for a period of at least thirty years.
- F. Group quarters including residential type of facilities such as local jails, prisons, hospitals, nursing homes, bed and breakfast, motels and hotels, temporary emergency shelters

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for the homeless, adult halfway houses, firehouse dorms, college dorms exclusive of married student housing, and religious non-youth facilities.

7B-3.4 The uniform methodology for determining if a particular school is over capacity shall be determined by the School District and adopted into the City Public School Facilities Element.

7B-3.5 The School District hereby selects the permanent Florida Inventory of School House capacity based on utilization rate as the uniform methodology for existing schools.

7B-3.6 The School District hereby selects the design capacity for future schools. Any new schools built in the County shall meet these design capacities:

K-5	650 Students
K-8	650 Students
6-8	650 Students
9-12	1,100 Students

7B-3.7 The City shall only issue a concurrency approval for a subdivision plat or site plan for residential development where:

A. The School District's findings indicate adequate school facilities will be in place or under actual construction in the affected concurrency service area within three years after the issuance of the subdivision plat or site plan for each level of school;

B. Adequate school facilities are available in an adjacent concurrency service area or under actual construction within three years and the impacts of development shall be shifted to that area. If capacity exists in more than one concurrency service area or school within a concurrency service area, the School District shall determine where the impact shall be shifted; or

C. The developer executes a legal binding agreement with the School District to provide mitigation proportionate for the demand for public school facilities to be created by the actual development of the property subject to the final plat or site plan.

D. In the event that there is not sufficient capacity in the affected concurrency service area or an adjacent concurrency service area, the developer shall also have the option to delay approval to a date when capacity and level of service can be assured.

7B-3.8 In order to protect the limitations of the Cedar Key School, students living in Concurrency Service Area 6, or possible future students generated from residential development in Concurrency Service Area 6; will attend schools on Concurrency Service Area 2, Concurrency Service Area 3, or Concurrency Service Area 5, depending on available capacity of the schools in the Concurrency Service Area.

OBJECTIVE 7B-4 Proportionate Share Mitigation

If the development opts not to delay approval, the City Commission shall allow development to pay a proportionate cost of facility improvements needed as a result of that development in order to maintain adopted standards and receive development approval.

POLICIES:

7B-4.1 In the event that there is not sufficient capacity in the affected concurrency service area or the adjacent concurrency service area, proportionate share mitigation shall be required to address the impacts of the proposed development. The developer shall also have the option to be delayed to a date when capacity and level of service can be assured.

7B-4.2 The City will allow mitigation alternatives that are financially feasible and will achieve and maintain the adopted level of

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service standard consistent with the adopted School District's financially feasible Five-Year District Facility Work Program.

7B-4.3 In the event that the proportionate share mitigation option is selected, the mitigation shall be negotiated and agreed to by the School District and shall be sufficient to offset the demand for public school facilities projected to be required by the development.

Acceptable forms of mitigation shall include:

- A. School construction
- B. Contribution of land
- C. Payment for construction and/or land acquisition

7B-4.4 Any mitigation accepted by the School District, and subsequently agreed to by the applicable local government entity shall:

- A. Be allocated toward a permanent school capacity improvement identified in the School District's financially feasible Five-Year Facilities Work Plan which satisfies the demands created by the proposed development.
- B. Be proportionate to the demand projected to be created by the proposed development.
- C. Be executed by a legally binding agreement between the School District and the developer. The agreement shall include the terms of mitigation, including the amount, nature and timing, the amount and timing of any impact fee credits and the developers' commitment to continuing renewal of the agreement upon its expiration.
- D. Any required amendments to the Five Year Facilities Work Program shall be included in the next update and adoption cycle.
- E. Relocatables shall not be accepted as a means of proportionate share mitigation.

7B-4.5 Mitigation shall be directed to projects on the School District's financially feasible Five-Year District Facility Work Plan that the School District agrees will satisfy the demand created by that development approval, and shall be assured by a legally binding agreement between the School District, and the applicant executed prior to the issuance of the subdivision plat or the site plan. If the School District agrees to the mitigation, the School District must commit in the agreement to placing the improvement required for mitigation on its Five-Year District Facility Work Plan. This development agreement shall include the landowner's commitment to continuing renewal of the development agreement upon its expiration.

7B-4.6 The amount of mitigation required for each school level shall be determined by using the following formula:

$$(\# \text{ of housing units}) \times (\text{student generation rate}) \times (\text{generation rate by student level}) \times (\text{student station cost adjusted to local costs, land value, and the cost of financing}) - \text{applicable credits} = \text{proportionate share mitigation amount.}$$

This calculation should be repeated for all student levels, i.e. elementary, middle, and high school.

Pursuant to Section 163.3180(6)(h)2.b, Florida Statutes, as amended, the applicant's proportionate-share mitigation obligation shall be credited toward any other impact or exaction fee imposed by local ordinance for the same need, on a dollar-for-dollar basis, at fair market value.

7B-4.7 The student generation rates used to determine the impact of a particular development application on public schools, and the costs per student station are to be established annually by the School District in accordance with professionally accepted methodologies.

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OBJECTIVE 7B-5 Capital Facilities Planning

The City shall ensure existing deficiencies and future needs are addressed consistent with the adopted level of service standards for public schools.

POLICIES:

7B-5.1 The City shall ensure that future development pays a proportionate share of the costs of capital facility capacity needed to accommodate new development and to assist in maintaining adopted level of service standards, using any adopted impact fees and other legally available and appropriate methods for development.

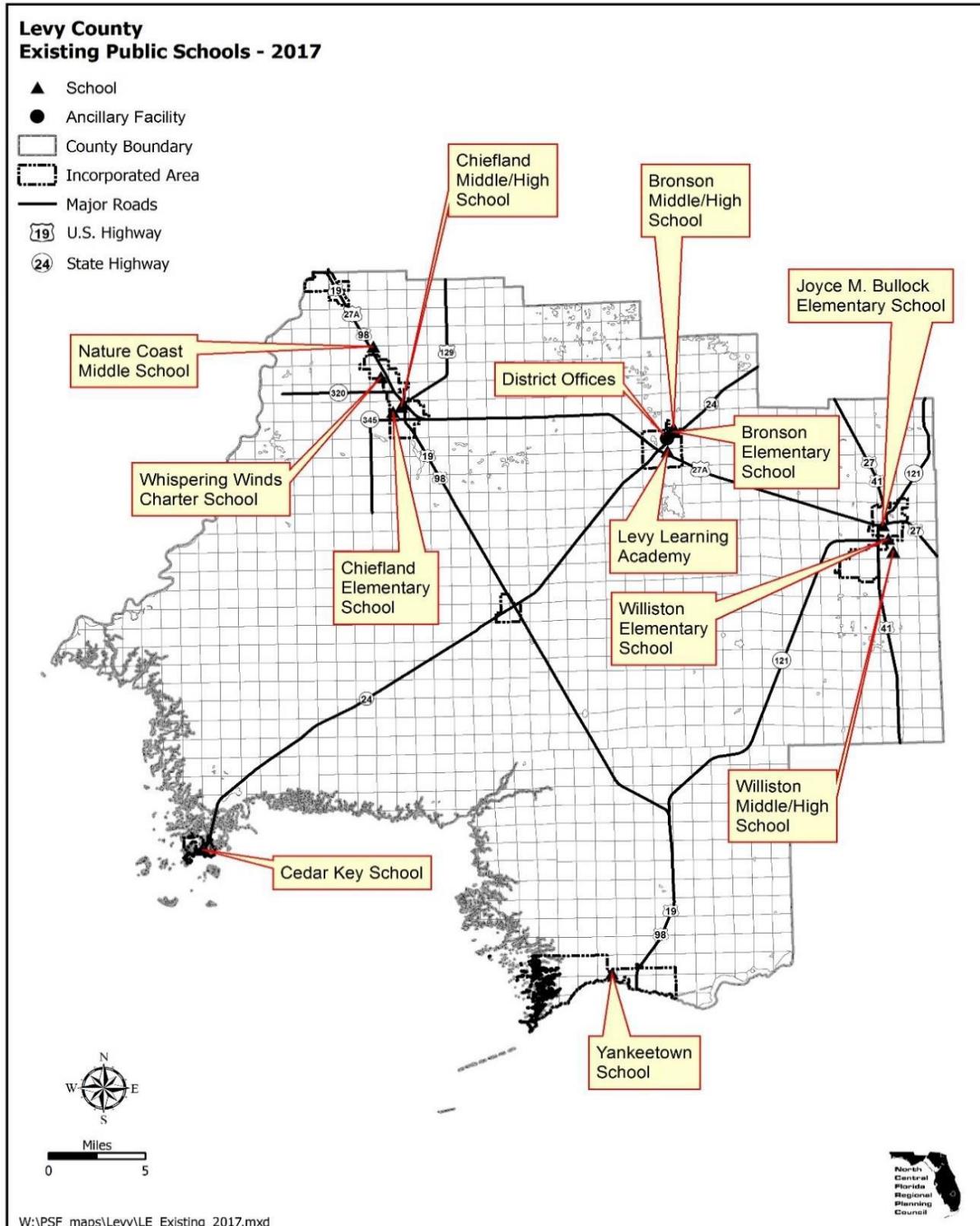
7B-5.2 The City hereby incorporates by reference the School District's financially feasible Five-Year District Facility Work Program, adopted by the School District, that

includes school capacity sufficient to meet and maintain anticipated student demands projected by the County and municipalities, in consultation with the School District's projections of student enrollment, based on the adopted level of service standards for public schools.

7B-5.3 Annually, by December 1st of each year, the City, in coordination with the County School District, adopt the School District's financially feasible Five-Year District Facility Work Program to ensure maintenance of a financially feasible capital improvements program and to ensure level of service standards will continue to be achieved and maintained during the five year planning period. Each year the capital improvements plan will be evaluated to ensure that it meets these standards.

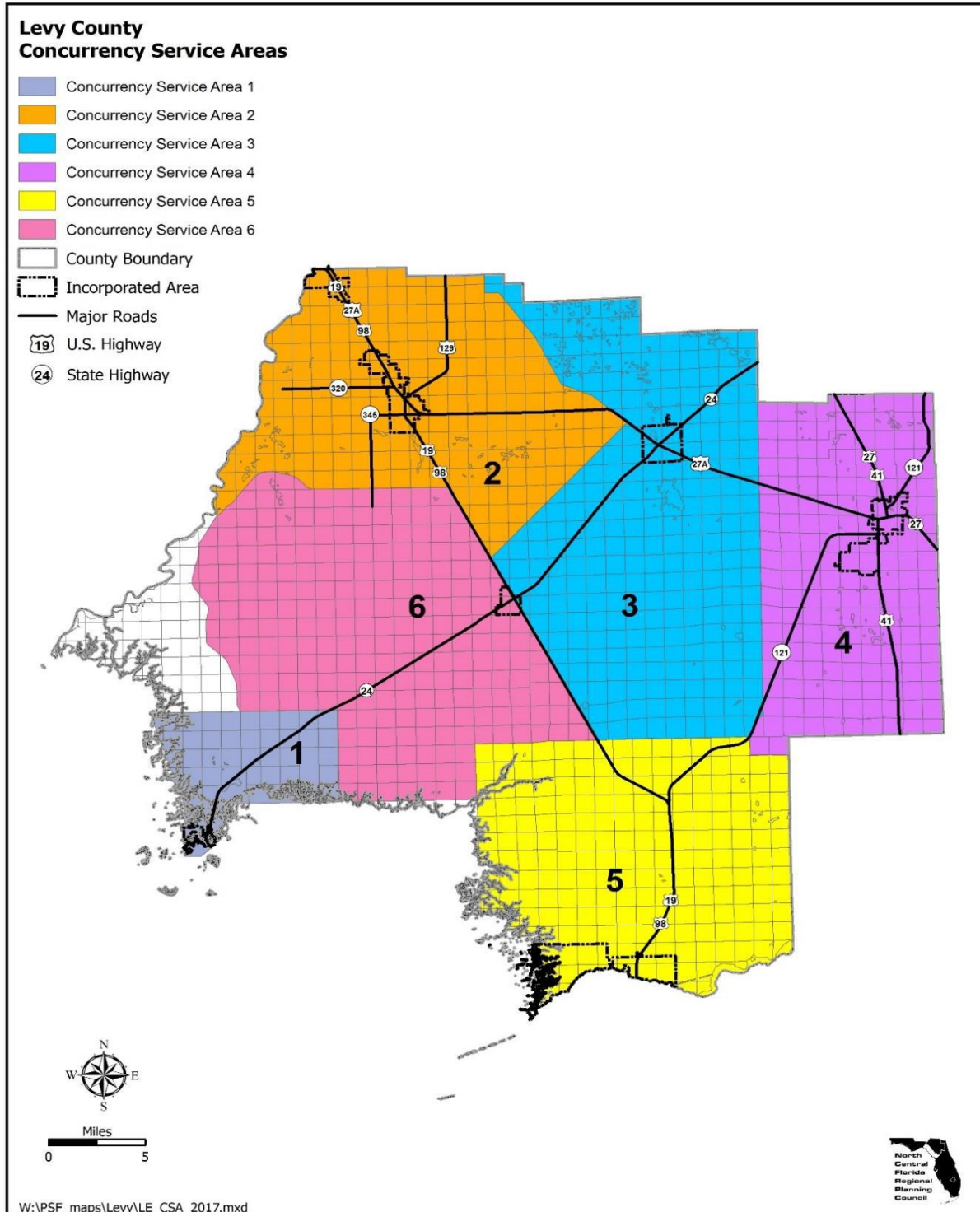
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[Exhibit A]



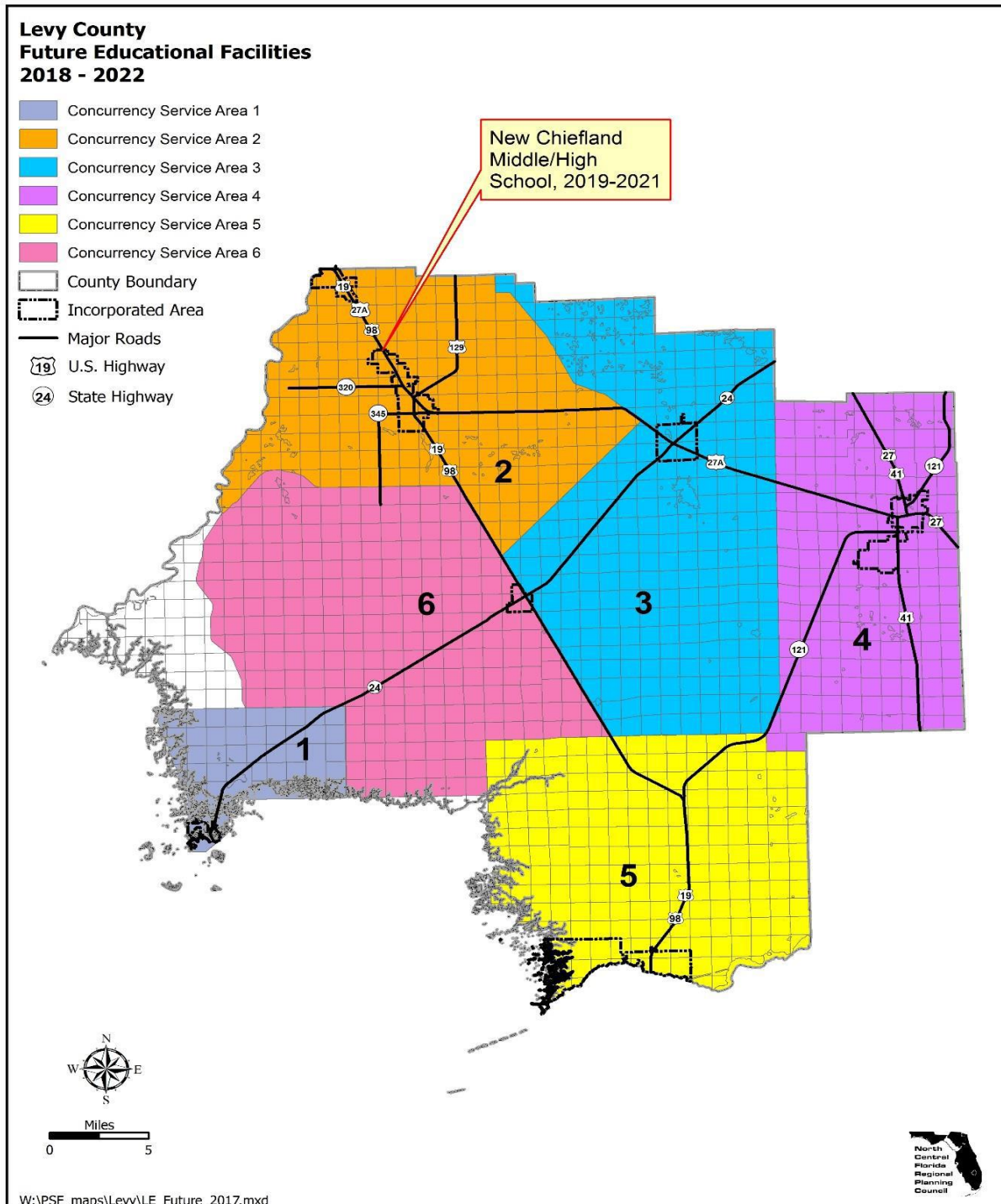
LAWS OF CEDAR KEY-CHAPTER THREE COMPREHENSIVE PLAN

Exhibit B



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Exhibit C



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ELEMENT 8: INTERGOVERNMENTAL COORDINATION GOALS, OBJECTIVES, AND POLICIES

GOAL 8

To coordinate this comprehensive plan and all official acts of the elected officials with all other affected units of government.

OBJECTIVE 8-1

Continue to coordinate the City Comprehensive Plan with the plans of Cedar Key Water and Sewer District, the School Board, and other units of local government providing services but not having regulatory authority over the use of land, and with the comprehensive plan of the County.

POLICIES:

8-1.1 The City Commission shall continue to coordinate each plan element and each action or policy adopted therein, with the appropriate unit of local government through the following specific mechanisms:

A. An interlocal agreement with the Board of County Commissioners for coordination of land development regulations, permitting processes and planning coordination.

B. An agreement with the Suwannee River Water Management District to conduct a capacity and performance feasibility study and stormwater management study and to provide for closer coordination.

C. Existing coordination mechanisms as specified in the data-analysis section.

8-1.2 Following updates to the City Comprehensive Plan, the City Commission will coordinate with the Planning Commission and the Board of County Commissioners to assure

that the plans of the two jurisdictions are compatible.

8-1.3 Any development proposed by the private sector or the City Commission which would directly or indirectly affect the bays, estuaries and harbors in and around the area shall be submitted to the Board of County Commissioners and their Planning Commission for review and comment prior to any final action.

8.1.4 The City shall ensure intergovernmental coordination with the School Board for the location of educational facilities within the City limits through the following activities:

A. The City shall notify the School Board, within 45 days of receipt of written notice, as to the consistency of the acquisition or leasing of property to be used for new public education facilities with the City Comprehensive Plan,

B. The City shall determine the consistency of any educational capital improvement within the City with the City Comprehensive Plan.

C. The City shall provide notification to the School Board of dates and agendas of Planning Commission and City Commission meetings on those plan amendments that have the potential to increase residential units or densities.

8.-1.5 The City shall participate with the School Board, the County, and the other municipalities in the county to develop coordinated population projections and to plan for the location of public school facilities.

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8-1.6 The City Clerk shall be responsible for distributing copies of this plan in draft, final and proposed revision form to affected jurisdictions.

OBJECTIVE 8-2

Coordinate the impacts of development proposed in the City Comprehensive Plan upon development in the County, the region and the State of Florida.

POLICIES:

8-2.1 The City Commission hereby adopts the North Central Florida Regional Planning Council's informal mediation process as the means for resolving conflicts with the Cedar Key Water and Sewer District or the Board of Commissioners.

8-2.2 Unresolved annexation issues shall be resolved as described in 8-2.1 above.

8-2.3 Participate in collaborative planning and decision-making processes on population projections, the location and expansion of public facilities, joint use and siting of public school facilities.

8-2.4 Maintain accurate building permit data and share this data on an annual basis with the School Board, Cedar Key Water and Sewer District, Federal Emergency Management Agency, the County, and other governmental entities responsible for developing population projections.

OBJECTIVE 8-3

Upon plan adoption and on an on-going basis, ensure coordination of level of service standards for public facilities with state, regional and local entities having operational and maintenance responsibility for such facilities.

POLICIES:

8-3.1 The provision of services shall conform to standards laid out in this plan. Those standards will be reviewed with the Cedar Key Water and Sewer District and will be adopted mutually through an interlocal agreement that will include reserve water pressure, fire flow, minimum line sizes, storage capacity, etc. A similar interlocal agreement shall be adopted between the City and the County Board of Commissioners.

8-3.2 Information regarding services shall be maintained and provided to the public in the office of the City Clerk.

8-3.3 The City Clerk shall be responsible for conveying requests for extra-territorial services to the City Commission for action. The Mayor shall serve as liaison for all information regarding intergovernmental coordination.

8-3.4 All public meetings of the Cedar Key Water and Sewer District shall be publicized by the City in the same manner as other city meetings.

OBJECTIVE 8-4

Ensure coordination between the City, the County, other county municipalities, and the County School Board to establish concurrency requirements for public school facilities.

POLICIES:

8-4.1 Participate in the development and maintenance of concurrency requirements for public school facilities.

8-4.2 Develop, adopt, and maintain a Public School Facilities Element consistent with the plans of the County and the County School Board.

OBJECTIVE 8-5

On an ongoing basis, the City shall establish new and review existing coordination mechanisms that will evaluate and address its comprehensive plan. The City shall also review

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and evaluate programs and their effects on the comprehensive plans developed for adjacent local governments, the school district and other units of local government providing services but not having regulatory authority over the use of its land. The City will accomplish this work through an annual county-wide forum, joint meetings and /or other types of forums with other agencies as needed.

POLICIES:

8-5.1 In cooperation with the School District and the local governments within the County, the County will implement the Interlocal Agreement, as required by Chapter 1013.33, and Chapter 163.3177 Florida Statutes, as amended, which includes procedures for:

- A. Joint Meetings
- B. Planning and Zoning Meeting Participation
- C. Population Projections
- D. Coordination and Sharing of Information
- E. Implementation of School Concurrency
- F. Comprehensive Plan Amendments, Rezoning, Development Approvals and the School
- G. Concurrency Procedure
- H. School Site Analysis
- I. Supporting Infrastructure
- J. Educational Plant Survey and Five Year District Facilities Work Program
- K. Collocation and Shared Use
- L. Oversight Process
- M. Resolution of Disputes
- N. Amendment of Agreement

8-5.2 Annually, the City shall ask the School District to provide information from their Five-Year District Facilities Work Plan to determine the need for additional school facilities, information detailing existing facilities, their locations and projected needs and planned facilities with funding representing the district's unmet needs.

8-5.3 In order to coordinate the effective and efficient provision and siting of public educational facilities with associated infrastructure and services within the County, the County School District, the Town of Bronson, the City of Williston, the City of Cedar Key and the City of Chiefland shall meet jointly to develop mechanisms for coordination. Such efforts may include:

- A. Coordinated submittal and review of the annual capital improvement program of the City, the Five-Year District Facilities Work Plan and Five-Year Educational Plant Survey of the County School District.
- B. Coordinated review and assessment of the associated costs and expenditures of siting and developing schools with needed public infrastructure.
- C. Coordinated review of residential planned developments or mixed use planned developments involving residential development.
- D. Use of a unified data base including population (forecasts of student population), land use and facilities.

8-5.4 Amendments to the Future Land Use Map will be coordinated with the School District and the Public School Facilities Planning Maps.

8-5.5 The City in coordination with the County and the School District will develop and maintain a map depicting the required school facilities based on maximum development

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potential. On an annual basis, this map will be evaluated and revised as necessary.

OBJECTIVE 8-6

The City shall strive to continually monitor and evaluate the Public Schools Facilities Element in order to assure the best practices of the joint planning processes and procedures for coordination of planning and decision-making.

POLICY:

8-6.1 The City and the County School District will coordinate during updates or amendments to the Comprehensive Plan and updates or amendments for long-range plans for School District facilities.

OBJECTIVE 8-7

The City shall coordinate annexations and joint planning issues with the County and the other municipalities within the County.

POLICIES:

8-7.1 Upon the annexation of any land into the City, the City shall immediately begin the process of amending the Comprehensive Plan, establishing a future land use designation.

8-7.2 In the interim period between annexation and amendment of the Comprehensive Plan, the City shall implement the County's adopted Comprehensive Plan and Land Development Regulations.

8-7.3 The City shall work with the County and other municipalities within the County to promote cooperative planning efforts.

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ELEMENT 9: CAPITAL IMPROVEMENTS GOALS, OBJECTIVES, AND POLICIES

GOAL 9

To continue throughout the planning period to provide public services and facilities in a timely and efficient manner through the use of sound fiscal policies.

OBJECTIVE 9-1

On an annual basis, the City Commission shall use the capital improvements element as a means to identify and schedule all anticipated capital expenditures to correct current problems by replacing or improving inadequate facilities and to provide for future growth. The Five-Year Schedule of Capital Improvements is herewith incorporated by reference and adopted as part of this objective.

POLICIES:

9-1.1a Each proposed capital expenditure shall be ranked, scored and compared to other proposals to document and determine the relative importance and priority for funding. The following criteria and point system shall be utilized:

Points Criterion

- 0-20 Elimination of existing capacity deficits
- 0-20 Elimination of existing public hazards
- 0-10 Location needs based on projected growth patterns
- 0-20 Plans of other governmental agencies
- 0-10 Accommodation of new development and redevelopment demands
- 0-20 Financial impacts, including funding feasibility, operating budget impacts, fund balances, current debt and debt capacity, tax

increases that may be required and the availability of grant funds.

9-1.1b An updated and revised capital improvements program for the forthcoming fiscal year shall be adopted as a part of the annual budget process. An updated Five-Year Schedule of Capital Improvements will be adopted prior to December 1st of each year.

OBJECTIVE 9-2

The City shall limit public expenditures that subsidize development in coastal high hazard areas by maintaining existing facilities and services at current capacity, except as provided to correct existing deficiencies, for recreational needs and to provide for public health, safety, and welfare.

POLICIES:

9-2.a Municipal development within the 100-year flood plain will be limited to water-dependent projects such as boat ramps, piers and docks, essential accessory uses, and to other projects that are essential to the public health or safety.

9-2.b No public funds are to be used which would directly or indirectly support private development within the 100-year flood plain or the coastal high hazard area.

OBJECTIVE 9-3

Land use decisions, including variances, annexation, development permits, and future land use map amendments, shall be based on adopted level of service and the availability of necessary public facilities to support

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development concurrent with the impacts of development.

POLICIES:

9-3.1a The replacement, removal, or addition of new capital facilities will be determined by a combination of factors including:

- A. Established priority
- B. Availability of funds
- C. New unforeseen need.

9-3.1b Municipal expenditures for capital improvements will be directed toward implementing the policies within the various comprehensive plan elements.

9-3.1c The City shall use the following adopted level of service standards to evaluate the impacts of development or redevelopment on public facilities:

SEWER

Annual Daily Flow 89 gallons per capita per day

Peak Flow 183 gallons per capita per day

WATER 200 gallons per capita per day

DRAINAGE

As specified in the Drainage Sub-element

SOLID WASTE 7.5 pounds per capita per day

ROADS

Arterial Level of Service C

Collector Level of Service C

Local Level of Service C

RECREATION 10 acres per 1,000 persons

9-3.1d The City shall review and evaluate all development applications on the basis of level of

service standards, compatibility with all elements of the comprehensive plan, and shall be coordinated with capital improvements placed in the Five-Year Schedule of Capital Improvements.

OBJECTIVE 9-4

The City shall require all private developments to assume 100 percent of the cost of facility improvements necessitated by each development at the level of service adopted within this plan for roads or other facilities, to the extent that the immediate or cumulative effects of development will reduce such level of service.

POLICIES:

9-4.1.a All proposed developments shall document consistency with the Levels of Service identified in Policy 9-3.1.C. Proposed developments that result in a reduction in the adopted Levels of Service shall either be revised to avoid reducing the Levels of Service below the adopted standard or provide the necessary improvements to ensure the maintenance of the adopted Levels of Service.

9-4.1.b New developments will be assessed a pro-rata share of the cost necessary to finance public facility improvements, including school and transportation facilities, necessitated by the development in order to adequately maintain the adopted level of service standards.

OBJECTIVE 9-5

The City, County and Cedar Key Water and Sewer District shall cooperate in the adoption of public facility rules and land development regulations which ensure that capacity and level of service standards applied to existing unserved or under-served development, currently planned development which has been authorized, and future development permit requests do not exceed the funding capability of government to provide needed improvements or expansion and

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do not create a capacity-or level of service deficit.

POLICIES:

9-5.1.a Plan amendments and requests for new development shall document and be evaluated on the basis of criteria established in Policy 9-1.1.A to determine the degree to which development would:

- A. Increase any public facility capacity-deficit or decrease capacity in excess of projected growth rate.
- B. Conform to the future land use map, adopted density-intensity standards and locational uses consistent with the plan and land development regulations.
- C. Contribute to a public hazard.
- D. Be consistent with the plans of state and regional agencies.
- E. Provide for and accommodate public facility demands on the basis of adopted level of service standards to assure they are not reduced.
- F. Impact on the financial resources of any governmental entity.

9-5.1.b If the needs of a proposed development exceed available public facilities and services, either the development or the facilities will be phased to assure that facilities are concurrent with the impact of the development and that LOS standards are maintained.

9-5.2 Allocation of capacity shall be based on the following priorities:

- A. Unserved or under-served existing development.
- B. Development for which previously issued orders are in effect.
- C. New development proposals.

OBJECTIVE 9-5A

The City Commission shall annually document fiscal responsibility for capital improvements by financing only those capital expenditures for which a funding source has been identified or for which a standard for public indebtedness has been established.

POLICIES:

9-5A.1 The Commission will request from its professional certified public accounting firm recommendations as to acceptable guidelines for the management of debt, which may include:

- A. Revenue bond: Total revenue ratio
- B. Total debt service: Total revenue ratio
- C. Outstanding capital indebtedness: Ad Valorem tax Base ratio

One or more of the recommendations of that firm will be adopted as the City Commission standard for the public indebtedness.

9-5A.2 The City shall make efforts to secure grant funds or private funds whenever available to finance the provision of capital improvements.

9-5A.3 The City shall reserve Enterprise fund surpluses to the extent required to provide future capital needs for enterprise fund activities.

9-5A.4 The City shall adopt a capital improvements budget and amend its Five-Year Schedule of Capital Improvements on an annual basis. Adoption shall occur prior to December 1st of each year.

9-5A.5 It is the policy of the City to set a capital improvements cost threshold of \$100,000 for projects to be included in the Capital Improvements Element of the City Comprehensive Plan.

9-5A.6 Existing and anticipated capacity deficiencies identified in other elements of this

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plan may be corrected according to the Five-Year Schedule of Capital Improvements adopted through this policy of the City Comprehensive Plan Capital Improvements Element subject to the annual review of the Capital Improvements Element by the City Commission

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Five-Year Schedule of Capital Improvements
Fiscal Years 2018-2022

Project Name	FY 17/18	FY 18/19	FY 19/20	FY 20/21	FY 21/22	Total	Funding Source	Plan Consistency
City Park - Phase II	\$0	\$50,000	\$0	\$0	\$0	\$50,000	FRDAP (Grant Contract No. A17003)	Recreation
Cemetery Point Park	\$50,000	\$0	\$0	\$0	0	\$50,000	FRDAP (Grant Contract No. A16045)	Recreation
Annual Totals:	\$50,000	\$50,000	\$0	\$0	\$0	\$100,000		

SITE ID	SITE NAME	ADDRESS
. . .		

FRDAP means Florida Recreation Development Assistance Program

9-5A.7 Developments or redevelopments requiring the use of potable water, sanitary sewer, solid waste, or drainage facilities shall receive development orders subject to:

- The public facilities being in place at the time of issuance of the certificate of occupancy; or
- The provision of the facilities is guaranteed in an enforceable development agreement pursuant to Section 163.3220, Florida Statutes, as amended, or an agreement or development order issued pursuant to Chapter 380, Florida Statutes, as amended to be in place at the time of certificate of occupancy issuance.

- Prior to the approval of a building permit or its functional equivalent, the City shall consult with Cedar Key Water and Sewer District to determine whether adequate water supplies to serve the new development will be available no later than the anticipated date of issuance of a certificate of occupancy or its functional equivalent.

9-5A.8 Developments or redevelopments requiring the use of park and recreation facilities shall receive development orders subject to:

- The facilities and services are in place or under construction at the time of development order issuance; or

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- Dedication of land and facilities or fees in lieu are committed by the time of certificate of occupancy issuance; and
- The development order is issued conditioned on the necessary facilities and services scheduled to be in place or under construction not more than one year after certificate of occupancy as
- provided in the Schedule of Capital Improvements; or
- The necessary facilities are subject to a binding agreement which requires them to be in place or under construction not more than one year after certificate of occupancy issuance; or
- When the development order is issued, the facilities and services are guaranteed in an enforceable development agreement stipulating that they will be in place or under construction not more than one year after certificate of occupancy issuance.

9-5A.9 Developments or redevelopments requiring the use of roads shall receive development orders subject to:

The development order is issued on the condition that on the necessary facilities and services will be in place or under construction not more than three years after building permit issuance as provided in the Schedule of Capital Improvements; or

The landowner has made a binding commitment to the City to pay the fair share of the cost of providing transportation facilities necessary to serve the proposed development.

9-5A.10 The Schedule of Capital Improvements may include projects listed in the first three years of the Florida Department of Transportation Five-Year Work Program.

9-5A.11 The Schedule of Capital Improvements shall contain the estimated commencement and completion dates of road projects.

9-5A.12 The elimination, deferral, or delay of construction of any road or service needed to maintain adopted level-of-service standards and which is listed in the Schedule of Capital Improvements shall require amendment of the comprehensive plan.

OBJECTIVE 9-6 Public School Facilities

The City shall ensure existing deficiencies and future needs are addressed consistent with the adopted level of service standards for public schools.

POLICIES:

9-6.1 Consistent with the Interlocal Agreement, the uniform, district wide level of service standard is initially set as follows, and shall be adopted in the City's public facilities elements and capital improvements elements. The Level of Service Standard shall be the Permanent Florida Inventory of School House Capacity based on 100 percent utilization rate for all school types.

9-6.2 The City shall ensure that future development pays a proportionate share of the costs of capital facility capacity needed to accommodate new development and to assist in maintaining adopted level of services standards, via impact fees and other legally available and appropriate methods in development conditions.

9-6.3 The City hereby incorporates by reference the County School District's financially feasible Work Program that includes school capacity sufficient to meet anticipated student demands projected by the County and municipalities, in consultation with the School District's projections of student enrollment, based on the

LAWS OF CEDAR KEY-CHAPTER THREE COMPREHENSIVE PLAN

adopted level of service standards for public schools.

9-6.4 The School District, in coordination with the County and the municipalities, shall annually update the School District's financially feasible Five-Year District Facilities Work Program, to ensure maintenance of a financially feasible capital improvements program and to ensure level of service standards will continue to be achieved and maintained during the five year planning period.

9-6.5 The City will update its Capital Improvements Schedule on an annual basis, by December 1st of each year, to incorporate the upcoming five years of the School District's Five-Year District Facilities Work Program. The City and the School District will coordinate, during updates or amendments to the City's Comprehensive Plan, updates or amendments for long-range plans for School District facilities.

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ELEMENT 10: HISTORIC PRESERVATION GOALS, OBJECTIVES, AND POLICIES

GOAL 10

To identify, preserve, protect, acquire, rehabilitate and otherwise endeavor to ensure the continuity of the cultural resources of the City for future generations.

OBJECTIVE 10-1

The City shall continue to provide readily accessible historical and archaeological information.

POLICIES:

10-1.1 Funding for area archaeological site surveys shall be actively sought.

10-1.2 Available data on the Florida Master Site File shall be maintained at City Hall and the Cedar Key Historical Society Museum.

10-1.3 The City shall maintain a data system compatible with the Florida Master Site File system and shall transfer and store file information for public access and integration with zoning and concurrency management of the comprehensive plan.

10-1.4 Newly acquired historic and archaeological information and any changes in existing site information shall be entered in the system on an on-going basis.

10-1.5 Back-up information files and printed data shall also be stored at the Historical Society Museum and/or St. Claire Whitman State Museum.

OBJECTIVE 10-2

The City, in cooperation with the Historical Society and Architectural Review Board, shall reexamine local ordinances and policies affecting historical and cultural resources.

POLICIES:

10-2.1 Maintain land development regulations that are consistent with all elements of this plan which address historic resources, including Future Land Use, Conservation/Coastal Management, and Housing Elements.

10-2.2 Revised City ordinances for the Historic District shall be consistent with and conform to standards required by the National Register of Historic Places and State Bureau of Historic Preservation.

10-2.3 Consistent with other plan elements and policies, the City shall continue to implement the historic district through the following actions:

A. Review of proposed plans for rehabilitation of historic structures, development proposals, and new construction within the historic district by the Architectural Review Board.

B. On-going coordination with the Cedar Key Historical Society, State Historic Preservation Officer.

C. Coordinate preservation activities with redevelopment and infrastructure plans of the Community Redevelopment Area.

10-2.4 The City shall enforce state and local preservation ordinances and laws, and shall provide for public participation in development of those laws and ordinances.

10-2.5 The City shall continue to implement programs and regulations within the Historic District, as depicted on the Future Land Use Map.

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10-2.6 Historic resources shall be protected and conserved through designation as historic sites by the City, state, county, and federal government.

10-2.7 Threshold criteria and performance standards for proposed development within the vicinity of archaeological and historical sites will be prepared and considered for adoption, as the means of assuring that such sites and artifacts are not destroyed. As considered appropriate and necessary by the City Commission, development approval may be conditioned upon performance of at least some degree of archaeological salvage excavation of historical resources, or may even require preservation of major sites.

10-2.8 Land development regulations shall assure that development does not destroy or harm archaeological or historic resources through an assessment of the impact of proposed development on historic and archaeological sites.

10-2.9 The City shall implement sign regulations that provide adequate visual identification and ensure that signs are compatible with architectural and historic styles of the neighborhood where the signs are proposed.

10-2.10 Variances for historic structures shall be limited to repair or rehabilitation of existing structures which does not affect their historic designation. (Ref: 44 Code of Federal Regulations Part 60.6, 9-15-89)

OBJECTIVE 10-3

The City shall continue to encourage the rehabilitation of deteriorating historic structures.

POLICIES:

10-3.1 The City herewith adopts the Department of the Interior's "Ten Basic Principles for

Sensitive Rehabilitation," and shall make those principles available to developers and interested persons who propose redevelopment of historic properties.

10-3.2 The "Ten Basic Principles" shall be incorporated by reference in the revised "Historic District" zoning ordinance.

OBJECTIVE 10-4

The City shall identify economic incentives which encourage rehabilitation of historic structures.

POLICIES:

10-4.1 In accordance with City Charter Laws of Florida 69-929) Section 9-13, the City Commission shall consider property tax exemptions for new or expanded businesses during the period of rehabilitation.

10-4.2 The City will make National Register and state economic incentive information available to developers.

10-4.3 The City, in cooperation with the Historical Society and/or Historic Preservation Commission, shall establish tax abatement incentives, primarily in the downtown historic district, for improvements to historic properties.

OBJECTIVE 10-5

The City shall actively seek funding from all available sources to acquire, rehabilitate and promote historic resources.

POLICIES:

10-5.1 The City will continue to investigate and report on methods of acquiring endangered sites for public purposes.

10-5.2 The City will actively support a Tourist Development Tax which encourages promotion of the area's historic resources.

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10-5.3 The City will explore the potential for public/private joint ventures capable of financing the acquisition, rehabilitation, maintenance and operation of historic properties, including, but not limited to, convention centers, theaters, retail rental properties and tourist attractions.

10-5.4 The City shall establish the priorities for acquisition of endangered historic sites, in the following order:

- A. Greatest public use as benefit potential.
- B. Degree of imminent danger to the property.
- C. Economic feasibility.
- D. Long-term preservation potential.
- E. Historic, archaeological, cultural and ecological importance.

OBJECTIVE 10-6

The City shall assure that infill on vacant property and redevelopment in the historic district is consistent with the character of the community.

POLICIES:

10-6.1 The City Commission shall not approve any new construction which has not been reviewed and recommended by the Architectural Review Board.

10-6.2 New development proposals shall be consistent with photographic or other architectural documentation of original structures on the vacant site and with adjacent historic structures.

10-6.3 Sites which by the nature of their use are inconsistent with the surrounding area shall be appropriately buffered by architectural or landscaping features.

10-6.4 All redevelopment of historic locations shall comply with related elements and objectives/policies of this plan, including Future Land Use, Housing, Transportation, and Conservation/Coastal Management policies.

10-6.5 Known archaeological and historical sites within proposed development should be incorporated, wherever practicable, into "greenbelt," open space, or other low-intensity uses that will protect the physical and informational integrity of these resources.

**LAWS OF CEDAR KEY-CHAPTER THREE
COMPREHENSIVE PLAN**

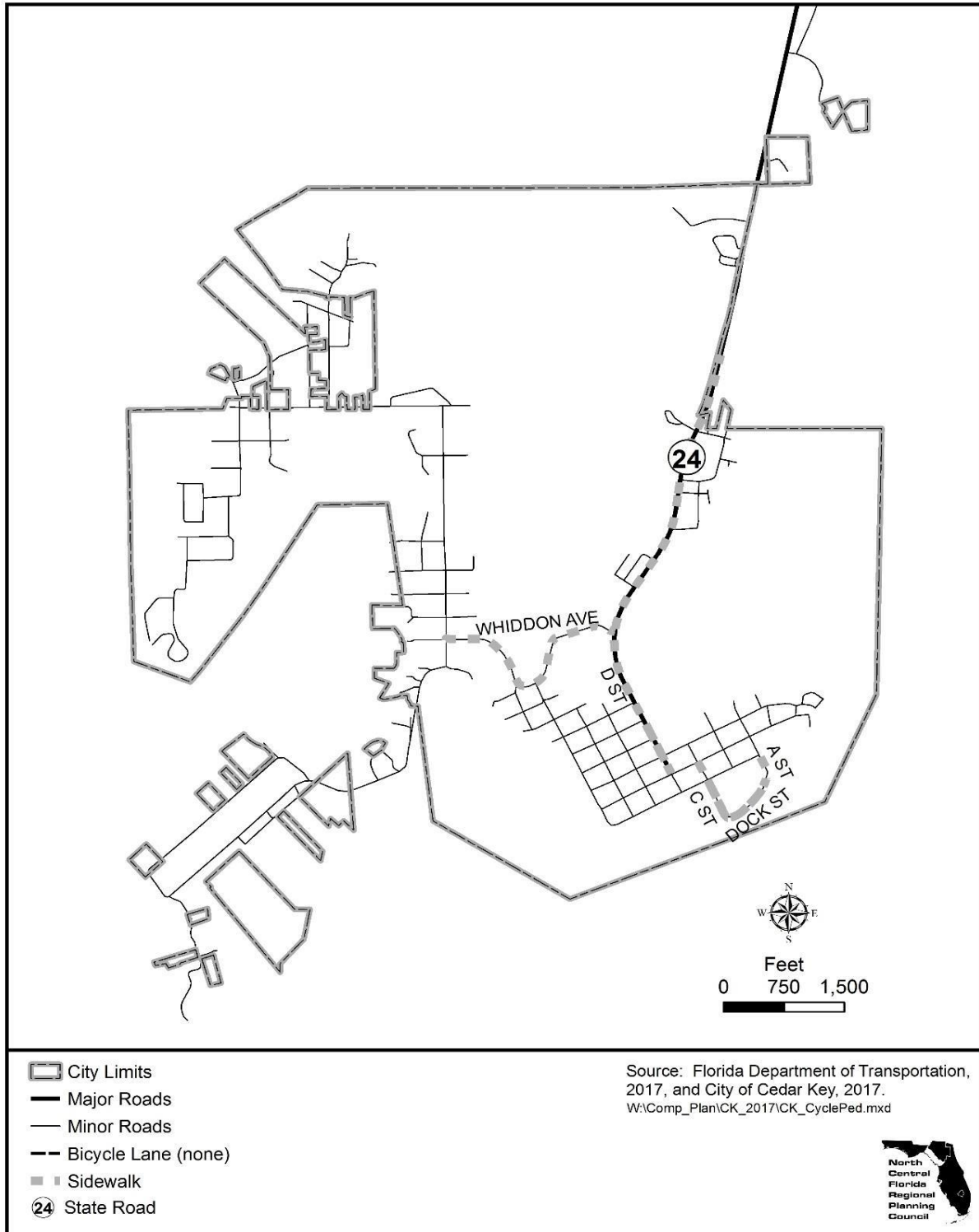
FUTURE LAND USE MAP SERIES

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Map 1	Bicycle and Pedestrian Facilities Map 2028.....
Map 2	Coastal High Hazard Area Map.....
Map 3	Emergency Evacuation Routes Map.....
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Map 5	Soils Map.....
Map 6	High Groundwater Aquifer Recharge Areas Map.....
Map 7	Historic Resources Map.....
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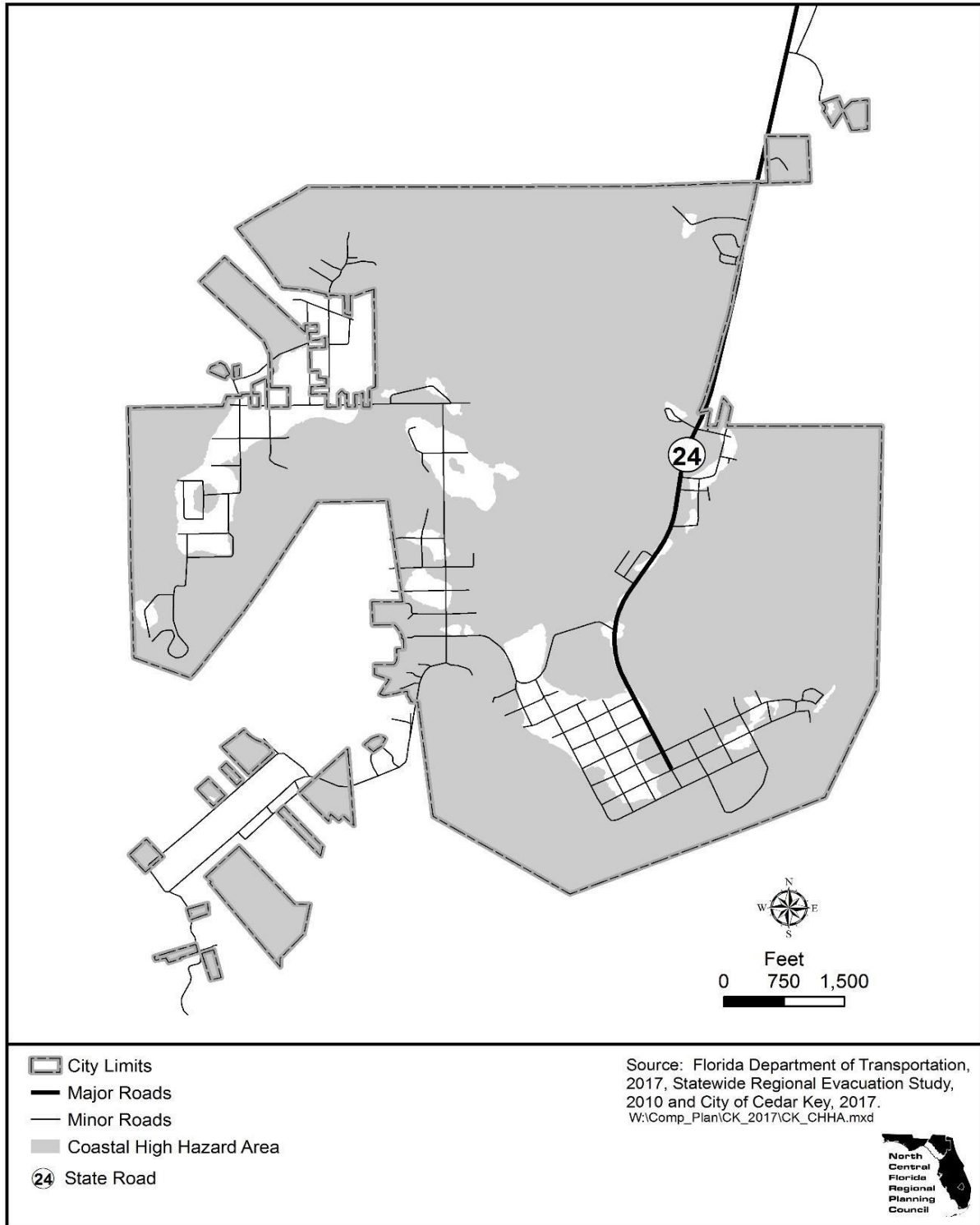
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MAP 1 BICYCLE AND PEDESTRIAN FACILITIES MAP 2028



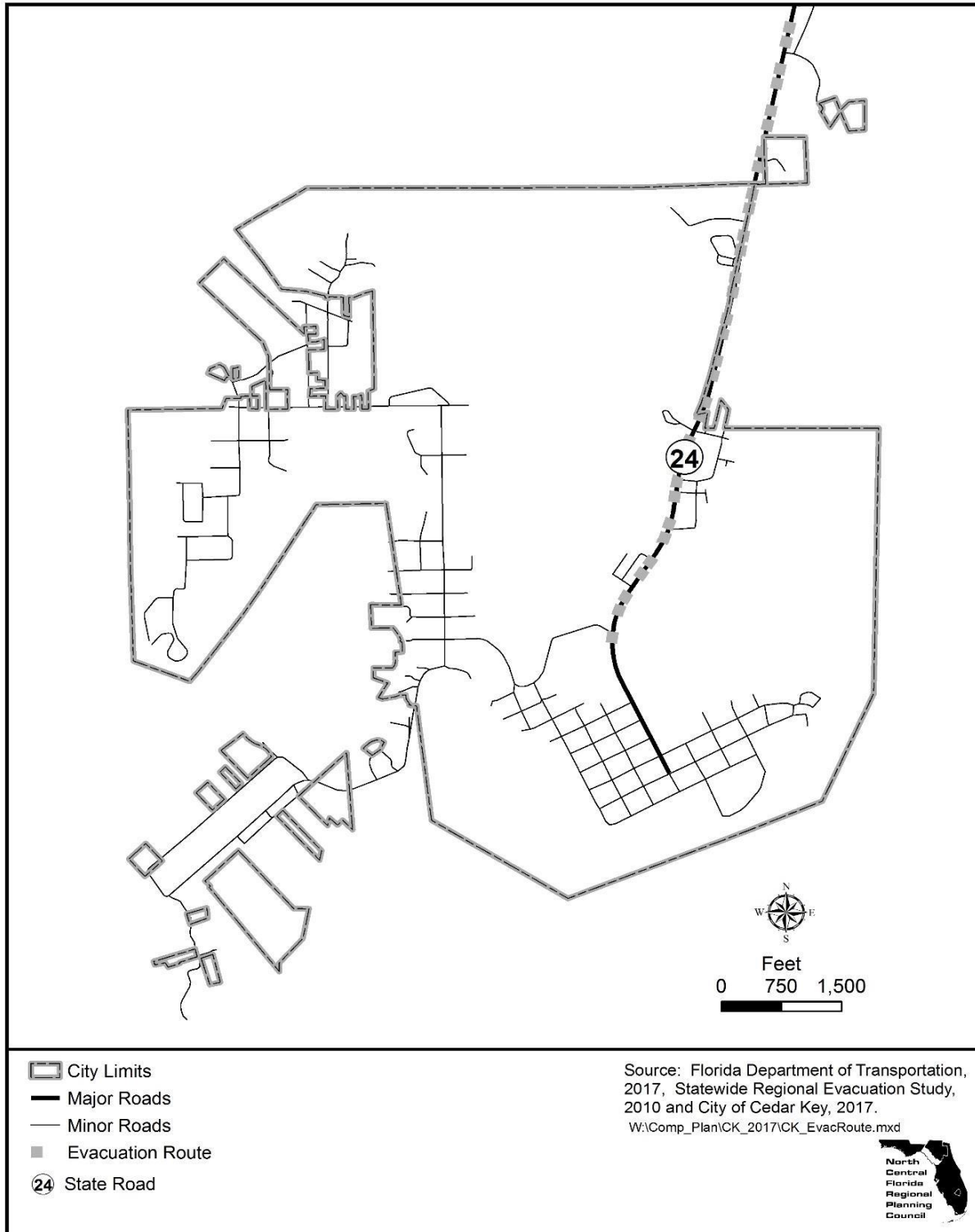
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MAP 2 COASTAL HIGH HAZARD AREA MAP



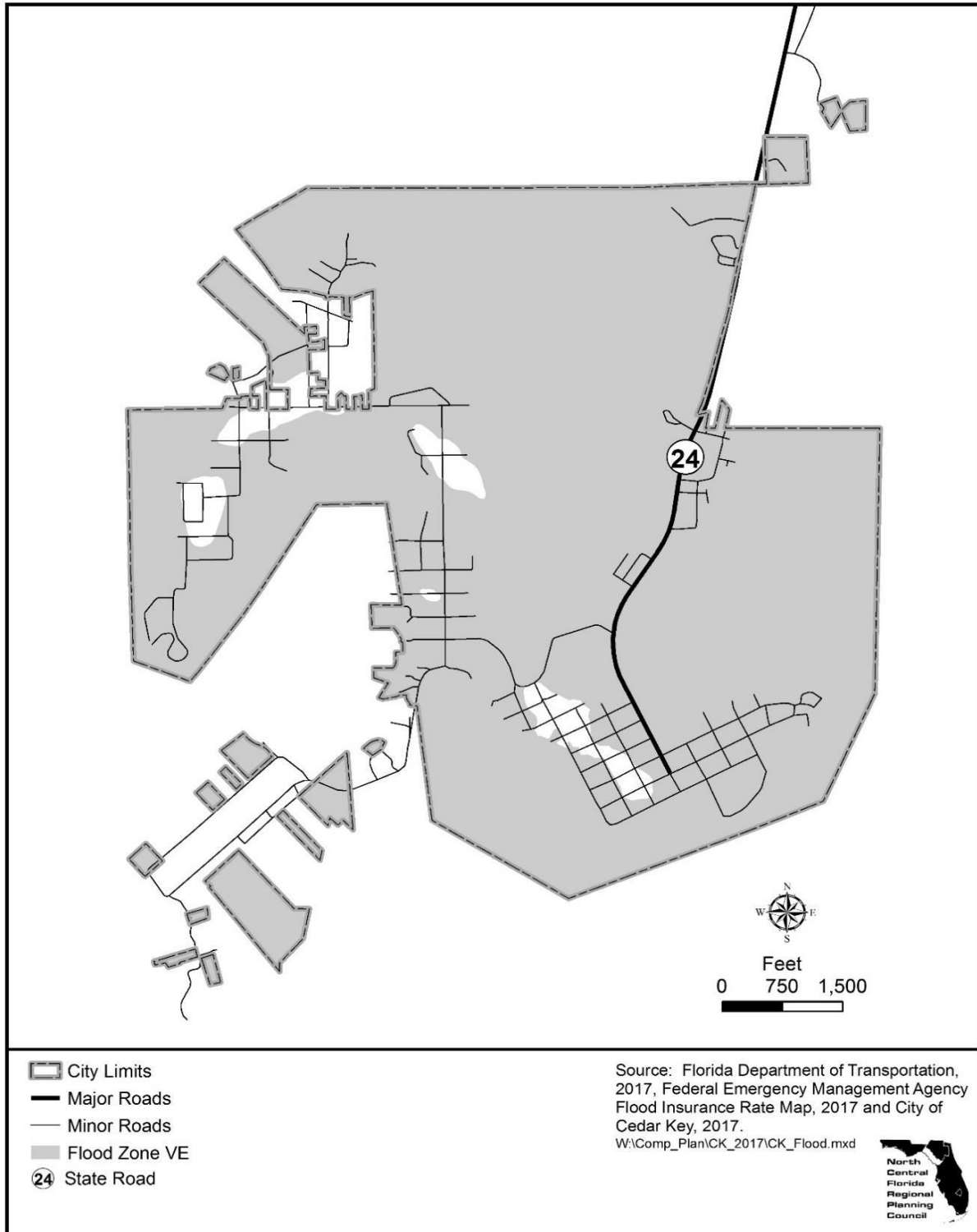
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MAP 3 EMERGENCY EVACUATION ROUTES MAP



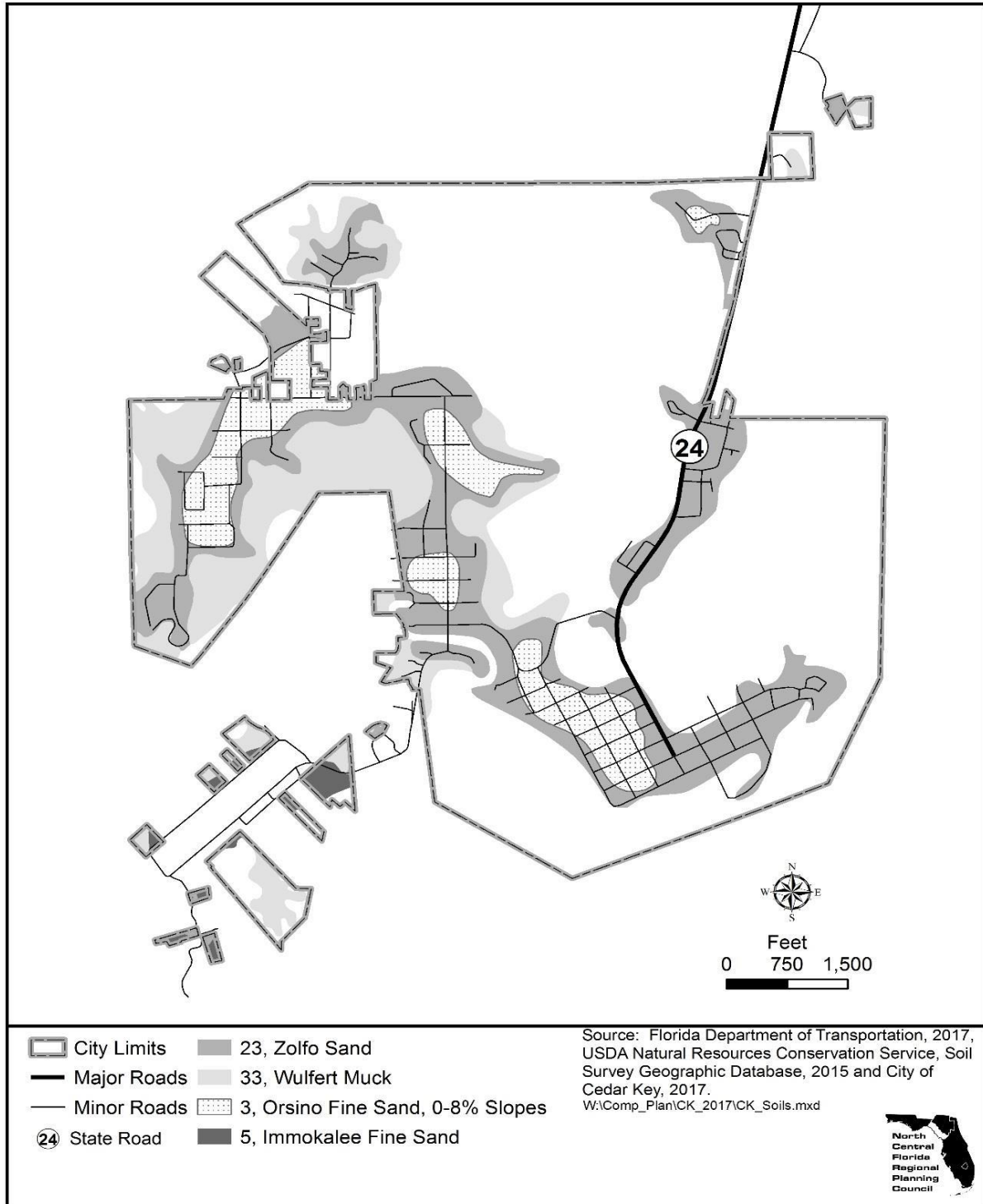
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MAP 4 FLOOD PRONE AREAS MAP



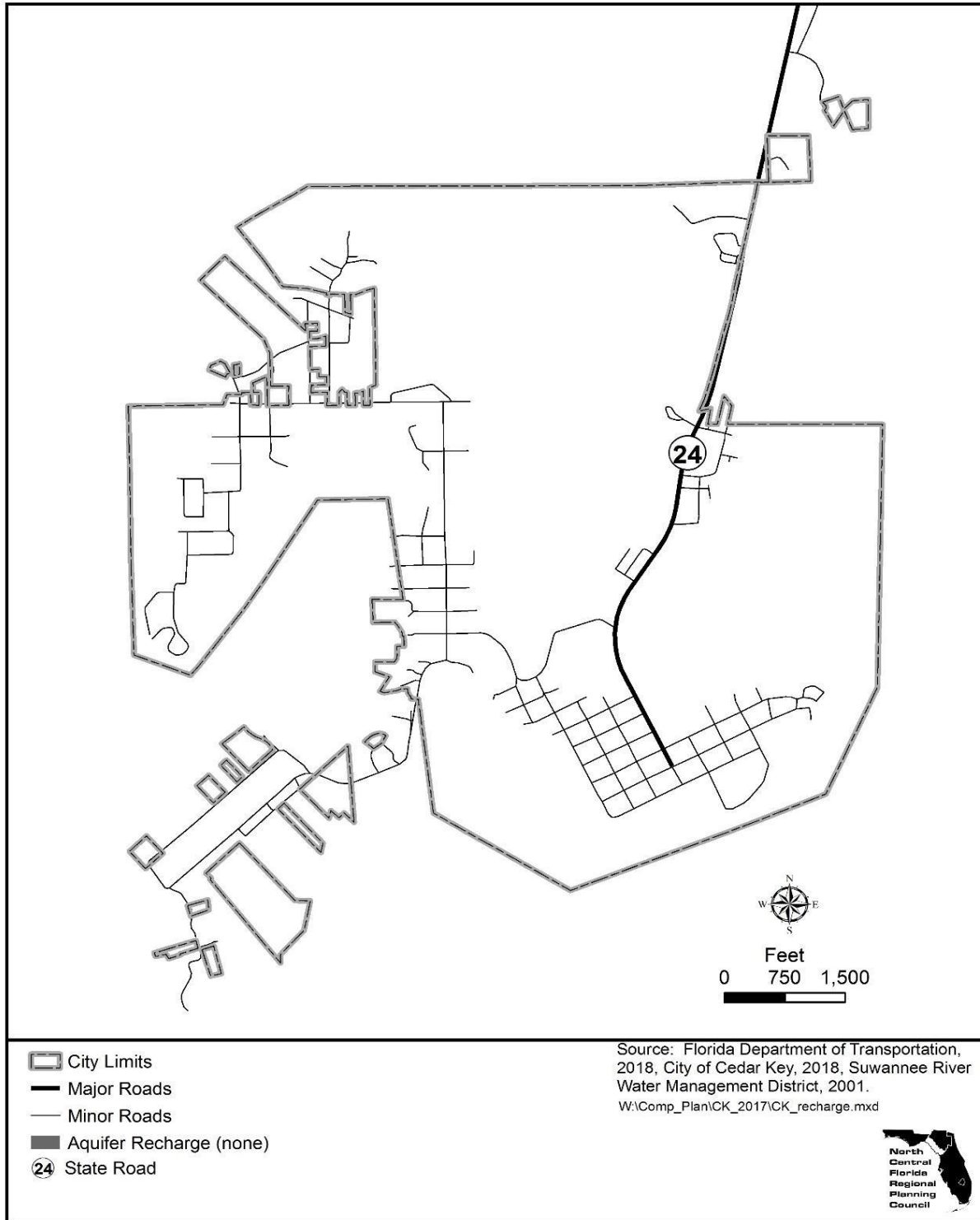
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MAP 5 SOILS MAP



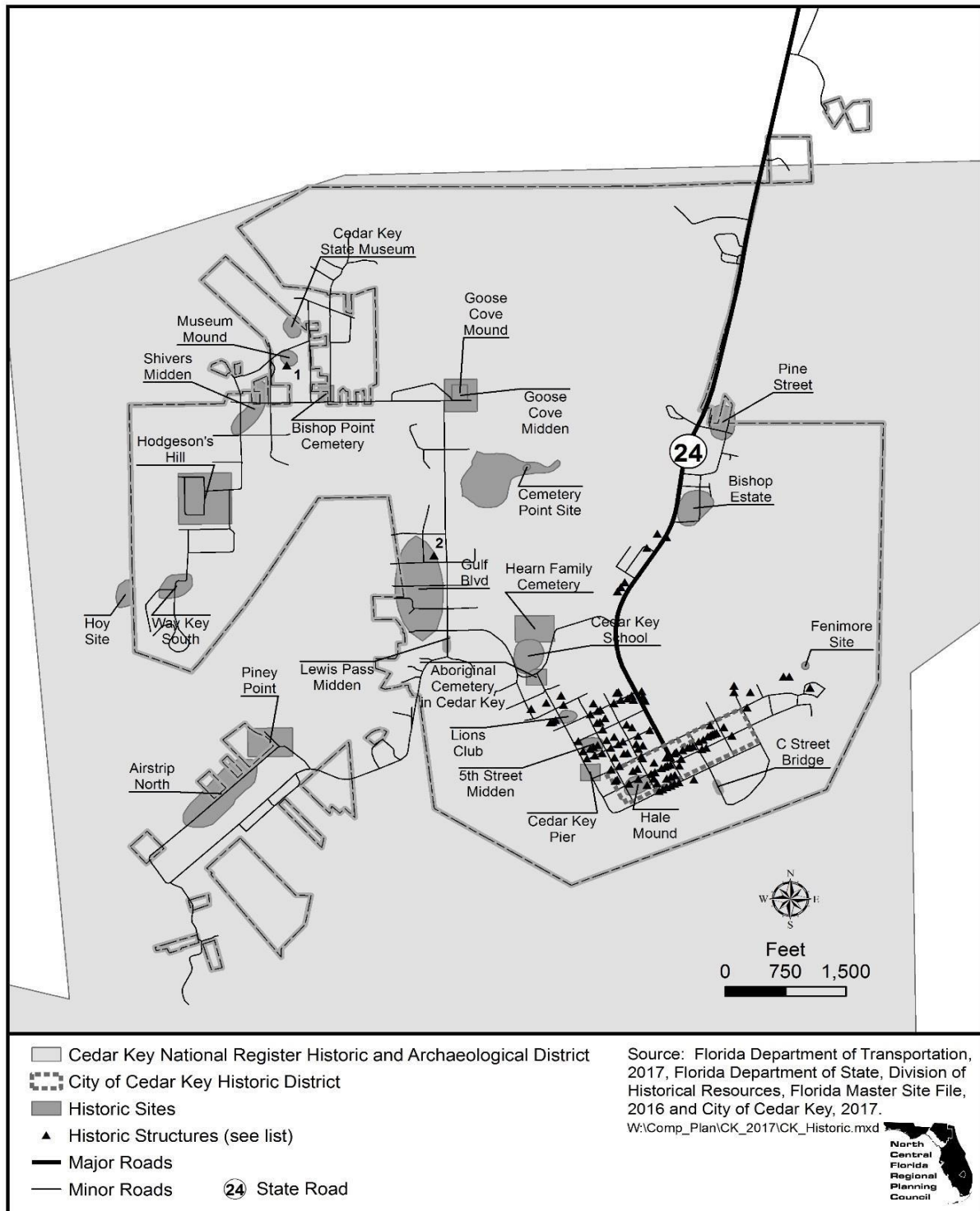
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MAP 6 HIGH GROUNDWATER AQUIFER RECHARGE MAP



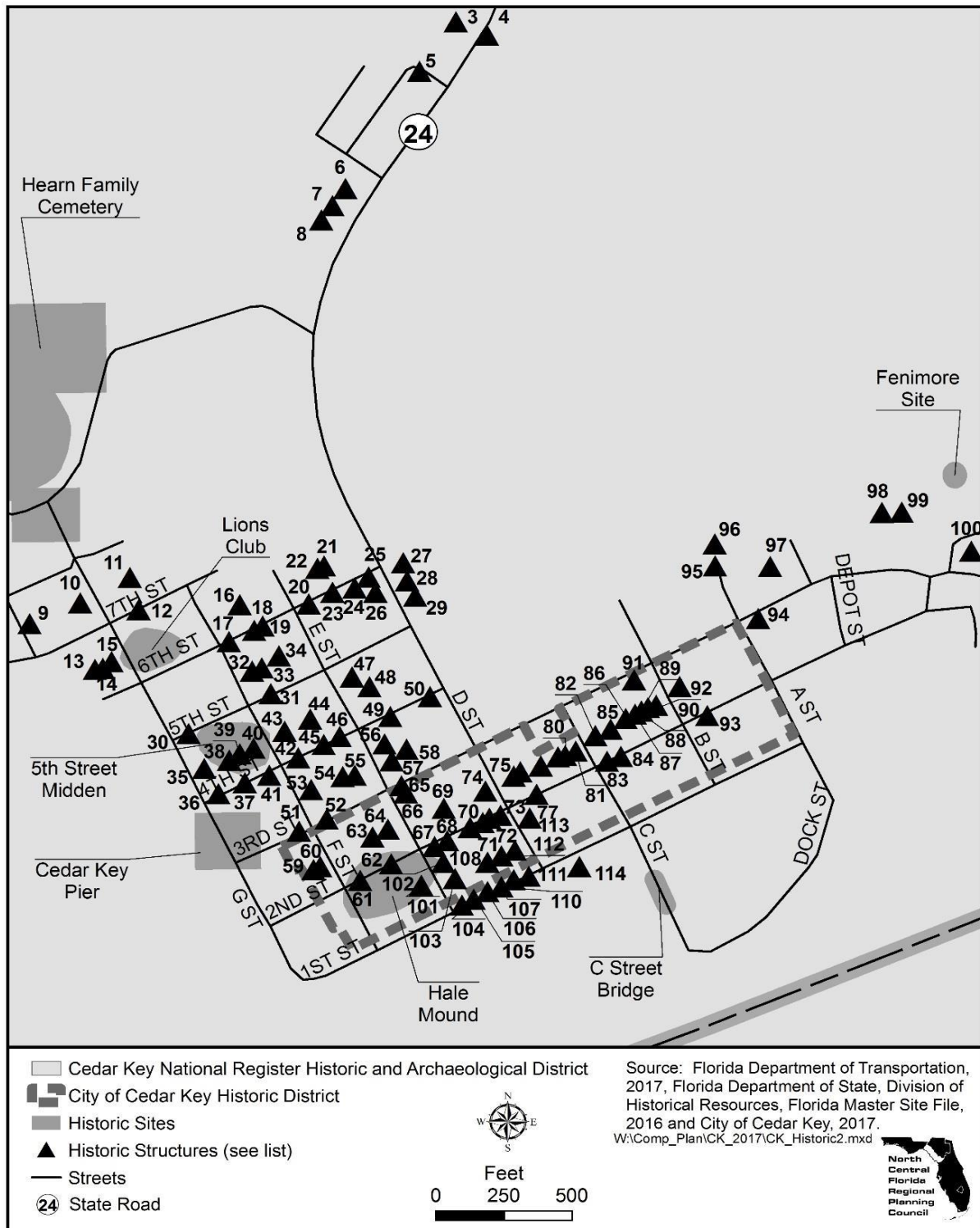
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MAP 7 HISTORIC RESOURCES MAP



LAWS OF CEDAR KEY-CHAPTER THREE COMPREHENSIVE PLAN

MAP 7a HISTORIC RESOURCES INSET MAP



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LEGEND FOR MAP 7A

HISTORIC RESOURCES INSET MAP

Label	SITE ID	SITE NAME	ADDRESS
1	LV00831	CEDAR KEY MUSEUM	12231 SW 166 CT
2	LV00226	FOWLER/PUGH HOUSE	GULF BOULEVARD
3	LV00234	ZIEGLER'S BAIT HOUSE	E SR 24
4	LV00232	TURNER, DR J W HOUSE	SR 24
5	LV00233	NOEGEL HOUSE	C SR 24
6	LV00231	HOLMAN HOUSE	B SR 24
7	LV00230	FAYLE RENTAL	SR 24
8	LV00229	SR 24 - A	SR 24 - A
9	LV00728	973 7th STREET	973 NA 7th ST NE
10	LV00224	CREVASSE, HENRY WINTER HOUSE	109 G STREET
11	LV00726	825 7th STREET	825 NA 7th ST NW
12	LV00727	7th STREET	NA 7th ST S
13	LV00194	203 6th STREET	203 6th STREET
14	LV00193	WHITMAN, ST. CLAIRE HOUSE	12231 SW 166th CT
15	LV00729	909 6th STREET	909 NA 6th ST NW
16	LV00195	209 6th STREET	209 6th STREET
17	LV00198	239 6th STREET	239 6th STREET
18	LV00199	241 6th STREET	241 6th STREET
19	LV00200	243 6th STREET	243 6th STREET
20	LV00730	690 6th STREET	690 NA 6th ST SE
21	LV00197	DANCY, J D HOUSE	221 6th STREET
22	LV00196	DEMPS, BOB HOUSE	220 6th STREET
23	LV00201	JENKINS, FRANK HOUSE	250 6th STREET
24	LV00190	MCLEODS STORE	127 5th STREET
25	LV00208	EPISCOPAL RECTORY	Corner D ST & 6th ST
26	LV00210	EPISCOPAL PARISH HALL	414 D STREET
27	LV00705	KEY MOTEL	574 6 ST S
28	LV00205	REYNOLDS HOUSE	D STREET
29	LV00204	OLD FIRST PRESBYTERIAN CHURCH	D STREET
30	LV00189	DELIANO, W P HOUSE	Corner 5th & G STREET
31	LV00191	HODGES RENTAL	206 5th STREET
32	LV00222	WALKER, WILSON HOUSE	312 F STREET
33	LV00192	KIRBY/BENSE HOUSE	211 5th STREET
34	LV00704	CHURCH OF GOD	5th STREET N
35	LV00178	OLD BLOCK HOUSE	Corner 4th & G ST
36	LV00177	WADLEY, FRANK HOUSE	E corner of 4th STREET
37	LV00182	WADLEY, EDWARD HOUSE	33 4th STREET
38	LV00188	HODGES RENTAL	613 4th STREET
39	LV00179	HODGES RENTAL	16 4th STREET
40	LV00220	WATSON/HODGES HOUSE	215 F STREET

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41	LV00219	WILSON, J. J.	214 F STREET
42	LV00183	TEBO HOUSE	36 4th STREET
43	LV00223	HALE/JOHNSON HOUSE	325 F STREET
44	LV00180	PARRISH HOUSE	21 4th STREET
45	LV00184	PARSONS RENTAL	38 4th STREET
46	LV00185	OLD FIRST BAPTIST CHURCH	39 4th STREET
47	LV00215	328 E STREET	328 E STREET
48	LV00181	CLAYWELL, R S HOUSE	26 4th STREET
49	LV00186	OLD PUBLIC SCHOOL	44 4th STREET
50	LV00187	CEDAR KEY FIRST M E CHURCH	45 4th STREET
51	LV00218	EAGLE CEDAR MILL HOUSE	210 F STREET
52	LV00221	FIRST CHRISTIAN CHURCH	224 F STREET
53	LV00216	WHITMAN, FRED HOUSE	6 F STREET
54	LV00738	725 3rd STREET	725 NA 3rd ST NW
55	LV00175	LUTTERLOH, E C HOUSE	A 3rd STREET at E STREET
56	LV00739	6051 E STREET	6051 NA E ST E
57	LV00740	665 3rd STREET	665 NA 3rd ST N
58	LV00214	REDDICK, SAMUEL C HOUSE	323 E STREET
59	LV00176	EAGLE CEDAR MILL	A 3rd STREET at F STREET
60	LV00217	HUGHES, J E HOUSE	205 F STREET
61	LV00154	GORE, J IRA HOUSE	744 2nd STREET
62	LV00155	WHITE HOUSE ANNEX	125 2nd STREET
63	LV00731	BAPTIST CHURCH PASTOR'S HOME	749 NA 2nd ST N
64	LV00150	FIRST BAPTIST CHURCH	111 2nd STREET
65	LV00213	STEPHENS HOUSE	321 E STREET
66	LV00212	GARDINER HOUSE	320 E STREET
67	LV00149	HALE, F E HOUSE	107 2nd STREET
68	LV00153	KIRCHANE, YULEE HOUSE	120 2nd STREET
69	LV00151	ROGERS, H B HOUSE	113 2nd STREET
70	LV00156	RICHBURG/BERRY HOUSE	129 2nd STREET
71	LV00157	WADLEY, BOAG C HOUSE	130 2nd STREET
72	LV00158	131 2nd STREET	131 2nd STREET
73	LV00209	RICHBURG, JOHN HOUSE	406 D STREET
74	LV00152	LUTTERLOH BUILDING 1	117 2nd STREET
75	LV00207	ANDREWS, I O/HALE BUILDING	Corner D ST & 2nd ST
76	LV00146	BICKELL'S PHOTO GALLERY	A 2nd IN 2nd ST
77	LV00168	WADLEY'S GROCERY	233 2nd STREET
78	LV00147	ICE CREAM PARLOR	A 3rd on 2nd STREET from D STREET
79	LV00159	PRESCOTT BUILDING	210 2nd STREET
80	LV00160	KAPOTE BUILDING	211 2nd STREET
81	LV00161	CEDAR KEY STATE BANK	212 2nd STREET
82	LV00145	LUTTERLOH BUILDING	NE corner 2nd STREET
83	LV00169	CEDAR KEY CITY HALL / CITY HALL	244 2nd ST
84	LV00170	SCHLEMMER HOUSE	245 2nd ST

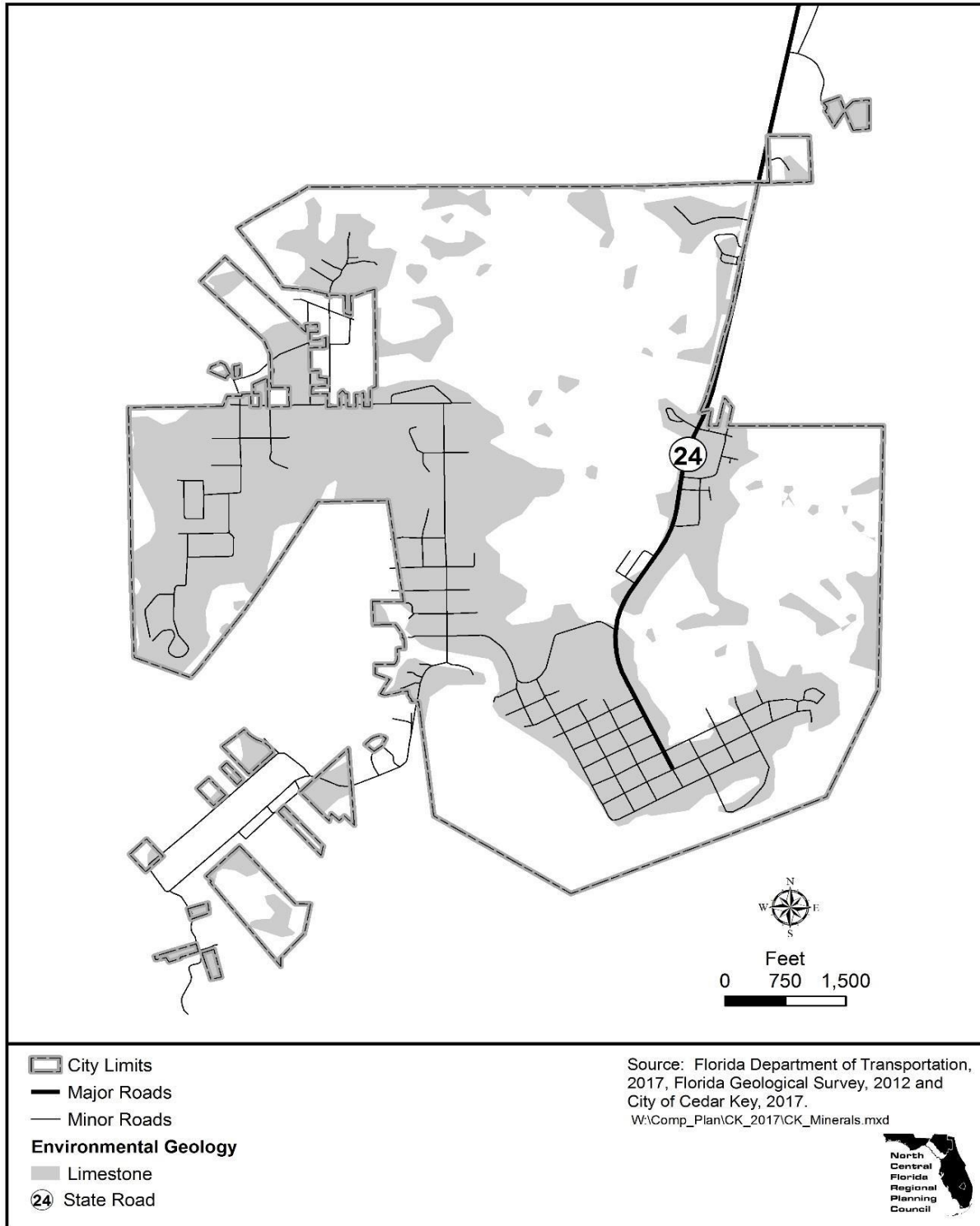
LAWS OF CEDAR KEY-CHAPTER THREE COMPREHENSIVE PLAN

85	LV00162	SCHLEMMER BAKERY AND GROCERIES	215 2nd STREET
86	LV00163	ELLIS BUILDING	218 2nd STREET
87	LV00164	ELLIS BUILDING	220 2nd STREET
88	LV00165	BODIFORD BUILDING	221 2nd STREET
89	LV00166	ZADOWSKI GENERAL MERCHANDISE	222 2nd STREET
90	LV00167	BODIFORD DRUG STORE	223 2nd STREET
91	LV00691	Fraternal Order Of Eagles	410 3rd ST SW
92	LV00120	ISLAND HOTEL	224 2nd STREET
93	LV00171	HODGES, W R HOUSE	253 2nd STREET
94	LV00741	282 3rd Street	282 NA 3rd ST S
95	LV00202	1 A STREET	1 A STREET
96	LV00203	3 A STREET	3 A STREET
97	LV00172	107 3rd STREET	107 3rd STREET
98	LV00173	TOOKE HOUSE	A 1st on left 3rd STREET
99	LV00225	ANDREWS, DAN HOUSE	A 2nd house on L MILL ST
100	LV00174	UNITED STATES FIBRE COMPANY	NE end 3rd STREET
101	LV00142	RODGERS, BERTL HOUSE	109 1st STREET
102	LV00211	CHARPIA, H E HOUSE	317 E STREET
103	LV00143	WHIDDEN, HENRIETTA HOUSE	111 1st STREET
104	LV00737	652 1st Street	652 NA 1st ST S
105	LV00736	650 1st Street	650 NA 1st ST S
106	LV00735	648 1st Street	648 NA 1st ST S
107	LV00734	646 1st Street	646 NA 1st ST S
108	LV00140	HODGES COTTAGE	A 3rd from corner 1st ST
109	LV00144	HODGES RENTAL	115 1st STREET
110	LV00733	644 1st Street	644 NA 1st ST S
111	LV00732	642 1st Street	642 NA 1st ST S
112	LV00206	HODGES RENTAL	A 2nd from corner D STREET
113	LV00148	MASONIC LODGE	Corner 2nd STREET
114	LV00141	HODGES RENTAL COTTAGE	A 4th from corner 1st ST

Source: Florida Master Site File, 2017

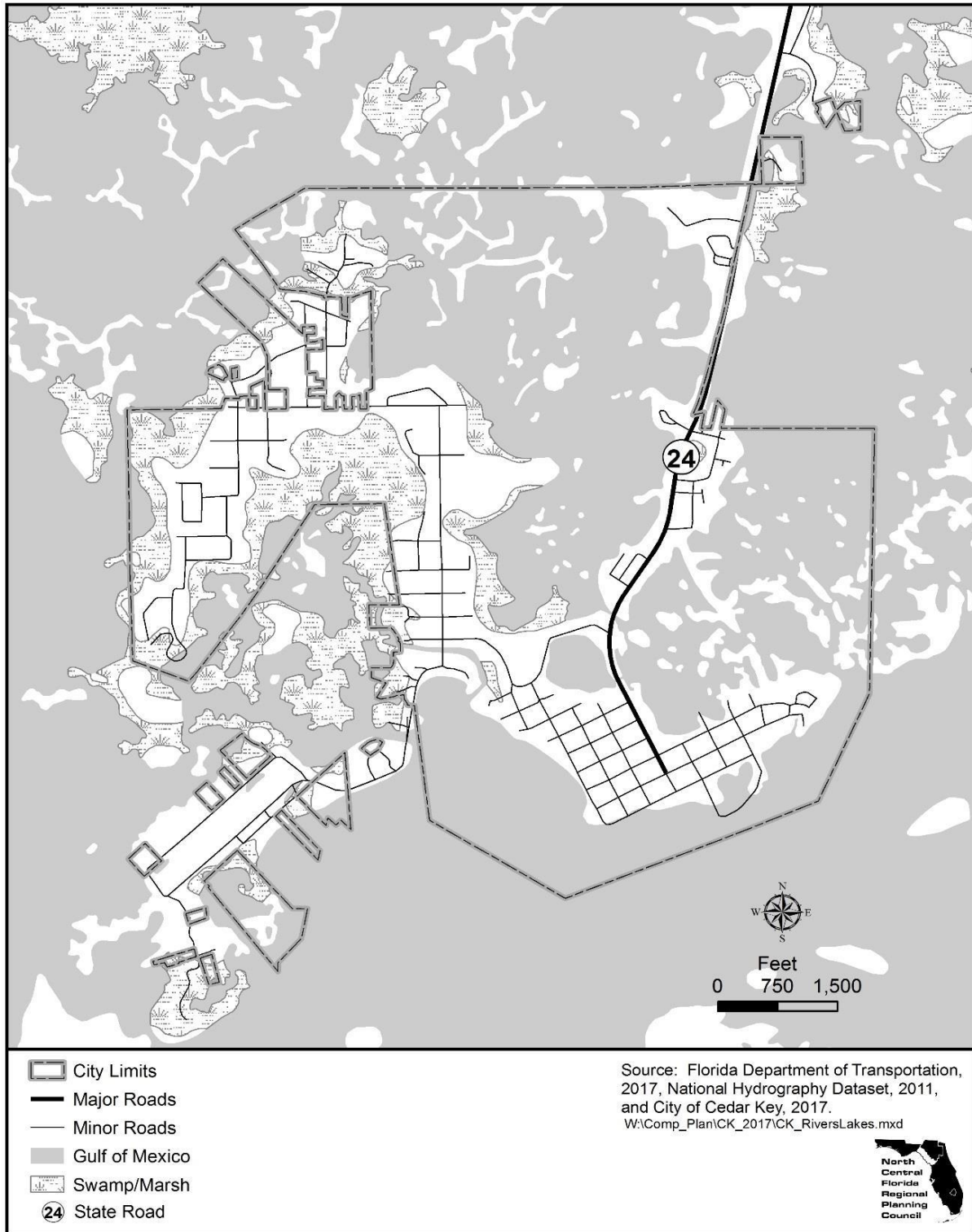
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MAP 8 MINERALS MAP



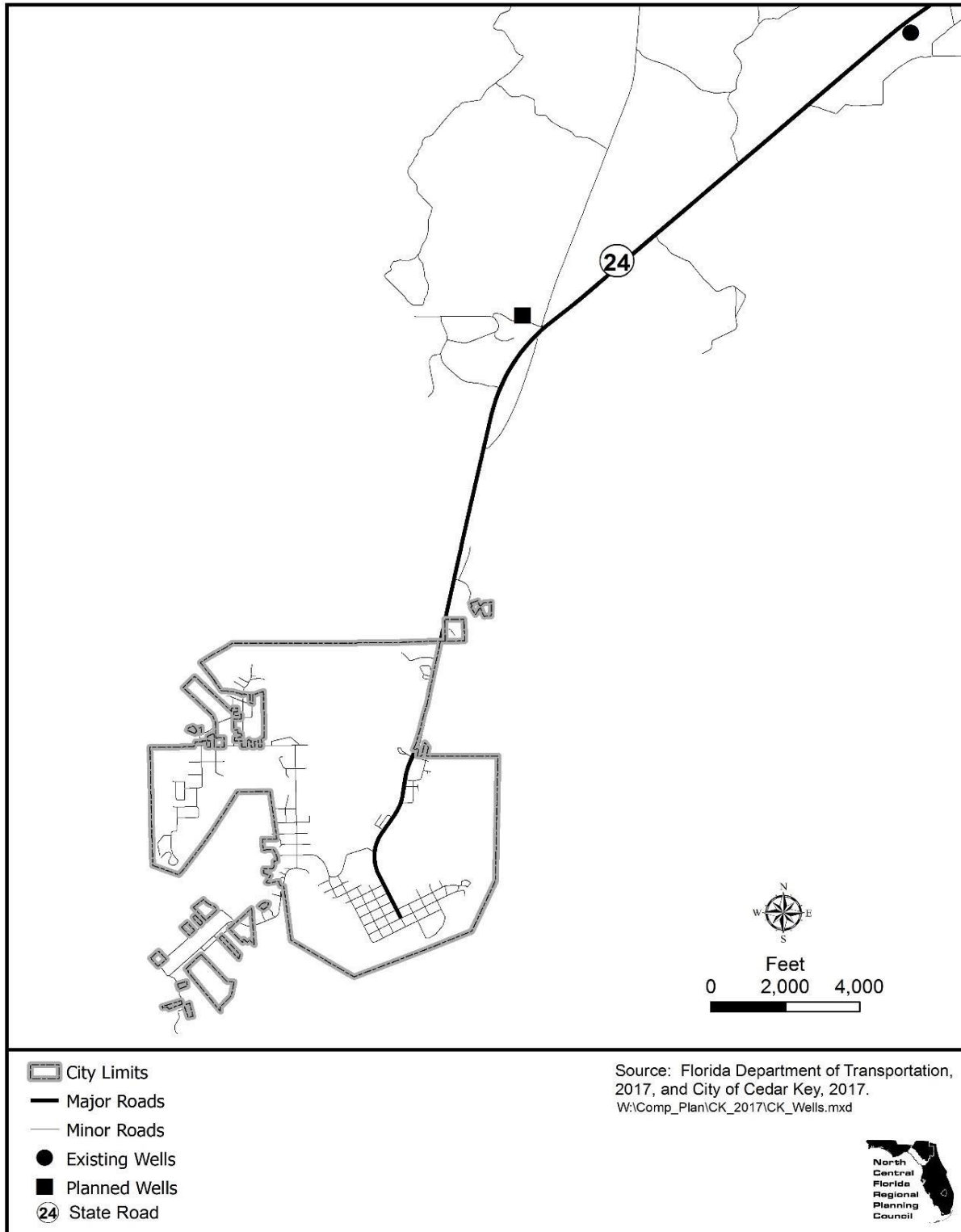
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MAP 9 WATERBODIES MAP



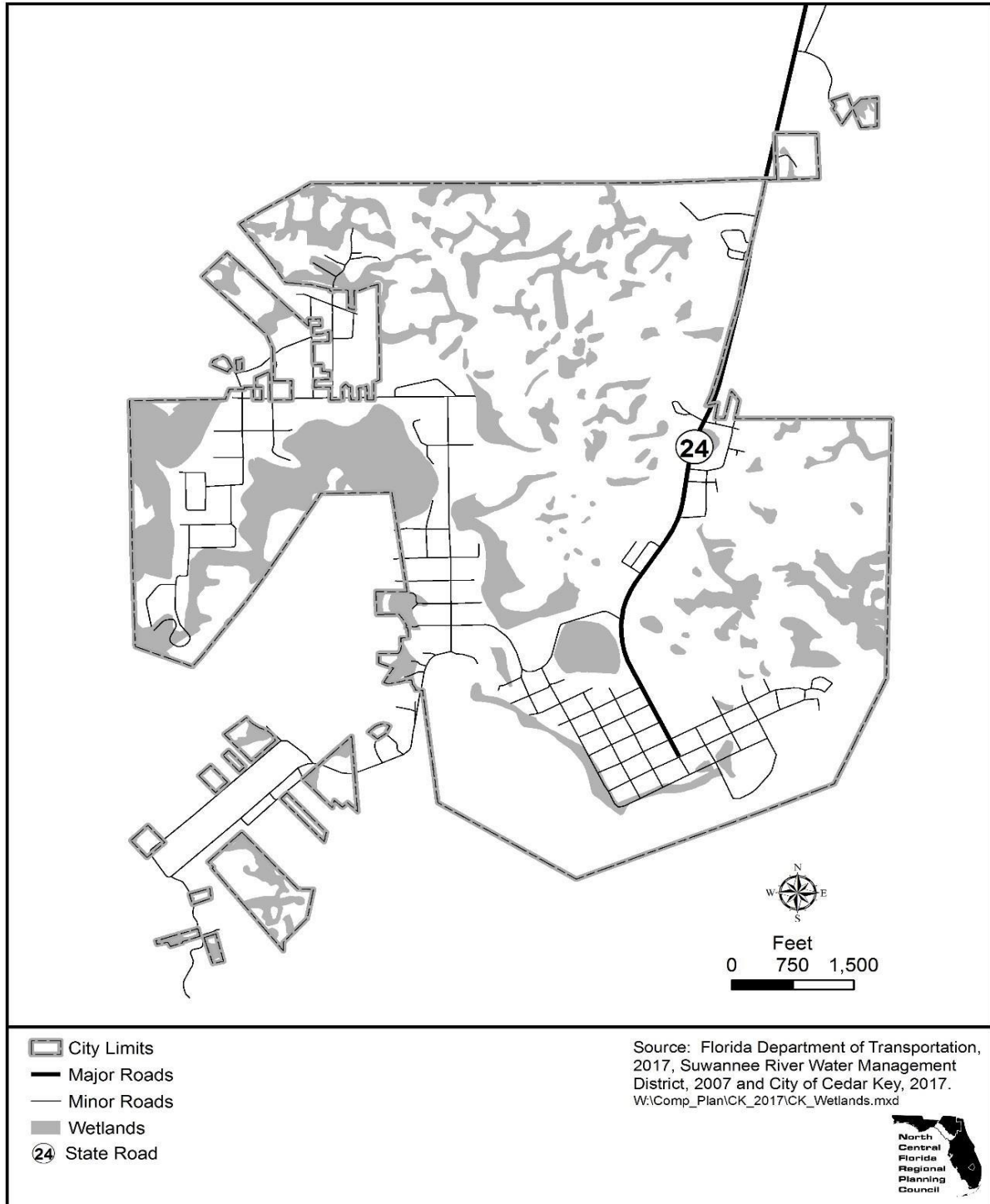
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MAP 10 Waterwells MAP



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MAP 11 Wetlands MAP



LAWS OF CEDAR KEY-CHAPTER FOUR LAND DEVELOPMENT REGULATIONS

CHAPTER FOUR: LAND DEVELOPMENT CODE TABLE OF CONTENTS

ARTICLE I: ESTABLISHMENT, CORPORATE LIMITS, AND POWERS

1.00.00. TITLE

This Code shall be entitled the "Land Development Code" and may be hereafter referred to as the "Cedar Key Code" or the "Code."

1.01.00. AUTHORITY

This Code is enacted pursuant to the requirements and authority of §163.3202, Florida Statutes, (Local Government Comprehensive Planning and Land Development Regulation Act), the general powers in Chapter 166 Florida Statutes (Municipality Laws of Florida 69-929 (City Charters), and City Ordinance 242 (Comprehensive Plan).

1.02.00. APPLICABILITY

1.02.01. General.

Except as specifically provided below, this Code shall apply to all development in the city, and no development shall be undertaken without prior authorizations pursuant to this Code.

1.02.02. Exceptions

The provisions of this Code and any amendments thereto shall not affect the validity of any lawfully issued development order or permit that has not expired at the time this Code is adopted, and on which development has

started or does start and proceeds according to the time limits under which the development was originally approved and which meets the requirements of the regulations in effect and any conditions applied when the development plan was approved. If the development plan expires or is otherwise invalidated, any further development on that site shall occur only in conformance with the requirements of this Code or any amendments thereto.

1.02.03. Consistency with Comprehensive Plan

Nothing in this section shall be construed to authorize development that is inconsistent with the adopted city comprehensive plan.

(History: Ord. No. 242)

1.03.00. FINDINGS

1.03.01. Statutory Requirement

Florida Statute Chapter 163 requires each Florida local government to enact a single land development Code which implements and is consistent with the local comprehensive plan, and which contains all land development regulations for the city.

1.03.02. General Public Need

Controlling the location, design and construction of development within the city is necessary to maintain and improve the quality of life in the

LAWS OF CEDAR KEY-CHAPTER FOUR

LAND DEVELOPMENT REGULATIONS

city as more fully described below in specific findings related to the various subject areas of this Code.

1.03.03. Administration and Enforcement

A. A single set of administrative procedures for making all land use decisions promotes efficiency, predictability, and citizen participation.

B. All development proposals should undergo a development review process to assure compliance with the requirements of this Code.

C. A mandatory pre-application conference requirement enhances communication and understanding between the Department and the developer thereby improving the efficiency of the development review process.

D. All Administrative decisions should be supported by a record with written findings to assure accountability and efficient appellate review.

E. A quick and efficient appeal process should be available for all administrative decisions.

F. Enforcement of development orders and the provisions of this Code should be through procedures which are efficient, effective and consistent with the Code and procedures established by state law.

1.03.04. Signs

A. The manner of the erection, location and maintenance of signs affects the public health, safety, morals, and welfare of the citizens of the city.

B. The safety of motorists, cyclists, pedestrians, other users of public streets is affected by the number, size, location, lighting and movement of signs that divert the attention of drivers.

C. The size and location of signs may, if uncontrolled, constitute an obstacle to effective fire-fighting techniques.

D. The construction, erection and maintenance of large signs suspended from or placed on top of buildings, walls or other structures may constitute a direct danger to pedestrian and vehicular traffic below, especially during periods of strong winds.

E. Uncontrolled and unlimited signs may degrade the aesthetic attractiveness of the natural and manmade attributes of the city and thereby undermine the economic value of tourism, visitation and permanent economic growth.

1.03.05. Landscaping and Tree Protection

A. Landscaping and buffering development with trees and other vegetation promotes the health, safety and welfare of the community to such an extent as to justify the retention of trees and native vegetation and to require buffering through landscaping.

B. Trees, landscaping and native vegetation benefit the city by:

1. Absorbing carbon dioxide and returning oxygen to the atmosphere;

2. Precipitating dust and other particulates from the air;

3. Providing wildlife habitat, particularly for birds which control insects;

4. Providing soil stabilization which reduces erosion and mitigates flooding

5. Providing natural filtration and uptake of stormwater runoff;

6. Providing shade which reduces energy consumption and glare, and making outdoor areas more comfortable during warm weather;

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LAND DEVELOPMENT REGULATIONS

7. Making the built environment more attractive by adding a variety of color, shape, and pattern and thus increasing community pride and property values;

8. Providing attractive buffering between incompatible land uses; and

9. Abating noise.

C. Because native vegetation is adapted to local diseases, pests, soil and climate, it is more economical and desirable than exotic species which require more pesticide, fertilizer and water, and which may crowd out native species.

D. Because some trees and vegetation and their locations are more beneficial than others, the public benefits of protection may be obtained without preserving each and every species.

E. Mangrove trees are especially valuable in stabilizing, building and protecting the shoreline, providing for spawning area breeding grounds for marine organisms and other wildlife, and serving as the basis for most of the estuarine food chains, which are critical to seventy (70) to ninety (90) percent of those marine species considered important to local commercial/recreational uses.

1.03.06. Off-Street Parking and Loading

A. Off-street parking and loading (or unloading) of vehicles promotes the public safety and welfare by reducing traffic congestion.

B. Well designed off-street parking and loading areas promote the safe and efficient storage, loading and circulation of vehicles.

C. Allowing the use of porous paving materials and unpaved parking areas whenever possible conserves water and energy, moderates the microclimate, and reduces the expense and hazards of controlling stormwater runoff.

D. Determination of actual need for parking and phasing to coincide with development impacts may conserve open space and reduce the expense and hazard of controlling stormwater runoff.

1.03.07. Stormwater Management

A. Increased stormwater runoff may cause erosion and pollution of ground and surface water with a variety of contaminants such as heavy metals.

B. Stormwater runoff often contains nutrients, such as phosphorus and nitrogen, which adversely affect flora and fauna by accelerating eutrophication of receiving waters.

C. Erosion silts up water bodies, decreases their capacity to hold and transport water, interferes with navigation, and damages flora and fauna.

D. Impervious surfaces increase the volume and rate of stormwater runoff.

E. Improperly managed stormwater runoff increases the incidence and severity of flooding and endangers property and human life.

F. Improperly managed stormwater runoff alters the chemistry of estuarine areas and diminishes their biological productivity.

G. Degradation of ground and surface waters imposes economic costs on the community.

H. Eighty (80) to ninety-five (95) percent of the total annual loading of most stormwater pollutants discharged into receiving waters are concentrated in the flush created by the first one inch (1") of rainfall ("first flush"), and carried offsite in the first one-half inch of runoff.

I. Improperly managed stormwater adversely affects the drainage of off-site property.

LAWS OF CEDAR KEY-CHAPTER FOUR

LAND DEVELOPMENT REGULATIONS

1.03.08. Floodplain Protection.

- A. Flooding is a natural, recurring phenomenon in the city.
- B. Naturally flood-prone lands serve the following important functions:
 - 1. They provide natural storage and conveyance of flood waters;
 - 2. Provide temporary storage or surface waters that moderates flood elevations and the timing, velocity and rate of flood discharges;
 - 3. Reduce erosion, and filter nutrients, sediments and other pollutants;
 - 4. Export detritus and other food sources to open water bodies and are vital habitat for fish, birds, wildlife and native plant communities.
- C. Naturally occurring flooding may provide recharge to groundwater and a basic source of flow to surface waters.
- D. The uncontrolled development of flood-prone lands substantially degrades the health, safety and welfare of the city in the following ways:
 - 1. Owners, residents, guests, customers and employees occupying homes, businesses and other structures located in flood-prone areas are placed at unreasonable risk of personal injury and property damage.
 - 2. Expensive and dangerous search, rescue and other disaster relief operations may be necessary when developed properties are flooded.
 - 3. Roads, public facilities, and utilities associated with development may be damaged by flooding at great expense to taxpayers and utility ratepayers.
 - 4. Flooding of developed properties may lead to demands that government construct

expensive and environmentally damaging projects to control flood waters.

- 5. Normally flood-free lands are placed at risk of flooding when flood water on natural flood-prone areas are obstructed, diverted, displaced or channelized.
- 6. Water quality is degraded, freshwater supply to estuaries is disrupted and habitat is lost.
- 7. Property values are lowered and economic activity is disrupted by floods.

1.03.09. Protection of Environmentally Sensitive Lands/Conservation Areas

- A. Protection of conservation areas described or mapped in the Future Land Use, Conservation and Coastal Management Elements of the Comprehensive Plan promotes the well being of the people of the city as described in the Plan and hereafter.
- B. Wetlands serve the following beneficial functions:
 - 1. Wetlands provide natural storage and conveyance of flood and tidal waters, and minimize erosion and sedimentation by reducing flood flows and the velocity of flood and tidal waters and wave action.
 - 2. Coastal wetlands filter and help decompose sediments, nutrients, and other natural and man-made pollutants that would otherwise degrade waters.
 - 3. Wetlands support commercial and recreational fishing by providing essential nutrients and hatcheries for aquatic life.
 - 4. Wetlands provide breeding and protective habitats for wildlife.
 - 5. Wetlands recharge ground and surface waters.

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C. Shorelines serve the following beneficial functions:

1. Land adjoining waters or wetlands, which can generally be divided into submergent, transitional, and upland vegetation zones, provide essential habitat for many plant and animal species, including those that are endangered, threatened or of special concern.
2. Submergent, transitional, and upland vegetation zones help slow storm-water runoff flows and increase infiltration of water, nutrients and other substances.
3. These zones serve as effective buffers against noise and other human activities which may have adverse affects on aquatic and wetland wildlife.
4. These zones reduce predation by domestic pets on wetland and wetland dependent wildlife.
5. Development activities have destroyed or impaired the beneficial function of shoreline areas and federal and state regulations do not adequately protect environmentally sensitive lands, making local regulation necessary.

1.03.10. Protection of Cultural Resources

- A. There are unique and irreplaceable historic, archaeological and architectural sites, buildings, structures and objects located in the city.
- B. In recognition of these assets, the city has adopted an Historic Preservation and Conservation Element as part of the comprehensive plan.
- C. The Historic Preservation and Conservation Elements of the Plan include a survey of cultural resources adopted as the official inventory of historic and archaeological resources of the city.

D. The recognition, protection, enhancement and uses of these resources are public purposes promoting the economic, educational, cultural and general welfare of the public by increasing property values, stabilizing neighborhoods and older areas of the city, increasing economic benefits to the city and its inhabitants, enriching human life in its educational and cultural dimensions, and fostering civic pride in the beauty and noble accomplishments of the past.

E. The city has for many years exerted efforts in an attempt to encourage redevelopment of the older parts of the city and continues to do so.

F. It is the will of the Florida Legislature as expressed in Chapter 267 of Florida Statutes that the State's historic sites and properties, buildings, artifacts, treasure troves, and objects of antiquity, which have scientific or historical value, or are of interest to the public, be protected and preserved.

1.04.00. INTENT

1.04.01. General Intent

With regard to this Code in general, its provisions shall be construed and implemented to achieve the following intentions and purposes of the City Commission:

- A. To establish the regulations, procedures and standards for review and approval of all proposed development in the city.
- B. To foster and preserve public health, safety, comfort and welfare, and to aid in the harmonious, orderly, aesthetically pleasing and socially beneficial development of the city in accordance with the Comprehensive Plan.
- C. To adopt a development review process that is efficient, in terms of time and expense; effective, in terms of addressing the natural resource and public facility implications of

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proposed development; and equitable, in terms of consistency with established regulations and procedures, respect for the rights of property owners, and consideration of the interests of the citizens of the city.

D. To implement the City Comprehensive Plan as required by F.S. 163.

E. To provide specific procedures to ensure that development orders and permits are conditioned on the availability of public facilities and services that meet level of service (LOS) requirements (concurrency).

1.04.02. Specific Intent

The provisions of this Code dealing with the specific subject areas which follow shall be construed and implemented to achieve the following intentions and purposes of the City Commission:

1.04.03. Administration and Enforcement

A. To assure that all development proposals be thoroughly and efficiently reviewed for compliance with the requirements of this Code, the city Comprehensive Plan, and other applicable city regulations.

B. To promote efficiency and predictability.

C. To assure compliance with approved development orders and the provisions of this Code through rigorous but fair enforcement actions.

1.04.04. Signs

A. To create a comprehensive and balanced system of sign control that accommodates both the need for a well-maintained, safe and attractive community, and the need for effective business identification, advertising and communication.

B. To permit signs that are:

1. Compatible with their surroundings.

2. Designed, constructed, installed and maintained in a manner which does not endanger public safety or unduly distract motorists.

3. Appropriate to the type of activity to which they pertain.

4. Large enough to convey sufficient information about the owner or occupants of a particular property, the products or services available on the property, or the activities conducted on the property, and small enough to satisfy the needs for regulation.

5. Reflective of the identity and creativity of individual occupants.

C. To promote the economic health of the community through increased tourism and property values.

1.04.05. Landscaping and Tree Protection

A. To enhance the attractiveness of the city.

B. To conserve energy through the cooling and shading effects of trees.

C. To abate nuisances such as noise, glare, heat, air pollution and stormwater runoff.

D. To mitigate conflicts between adjoining land uses.

E. To preserve the environmental and ecological benefits of existing native trees and vegetation.

F. To promote safe and efficient use of off-street parking facilities and other vehicular use areas by:

1. Clearly defining and buffering the bounds of vehicular use areas, particularly where they abut public rights of way, so that movement, noise, and glare in one area do not adversely distract activity in another area;

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2. Limiting physical site access to established points of ingress and egress; and

3. Limiting the internal movement of vehicles and pedestrians to designated traffic configurations.

G. To conserve the city's irreplaceable natural heritage for existing and future generations.

1.04.06. Parking and Loading

To assure that all development provides for adequate and safe storage and movement of vehicles in a manner consistent with good engineering and site design principles.

1.04.07. Stormwater Management

A. To protect and maintain the chemical, physical and biological integrity of ground and surface waters.

B. To prevent activities which adversely affect ground and surface waters.

C. To encourage the construction of stormwater management systems that aesthetically and functionally approximate natural systems.

D. To protect natural drainage systems.

E. To minimize runoff pollution of ground and surface waters.

F. To protect and maintain natural quality levels in estuarine areas.

G. To minimize erosion, turbidity and sedimentation.

H. To prevent damage to wetlands.

I. To protect, maintain, and restore the habitat of shellfish, fish and wildlife.

1.04.08. Protection of Environmentally Sensitive Lands/Conservation Areas

A. To protect environmentally sensitive lands and their beneficial functions while protecting the rights of property owners.

B. To protect, maintain, and restore the chemical, physical, and biological integrity of ground and surface waters and natural habitats.

C. To prevent activities which adversely affect ground and surface waters, natural habitats, and native flora and fauna.

D. To maintain recharge for groundwater aquifers.

E. To prohibit uses that are detrimental to environmentally sensitive areas.

F. To protect the recreation opportunities of environmentally sensitive lands for fishing, boating, hiking, nature observation, and other uses.

G. To protect the public's rights in navigable waters.

H. To protect aesthetic and property values.

1.04.09. Protection of Cultural Resources

A. To identify, protect, and enhance the use of districts, sites, building, and structures, objects, and areas that are reminders of past eras, events, and persons important in local, state or national history, or which provide significant examples of architectural styles of the past, or which provide this and future generations examples of the physical surroundings in which past generations lived.

B. To enhance property values, stabilize older neighborhoods and business centers, and increase the economic benefits to the city arising out of its cultural resources.

C. To preserve and enhance the varied architectural styles that reflect the cultural, social, economic, political and architectural history of the city.

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D. To enrich human life in its educational and cultural dimensions by fostering knowledge of the community's heritage.

1.05.00. RELATIONSHIP TO COMPREHENSIVE PLAN

1.05.01. General Intent

The adoption of a unified land development code implements the goals, objectives and policies of the City's Comprehensive Plan, City Ordinance 242.

1.05.02. Incorporation by Reference

The goals, objectives and policies of the City's Comprehensive Plan, City Ordinance 242, including Elements 1 through 10 and all standards, maps and exhibits related thereto are hereby incorporated by reference in this Land Development Code as though they were copied fully herein.

1.06.00. TECHNICAL CONSTRUCTION STANDARDS

1.06.01. General

The City desires and shall facilitate proper inspection activities relating to construction and maintenance of buildings within the city in order to protect the public health, safety and general welfare.

1.06.02. Incorporation by Reference

A. The following Technical Construction Standard Manuals are hereby incorporated by reference in this Code as though they were copied fully herein. The edition of each manual shall be determined by the City Commission and adopted by resolution.

Standard Building Code (SBCCI)

Standard Excavation and Grading Code (SBCCI)

Standard Existing Buildings Code (SBCCI)

Standard Fire Prevention Code (SBCCI)

Standard Gas Code (SBCCI)

Standard Housing Code (SBCCI)

Standard Mechanical Code (SBCCI)

Standard Plumbing Code (SBCCI)

Standard Swimming Pool Code (SBCCI)

Standard Unsafe Building Abatement Code (SBCCI)

National Electric Code (NFPA)

Energy Efficiency Code for Building Construction (DCA)

Manufactured Buildings Rules & Regulations (DCA)

Manual for Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (DOT).

B. The following technical amendments are incorporated into the Florida Building Code, Residential:

R322.2.1 Elevation requirements.

Buildings and structures in flood hazard areas not designated as Coastal A Zones shall have the lowest floors elevated to or above the base flood elevation plus 1 foot or the design flood elevation, whichever is higher.

Buildings and structures in flood hazard areas designated as Coastal A Zones shall have the lowest floors elevated to or above the base flood elevation plus 1 foot (305 mm), or to the design flood elevation, whichever is higher.

In areas of shallow flooding (AO Zones), buildings and structures shall have the lowest floor (including basement) elevated at least as high above the highest adjacent grade as the depth number specified in feet on the FIRM plus

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1 foot, or at least 3 feet if a depth number is not specified.

Basement floors that are below grade on all sides shall be elevated to or above the base flood elevation plus 1 foot or the design flood elevation, whichever is higher.

Exception: Enclosed areas below the design flood elevation, including basements whose floors are not below grade on all sides, shall meet the requirements of Section R322.2.2.

R322.3.2 Elevation requirements.

All buildings and structures erected within coastal high-hazard areas shall be elevated so that the lowest portion of all structural members supporting the lowest floor, with the exception of piling, pile caps, columns, grade beams and bracing, is elevated to or above the base flood elevation plus 1 foot or the design flood elevation, whichever is higher.

Basement floors that are below grade on all sides are prohibited.

The use of fill for structural support is prohibited.

Minor grading, and the placement of minor quantities of fill, shall be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.

Exception: Walls and partitions enclosing areas below the design flood elevation shall meet the requirements of Sections R322.3.4 and R322.3.5

1.06.03. Violations

It shall be unlawful for any person to commence any construction without a permit as required by the codes adopted in section 1.06.02 of this Code. It shall be unlawful for anyone to violate the provisions of the codes adopted in section 1.06.02 of this Code. Any person convicted of violating the provisions of this Code or any

provisions of the codes adopted in section 1.06.02 of this Code shall be punished as provided in Chapter 2, Laws of Cedar Key, Section 1.02.00. Each day any offense continues shall constitute a separate offense

1.07.00. RULES OF INTERPRETATION

1.07.01. Generally

In the interpretation and application of this Code all provisions shall be liberally construed in favor of the objectives and purposes of the city and deemed neither to limit nor repeal any other powers granted under state statutes.

1.07.02. Responsibility for Interpretation

In the event that any question arises concerning the application of regulations, performance standards, definitions, development criteria, or any other provision of the Code, the Administrator shall be responsible for interpretation and shall look to the City Comprehensive Plan for guidance.

Responsibility for interpretation by the Administrator shall be limited to standards, regulations and requirements of this Code, but shall not be construed to include interpretation of any technical codes adopted by reference in this Code or any statute or rule of any state or federal agency, nor be construed as overriding the responsibilities given to any commission, board or official named in other sections or articles of this Code.

1.07.03. Computation of Time

The time within which an act is to be done shall be computed by excluding the first and including the last day; if the last day is a Saturday, Sunday or legal holiday, that day shall be excluded.

1.07.04. Delegation of Authority

Whenever a provision appears requiring the head of a department or some other city officer or employee to do some act or perform some

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duty, it is to be construed to authorize delegation to a qualified alternate or subordinate to perform the required act or duty unless the terms of the provision or section specify otherwise.

1.07.05. Gender

Words importing the masculine gender shall be construed to include the feminine and neuter.

1.07.06. Number

Words in the singular shall include the plural and words in the plural shall include the singular.

1.07.07. Shall, Should, May, Will

The word "shall" and "should" are mandatory; "may" is permissive or discretionary; "will" is mandatory when any provisional circumstances are met.

1.07.08. Written or In Writing

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

1.07.09. Year

The word "year" shall mean a calendar year, unless otherwise indicated or specified.

1.07.10. Day

The word "day" shall mean a working day, unless a calendar day is indicated or specified.

1.07.11. Boundaries

Interpretations regarding boundaries of land use districts shall be made in accordance with the following:

A. Boundaries shown as following or approximately following any street shall be construed as following the centerline of the street.

B. Boundaries shown as following or approximately following any platted lot line or other property line shall be construed as following such line.

C. Boundaries shown as following or approximately following section lines, half-section lines, or quarter-section lines shall be construed as following such lines.

D. Boundaries shown as following or approximately following natural features shall be construed as following such features.

1.07.12. Relationship of Specific to General Provisions

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

1.08.00. REPEAL OF PREVIOUS ORDINANCES OR PROVISIONS

All prior zoning ordinances and zoning maps heretofore adopted by the City of Cedar Key, Florida, are hereby repealed and rescinded.

1.09.00. ABROGATION

This Land Development Code is not intended to repeal, abrogate or interfere with any existing easements, covenants, or deed restrictions duly recorded in the public records of Levy County, Florida.

1.10.00. SEVERABILITY

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

1.11.00. EFFECTIVE DATE

These regulations shall be effective upon adoption.

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ARTICLE II: LAND USE: TYPE, DENSITY, INTENSITY

2.00.00. GENERALLY

2.00.01. Purpose

The purpose of this Article is to describe the specific uses and restrictions that apply to land use districts in the land use element of the comprehensive plan. These regulations are intended to allow development and use of property only in compliance with the goals, objectives, and policies and standards of the Cedar Key Comprehensive Plan.

(History: Ord. No. 242)

2.00.02. Definitions

Abut

To physically touch or border upon, or to share a common property line.

Accessory Use

A use of land or structure or portion thereof customarily incidental and subordinate to the principal use of the land or structure and located on the same parcel with the principal use.

Aquaculture Land Based Nurseries

A land based, water dependent, aquacultural use, involving the cultivation of clam and oyster seedlings.

Adult Congregate Living Facility (ACLF)

A type of residential care facility, defined in Chapter 400, Part II, Florida Statutes. (See: "Special Housing")

Bed and Breakfast

See Hotel/Motel Unit.

Density or Gross Density

The total number of dwelling units divided by the total upland site area, less any dedications, or public right-of-way.

Dwelling Unit

A single housing unit providing complete, independent living facilities for one housekeeping unit, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Hotel/Motel Unit

A temporary or transient dwelling unit, including a unit in what is commonly referred to as a "bed and breakfast," which does not provide housekeeping, eating or cooking facilities.

Infrastructure

Systems and facilities which provide for public or common use, such as potable water, wastewater disposal, transportation or parking, stormwater disposal, solid waste and recreation.

Junkyard

Premises or portions thereof used for the storage or sale of used and discarded materials. The storage for a period of two (2) or more months of two (2) or more wrecked or partly dismantled motor vehicles, parts of dismantled motor vehicles, or the sale of parts thereof, not capable of or not intended to be restored to highway operating condition shall also constitute a junkyard. For the purposes of this Code, such uses as automobile reclaiming, wrecking or salvage businesses and recycling centers shall be considered junkyards.

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Lot

A designated parcel, tract, site or area of land established by plat, subdivision or as otherwise allowed by law.

Manufactured Housing

Housing that is mass produced in a factory; designed and constructed for transportation to a site for installation and use when connected to required utilities; and either an independent, individual unit or a module for combination with other elements to form a building on the site.

Multi-Family Dwelling

A residential structure of two (2) or more dwelling units.

Parcel

A unit of land within legally established property lines.

Recreation Vehicle

A vehicular-type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreation, camping, and travel use including, but not limited to, travel trailers, truck or trailer campers, and self-propelled motor home.

Recreation Vehicle Park

A parcel set aside and offered by a person, for either direct or indirect remuneration of the owner, lessor, or operator of such parcel, for the parking, accommodation, or rental of recreational vehicles.

RV Park Subdivision

A Recreation Vehicle Park which is divided into two or more lots with separate legal descriptions for the purpose of sale or conveyance of the individual lots.

Single-Family Dwelling

A structure containing one dwelling unit, and not attached to any other dwelling unit by any means. A single-family unit may contain one accessory apartment pursuant to this Code.

Special Housing

An adult congregate living facility, foster home or group home licensed by HRS which provides a family living environment including supervision and care necessary to meet physical, emotional, economic and social life needs of four or more unrelated persons.

2.01.00. LAND USE DISTRICTs

2.01.01. Generally

Land use districts are established in the city Comprehensive Plan, Future Land Use Element, including Exhibit 1-6, Exhibit 1-6a, and Exhibit 1-10. The land use districts, classifications, and standards defined in the Future Land Use Element of the City Comprehensive Plan and delineated on the Future Land Use Map shall be the determinants of permissible activities on any parcel in the jurisdiction. Refer to the Plan for the definitions of each use category.

2.01.02. Use Categories

A. Land use districts consist of the following:

1. Residential
2. Commercial
3. Conservation
4. Mixed Use
5. Public/ Semi Public
6. Recreational

B. There is no land classified as agricultural or industrial in the city, however, aquaculture is a use allowed by an

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administrative special use permit in the Commercial Land Use District, including the overlay map area as depicted in Chapter 3, Exhibit 1-10. A request for agricultural or industrial use may be considered by amendment to the Comprehensive Plan.

2.02.00. USES ALLOWED IN LAND USE DISTRICTS

2.02.01. Generally

Uses allowed in this part are subject to deed restrictions which may apply, the established character of the area, vocational limitations, density/intensity standards and the provisions of this Code and the Comprehensive Plan.

2.02.02. Residential

This category includes a wide variety of residential uses depending on the existing character of the neighborhood, location, and compatibility, design and development, resource protection, and other standards and provisions of the Code.

A. Principal uses include:

1. single-family dwellings,
2. accessory dwelling,
3. multi-family dwellings,
4. modular and manufactured housing (except recreational vehicles),
5. special housing (group homes, foster homes, ACLF),
6. outdoor recreation,
7. residential docks and boathouses not used for commercial purposes (subject to the restrictions of Section 7.02.05 and other applicable provisions of this Code).
8. public utilities, and
9. home occupations,

B. The following uses are allowed by conditional use pursuant to the procedures at 12.05.00 of this Chapter:

1. Hotel/Motel Units, including those which provide housekeeping, eating and/or cooking facilities.
2. Aquacultural Land-Based Nurseries that do not qualify as a home occupation due to the failure of the proposed use to comply with the criteria at 7.02.02 A, B, D, and/or H. A proposed aquacultural land-based nursery that does not comply with any of the requirements at 7.02.02 C, E, F, G, and I, may not be allowed as a conditional use.
3. Parking for vehicles and boat trailers launching boats used solely for aquacultural purposes and within one thousand feet of a boat ramp.
4. Offices on existing lots abutting "D" street.
5. Primary Care Medical Facilities.

(History: Ord. Nos. 361, 386, 427)

2.02.03. Commercial

This category includes any commercial uses which meet locational, compatibility, buffering, performance, resource protection, design and development, and other standards and provisions of this Code. Uses include, but are not limited to General Commercial (retail stores, restaurants and lounges, hotels and motels, recreational vehicle parks, professional offices and other product and service activities), Water-Dependent Commercial (commercial fishing, marinas and public use water oriented recreation), Water-Related Commercial (fishing and marine supplies and tourism related business which provides water access or scenic water views as an integral part of the business activity), recreation, public utilities, and one single-family residential use per site. Aquaculture shall be

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allowed subject to issuance of an administrative special use permit in accordance with the procedures in 12.13.00 of this Chapter.

Aquaculture – (Overlay of Commercial as depicted in Chapter 3, Exhibit 1-10) – This category includes (i) aquaculture, commercial fishing and other shell fishing that is lawful; and (ii) residential. Commercial uses described in the first paragraph of this section are permissible subject to conditional use approval procedures. Aquaculture means the cultivation of aquatic organisms and associated activities, including, but not limited to grading, sorting, transporting, harvesting, holding, storing, growing, and planting. In addition, aquaculture is considered agriculture.

Conditional Uses: The following uses are allowed by conditional use pursuant to the procedures at 12.05.00 of this Chapter:

A. Hotel/Motel Units which provide housekeeping, eating and/or cooking facilities.

B. Recreational Vehicle Park Subdivisions. Except as otherwise provided herein, all other portions of this Code applicable to recreational vehicle parks and the Commercial category shall apply. It is the intent of this provision to allow subdivision of recreational vehicle sites but not permit permanent residential housing on such subdivided lots. Subdivisions hereby authorized shall demonstrate compliance with the following requirements:

Standards. In addition to the considerations in Section 12.05.00, the property must meet the following standards:

1. The property must include a minimum of 4.5 acres of upland.
2. Accessory buildings customarily incidental to the operation of an RV park shall be allowed.

3. There must be a caretaker living on site. The caretaker must reside on site in a permanent building or manufactured home that meets all Cedar Key building code requirements.

4. The property owner must comply with all procedures in Article XII relating to development plan approval.

Recreational Vehicle Park Subdivisions meeting the requirements of this subcategory may be subdivided pursuant to chapter 177, Florida Statutes. The minimum lot area required by Section 6.01.01 shall not apply. The minimum lot size shall be two thousand one hundred (2,100) square feet. Eligible properties may be subdivided and sold for condominium units, sold for individual ownership, rented or leased.

Maximum Length of Occupancy. Continued occupancy of a recreational vehicle on any lot within a Recreational Vehicle Park Subdivision for more than 180 days per calendar year is prohibited and shall constitute a violation of the Conditional Use Permit and shall be subject to code enforcement.

(History: Ord. No. 424)

2.02.04. Conservation.

This category includes environmentally sensitive areas with characteristics that limit development to outdoor recreation, water-dependent commercial, and water-dependent residential accessory uses (docks, boathouses).

2.02.05. Mixed Use

Permissible uses include single-family, multi-family residential, commercial uses as described for the commercial land use category, and public/semi public uses as described for the public/semi public land use category.

2.02.06. Public/ Semi Public

This category includes schools (except dance or martial arts type schools), churches, day-care

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centers and pre-schools, public and governmental services, cemeteries (without funeral homes), nursing homes and residential care facilities, utilities, medical facility, civic/cultural facility, recreation and one single-family residential use per site.

2.02.07. Recreational

This category includes areas for outdoor recreation activities such as picnicking, jogging, cycling, arboretums, hiking, playgrounds, ball fields, outdoor ball courts, swimming pools and water-related or water-dependent recreation such as boat ramps, public marinas, fishing piers, beaches and similar outdoor uses. Specifically excluded: firing ranges, race tracks, miniature golf or commercial recreational activities.

2.02.08 Density and Intensity

The following are (density and intensity standards) for development in Cedar Key:

A. Maximum density for the residential land use category is 4.9 dwelling units per acre; except that the City shall allow one dwelling unit per parcel of record or lot of record. A lot of record means a platted lot in existence on February 17, 1997. A parcel of record means any parcel of land recognized as a single parcel for ad valorem taxation purposes by the Levy County Property Appraiser's office on February 17, 1997. Additionally, in the area shown on Exhibit 1-6a, the City shall allow development that conforms to the historical building patterns of the defined area. Maximum impervious surface is 40% in the Coastal High Hazard Area and 50% otherwise.

B. Maximum intensity for commercial, public/semi public, and recreation is measured by impervious surface and height standards. Impervious surface is limited to 40% within the Coastal High Hazard Area and 50% in other locations.

C. The height of structures, but not appurtenances, shall not exceed 32 feet for structures with flat roofs, and 38 feet for structures with pitched roofs.

Height shall be measured from the base of the structure to the highest point on the roof of the structure. The base of the structure shall be the highest point of the natural or existing ground elevation immediately adjacent to the subject building or structure; except that in those area of the City located within the Coastal High Hazard Area as delineated on the Flood Insurance Rate Map (FIRM), the base is the Base Flood Elevation as established on the FIRM.

Exceptions from the height limitation for church spires, chimneys, water towers, transmitter towers, smoke stacks, flagpoles, television antennae, parapets, and similar structures and their necessary mechanical appurtenances may be provided for in the Land Development Code.

D. Maximum intensity for development in the conservation land use category is 10% impervious surface coverage.

E. Development within the mixed use category shall not exceed the impervious surface and height limits established for commercial uses. Residential densities shall not exceed 4.9 dwelling units per acre. Residential uses shall not exceed 75% of the land area within a block designated for mixed-use development. Public/semi public uses shall not exceed 25% of the land area within a block designated for mixed-use development. Commercial uses may be 100% of the land area within a block designated for mixed-use development. (The mixed-use ranges are shown in the following table.)

Type of Use Minimum* Maximum*

Residential 0% 75%

Public/Semipublic 0% 25%

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Commercial 0% 100%

F. The calculation of percentage of each use shall be based on a full block, bounded on all sides by public right-of-way, or on three sides by public right-of-way and the fourth side by water. Each block within the designated mixed use area on the Future Land Use Map shall be tracked separately for purposes of determining compliance with this policy

G. The above impervious surface standards shall apply to all new development and redevelopment, (for purpose of the above impervious surface standards, redevelopment shall be defined as projects where the estimated value of construction exceeds fifty percent (50%) of the assessed value of the improvements on the property as shown on the tax assessment roll at the time of construction).

2.02.09. Water-Dependent Commercial ISR/FAR Bonuses

Development of commercial sites in the CHHA for water-dependent uses may be authorized at 50% ISR and 100% FAR. Development so permitted shall be restricted to water-dependent uses through recorded deed restrictions.

2.02.10. Redevelopment After Substantial Damage

Redevelopment of substantially damaged (over 50%) structures shall conform to the density-intensity standards of this Code.

2.03.00. DENSITY AND INTENSITY STANDARDS

2.03.01. Determination of Land Area.

For the purposes of this Code, available land area shall be determined by excluding dedications, rights-of-way, conservation areas, and submerged lands wholly within the site or seaward of the mean high water line or any existing bulkhead. Net square feet of land so

determined shall be divided by 43,560 to calculate the number of acres or any fraction thereof and shall be expressed as whole and/or decimal numbers rounded to the next higher or lower one-hundredth (.00) above or below 5/1000 (.005).

(History: Ord. No. 404)

2.03.02. Computation of Allowed Density

Net available land area as determined in part 2.03.01 shall be multiplied by the maximum density allowed. Fractional numbers of five-tenths (5/10, .5) or greater shall be rounded to the next whole number or reduced to the lesser whole number if less than five-tenths. The resulting whole number shall indicate the number of residential units allowed, except as otherwise provided in this Code.

2.03.03. Commercial and Institutional Density Limitations

Those land use districts designated as commercial or industrial shall be limited to one (1) accessory apartment dwelling unit per site, as defined in Article VII of this Code, provided that the total land area is sufficient to meet all other provisions of this Code.

2.03.04. Manufactured Housing Limitations

Manufactured Housing not meeting the standards of the Florida Manufactured Building Act shall be allowed only in a mobile home park or mobile home subdivision existing at the time of adoption of FEMA Ordinance 220/221, unless authorized by a temporary use permit (7.02.04).

2.03.05. Historic and Infill Density

Development in the historic district or proposed as infill, as provided in Article III of this Code, may be permitted at the average existing density of development which abuts the site, provided that all other provisions of this Code are met.

2.03.06. Special Housing Density

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Adult Congregate Living Facilities, Group Homes and Foster Homes shall be permitted in any residential neighborhood at a density of one (1) special housing facility per one-hundred (100) single-family residential units.

2.04.00. DENSITY AND INTENSITY BONUSES

2.04.01. Purpose

It is the purpose of this part to encourage new development and redevelopment that is designed and constructed to provide low and moderate income housing.

2.04.02. Definitions

Low Income

Less than eighty percent (80%) of the median family income for the area or the state, whichever is higher, as determined by HUD, FmHA or the Levy County Housing Authority.

Moderate Income

Eighty percent (80%) to one hundred twenty percent (120%) of the median family income for the area or the state, whichever is higher, as determined by HUD, FmHA or the Levy County Housing Authority.

2.04.03. Policy, Penalty for Non-Compliance, Fee in-lieu

Density and Intensity bonuses shall be based on the time duration of the proposed development and the income range of the low and/or moderate income housing market. Any increase in residential units allowed as a density bonus shall be subject to binding agreements, including deed restrictions, which control or limit the sale, resale, rental or use of bonus units to eligible low or moderate income persons for the prescribed period of time. The agreement shall provide a penalty for non-compliance. The penalty fee shall be based on the sale or rental price in excess of the limit imposed by the income eligibility standard pro-rated to the remaining time duration of the bonus allowed. Proceeds from penalties imposed shall be restricted to a city low and moderate income housing fund which meets state or federal program requirements and shall be used solely to provide low and/or moderate income housing. Developers may pay a fee in-lieu of providing low and/or moderate income housing in order to provide said housing at another location. The fee in-lieu shall be computed on the same basis as the penalty fee and shall be restricted for said purposes.

2.04.04. Bonus Standards

Density and intensity bonuses shall be based on the following table indicating gross density allowed including the five (5) units per acre allowed as a matter of right under this Code:

INCOME	TIME DURATION (Years)	10	15	20	25	30+
LOW	Units Per Acre	9	10	11	12.5	14
MODERATE	Units Per Acre	7	8	9	10	11
LOW	Lot Coverage (ISR%)	42%	44%	46%	48%	50%
MODERATE	Lot Coverage (ISR%)	41%	42%	43%	44%	45%
LOW	Floor Area Ratio (FAR)	85%	87.5%	92.5%	95%	100%
MODERATE	Floor Area Ratio (FAR)	80%	82.5%	85%	87.5%	90%

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ARTICLE III: OVERLAY AND FLOATING ZONES

3.00.00. PURPOSE

The purpose of this part is to describe certain overlay and floating zones used to allow special development considerations in areas which need special protective measures to retain the character of those areas. Underlying uses, as determined in Article II of this Code, are unchanged. The overlay or floating zone merely requires different or additional development standards than those which would otherwise apply.

(See: "District")

3.01.00. HISTORIC DISTRICTS AND LANDMARKS

3.01.01. Definitions

Administrative Certificate of Appropriateness

A Certificate of Appropriateness which is reviewed and approved by the Administrator, with concurrence of the Chair of the Historic Preservation Board. Eligibility will be limited to the following:

1. Fences: New fence or addition to existing fence which maintains period appropriateness.
2. Roof: Roof replacement which maintains period appropriateness.
3. Windows: New or replacement windows which maintain period appropriateness.

(Period appropriateness shall be determined by consistency with: (i) criteria and photographs pre-approved by resolution of the City Commission; and (ii) prior approvals by the Historic Preservation Board) See Res. No. 415

(History: Ord. No. 525)

Building

A structure created to shelter any form of human activity. This may refer to a house, garage, church, hotel, or similar structure. Building may also refer to a historically or architecturally related complex, such as the City Hall-Community Center-Fire Station Complex. Parking lots and garages are hereby deemed to be "buildings."

Demolition

The removal, tearing down or razing of a structure.

(History: Ord. No. 416)

Historic District

The area indicated by red outline on the Cedar Key Historic District Map included in Appendix A of this Land Development Code. The Historic District is that area bordered by 1st, 3rd, A Street, and F Street, inclusive of both sides of the street and adjacent corners. See Map 10-1

Historic Structures Relocation Zone

The area indicated on the Historic Structures Relocation Zone map included in Appendix A of this Land Development Code.

Object

A material thing of functional, aesthetic, cultural, historical, or scientific value that may be by nature of design, movable, yet related to a specific setting or environment.

Ordinary Maintenance

Work which does not require a construction permit and that is done to repair damage or to prevent deterioration or decay of a building or structure or part thereof as nearly as practical to its condition prior to the damage, deterioration, or decay.

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Original Appearance

That appearance (except for color) which, has been documented through archival records and which, to the satisfaction of the Administrator, closely resembles the appearance of either (1) the features on the building as it was originally built or was likely to have been built, or (2) the features on the building as it presently exists so long as the present appearance is appropriate to the style and materials of the building.

Site

The location of a significant event, activity, building, structure, or archeological resource where the significance of the location and any archeological remains outweighs the significance of any existing structures.

3.01.02. Historic District

There is hereby established a Historic District as indicated by red outline on the Cedar Key Historic District map included in Appendix A of this Land Development Code. The Historic District is that area bordered by 1st, 3rd, A Street, and F Street, inclusive of both sides of the street and adjacent corners. See Map 10-1

3.01.03. Local Register of Historic Places

A. There is hereby established a Local Register of Historic Places as a means of identifying and classifying various sites, buildings, structures, objects, and districts as historic and/or architecturally significant. The Local Register is included in Appendix A of this Land Development Code.

B. Addition to the Local Register. The following procedure shall be followed for placement of buildings or sites on the local register:

1. A written request for nomination, citing the historic or archaeological significance of the building or site, shall be submitted to the

Department by the City Commission, the Historic Preservation/Architectural Review Board, the Cedar Key Historical Society, or by the owner of the building or site. Once the request for nomination is received, a written request will be issued to the Cedar Key Historical Society and Cedar Key Historic Board to review the nomination request for a possible recommendation for addition to the Local Register.

2. The Administrator shall place the nomination on the agenda of the next regularly scheduled City Commission meeting following the required public notice.

3. Notice of the proposed placement shall be provided to the public at large and to the owner(s) of the nominated property(ies), at least fifteen (15) days in advance of the meeting at which the nomination will be considered.

4. The City Commission shall review the nominations and findings and conclusions as to why the nomination does or does not meet the appropriate criteria for listing on the Local Register. The review shall also include any owner's written objection to placement on the Local Register.

5. A decision to include or exclude a property shall be submitted as an amendment to and as an appendix to this Code. A listing of the Local Register of Historic Places shall be included by reference in this Code (Appendix A Exhibit 10-2).

C. Criteria for Listing on the Local Register. The property(ies) must meet the following criteria before it may be listed on the Local Register or be designated as contributing to a district:

1. The site, building, or district possesses integrity to the year of construction of location, design setting, materials, workmanship, feeling and association; and

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2. The site, building or district is associated with events that are significant to local, state, or national history; or embody distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction.

3. The property is one which, by its location, design setting, materials, workmanship, feeling and association adds to the district's sense of time and place and historical development to the time of construction.

4. A property should not be considered contributing if it has been so altered that the overall integrity of the property has been irretrievably lost.

5. Structures built within the past fifty (50) years shall not be considered contributing unless a strong justification concerning their historical or architectural merit is given.

D. Effect of Listing on the Local Register. Structures and buildings listed individually on the Local Register or judged as contributing to the character of a district shall be deemed historic and entitled to modified enforcement of the Standard Building Code as provided by Chapter 1, Section 101, "Special Historic Buildings" and the modified provisions of the FEMA code of Federal Regulations for "Historic Structures". The Administrator is authorized to issue and place official signs denoting the geographic boundaries of any district or to issue letters of authorization for signs denoting the historic designation of properties listed.

(History: Ord. No. 415)

3.01.04. Certificates of Appropriateness Required

Regulated Work Items must be certified as appropriate for all sites listed individually on the

Local Register of Historic Places and all properties within the Historic District.

A. Administrative Approval. The Administrator may approve work which constitutes "ordinary maintenance" or work which will result in the "original appearance" as defined in this code.

B. Administrative Certificate of Appropriateness. The Administrator, with concurrence of the Chair of the Historic Preservation Board, may grant a Certificate of Appropriateness for work which meets the criteria as set forth in the Definition of Administrative Certificate of Appropriateness set forth in §3.01.01, above.

C. Historic Preservation Board Approval. If the work is not eligible for approval under (A) or (B), then a certification of appropriateness must be obtained from the Historic Preservation Board

(History: Ord. No. 461, 525)

3.01.05. Regulated Work Items

A. The following are regulated work items:

1. Installation or removal of awnings or canopies.

2. Installation or removal of all decks above the first-floor level on the front of the structure or visible from the right of way.

3. Installation of an exterior door or door frame, or the infill of an existing exterior door opening.

4. Installation or removal of any exterior wall, including the enclosure of any porch or other outdoor area with any material other than insect screening.

5. The installation or relocation of fencing.

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6. The installation or removal of all fire escapes, exterior stairs or ramps.
7. The painting of previously unpainted masonry including brick, stone, terra cotta and concrete or other period correct materials.
8. Installation or removal of railings including but not limited to other wood, wrought iron or masonry detailing.
9. Abrasive cleaning of exterior walls.
10. Installation of new roofing materials, or removal of existing roofing materials.
11. Installation or removal of security grilles, except that in no case shall permission to install such grilles be completely denied.
12. Installation of new exterior siding materials, or removal of existing exterior siding materials.
13. Installation or removal of exterior skylights.
14. Installation of exterior screen window or door.
15. Installation of an exterior window or window frame or the infill of an existing exterior window opening.
16. Erection of a new building or a parking lot.
17. Demolition of a structure or building.
18. Relocation of a building or structure.

3.01.06. Criteria for Certification as Appropriate

The decision to issue Certificates of Appropriateness, except those for demolition and relocation, shall be guided by:

- A. The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings; and

- B. The following visual compatibility standards:

1. Height. Height shall be visually compatible with adjacent buildings.
2. Proportion of Building, Structure or Object's Front Facade. The width to the height of the front elevation shall be visually compatible to buildings and places to which it is visually related.
3. Proportion of Openings Within the Facility. The relationship of the width of the windows in a building, structure, or object shall be visually compatible with buildings and places to which it relates.
4. Rhythm of Solids to Voids in Front Facades. The relationship of solids to voids shall be visually compatible with buildings and places to which it is visually related.
5. Rhythm of Buildings, Structures, or Objects on Streets. The relationship to open spaces between adjoining buildings and places shall be visually compatible to the buildings and places to which it is visually related.
6. Rhythm of Entrance and/or Porch Projections. The relationship of entrances and projections to sidewalks shall be visually compatible to the buildings and places to which it is visually related.
7. Relationship of Materials, Texture and Color. The relationship of materials, texture and color of the facade shall be visually compatible with the predominant materials used in the buildings to which it is visually related.
8. Roof Shapes. The roof shape shall be visually compatible with the buildings to which it is visually related.
9. Walls of Continuity. Appurtenances such as walls, fences and landscape masses shall, if necessary, form cohesive walls of

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enclosure along a street to insure visual compatibility to the surrounding area.

10. Scale of a Building. Size and building mass in relation to open space, windows, door openings, porches and balconies shall be visually compatible with the buildings and places to which it is visually related.

11. Directional Expression of Front Elevation. A building, structure, or object shall be visually compatible with the buildings and places to which it is visually related in its directional character.

12. Screening of Elevated Buildings. A building required by Section 6.07.00 of this Chapter to be elevated more than three feet above grade shall mask the fact that it is elevated through the use of appropriate architectural screening so that the building, when viewed from public rights-of-way, appears to have been constructed at, or near, natural grade.

C. Considerations of Scale.

1. Buildings shall be of appropriate scale to avoid adverse impacts to the surrounding uses and properties.

2. Buildings shall not be out of scale with documented historic development patterns and surrounding contributing structures.

D. Elevation Considerations. Where Base Flood Elevation (BFE) is less than three feet above grade, buildings shall not be elevated more than one foot above BFE. Where BFE is more than three feet and less than nine feet above grade, buildings may be elevated to nine feet above grade.

(History: Ord. Nos. 415, 418, 419)

3.01.07. Demolition

Issuance of certification as appropriate for demolition shall be guided by the following factors:

A. The historic or architectural significance of the building, structure, or object;

B. The importance of the building, structure, or object to the ambience of a district;

C. The difficulty or the impossibility of reproducing such a building, structure or object because of its design, texture, material, detail, unique location, or locational restrictions such as the coastal high hazard area;

D. Whether the building, structure, or object is one of the last remaining examples of its kind;

E. Whether there are definite plans for reuse of the property if the proposed demolition is carried out, and the effect of those plans on the character of the surrounding properties;

F. Whether the cost of restoration is equal to or less than the cost of demolition and new construction as determined by a professional architect, engineer, or contractor with experience in the preservation of historic structures. The City may retain such a professional, of its choosing, at the applicant's expense, to advise the City on Making this determination; and

G. Whether the building, structure, or object is capable of earning reasonable economic return on its value.

(History: Ord. No. 416)

3.01.08. Relocation

The decision to issue Certificates of Appropriateness for relocation shall be guided by the following factors:

A. Buildings listed in the Local Register may only be relocated within the Historic Structures Relocation Zone indicated on the map contained at Appendix A of this Chapter.

B. All criteria from Section 3.01.06 and Section 3.01.07 apply to:

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1. the structure to be relocated,
2. the site where the structure is currently located, and
3. the proposed location to which the structure will be located.

(History: Ord. No. 417)

3.01.09. Procedure

A person wishing to undertake regulated work item(s) and obtain certification as appropriate shall follow the following procedure:

- A. Make written application to the Administrator with supporting documents. Supporting documents shall include detailed plans, designs, photographs, and other materials which support the application.
- B. Upon receipt of an application and all submittals and fees which may be required, the Administrator shall determine whether the application is eligible for an Administrative Certificate of Appropriateness, and if so, and if confirmed by the Chair of the Historic Preservation Board, shall approve the application with an immediate effective date.
- C. If the application is not eligible for an Administrative Certificate of Appropriateness, the Administrator shall advertise the application in a newspaper of general circulation in the area and set a date for a public hearing before the Historic Preservation Board at a regular or special meeting which shall occur not less than ten (10) days after the advertisement appears.
- D. The Historic Preservation Board, using the criteria set forth in this Part, shall review the application and take one of the following actions:
 1. Approve the application with an immediate effective date;

2. Conditionally approve the application with special modifications and conditions stated;

3. Deny the application.

E. Hearing. The Historic Preservation Board shall conduct the hearing using the procedures set forth in Part 12.12.00 of this Chapter.

F. Any person aggrieved by a decision of the Historic Preservation Board may appeal the decision to the City Commission as provided for in section 12.12.05 of this Chapter.

G. No work for which approval is required may be undertaken without a permit authorizing the work and the permit shall be conspicuously posted on the property where the work is to be performed.

(History: Ord. No. 461, 525)

3.01.10. Impervious Surface Ratio (ISR) Measurement and Limitation for Designated Historic Sites

ISR is a measure of intensity of development described in § 2.02.10. of this Code. For the purposes of developing or redeveloping sites listed individually on the Local Register of Historic Places and all properties within the Historic District, ISR shall be measured and limited as follows:

- A. ISR is determined by dividing the aggregate area of buildings and structures (measured from the outside of exterior walls and excluding overhanging roof-lines), paved or compacted areas, patios, swimming pools, parking areas, and any surfaces which do not allow for penetration of stormwater, by the net available land area. Net available land area is determined as provided in §2.03.01 of this Code. Paved surfaces which meet the standards for porous asphaltic paving, pervious concrete and other pervious paving materials and methods

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cited in the Florida Development Manual (DER) shall be exempt from the calculation of ISR.

B. ISR is limited to fifty percent (50%).

The above ISR standards shall apply to all new development and redevelopment, (for purpose of the above ISR standards, redevelopment shall be defined as projects where the estimated value of construction exceeds fifty percent (50%) of the assessed value of the improvements on the property as shown on the tax assessment roll at the time of construction).

(History: Ord. No. 429)

3.02.00. INFILL DEVELOPMENT

3.02.01. Purpose

It is the intent of this section to provide for compatibility in the construction of new buildings and structures in established neighborhoods, including the downtown historic district, which were approved for development before enactment of this Code.

3.02.02. Definitions

Abut: To physically touch or border upon; or to share a common property line.

Infill Development: Construction on vacant lots within previously established or approved development areas that have one or more vacant lots available for construction of new structures.

Lot: A designated parcel, tract or area of land established by plat, subdivision or as otherwise allowed by law.

3.02.03. Development Standards

A. Development which requires platting or re-platting of two or more lots or any deviation from the infill standards established herein shall apply for development plan review as provided in Article XII of this Code.

B. A development permit, as provided in Article XII of this Code, is required for a structure in a development with a final development order.

C. When a previously approved site plan is available, proposed infill development shall conform to those standards or regulations in force at the time of the development approval for the lot and its surrounding area, except for those standards and regulations which apply to the coastal high hazard area, floodplain or stormwater management.

D. When no documentation is available concerning the standards in effect at the time of initial development, the following procedures shall be used to minimum average standards:

1. All developed lots that abut the lot proposed for development shall be considered in determining the standards for development
2. An average (mean) shall be calculated for each of the following:
 - a. Front and side yard setbacks;
 - b. Rear yard setbacks, except coastal setback required for stormwater management and resource protection;
 - c. Lot dimensions and lot area;
 - d. Building height and elevation, except that FEMA regulations shall apply in coastal high hazard areas (V-Zones);
 - e. Floor area ratio;
 - f. Accessory uses;
 - g. Dwelling unit type;
 - h. Sidewalks;
 - i. Parking area;

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j. Dedications or reservations of easements, rights-of-way, parkland, landscaping and sight barriers; and

k. Other standards not relating to stormwater (drainage) management and coastal high hazard area (floodplain) considerations.

3. Incompatible uses, such as commercial and residential uses which abut, shall be buffered as provided in Article VI of this Code.

4. Average standards determined in this part shall be the minimum which apply.

5. Where there is uncertainty on the applicable standard, the decision shall be in favor of the stricter standard, or the application of the standards of this Code.

(History: Ord. No. 426).

3.03.00. DOWNTOWN COMMERCIAL DISTRICT

3.03.01. Purpose

The purpose of the Downtown Commercial District is to maintain and encourage a pedestrian oriented shopping and commercial district in downtown Cedar Key.

3.03.02. Designation of Downtown Commercial District

The Downtown Commercial District is hereby established as an overlay district covering those parcels of property in downtown Cedar Key:

A. bounded by 3rd Street on the north, A Street on the east, 1st Street on the south, and D Street on the west; and

B. that portion of 2nd Street between A Street and Depot Street; and

C. shall include all parcels adjacent to the street segments described in paragraphs A and B.

3.03.03. Development Standards

The standards included in this Section apply to all properties in the Downtown Commercial District and shall be applied during the development review process provided for in Article XII of this code. No single building may occupy more than five adjacent lots or exceed one hundred twenty five (125) feet of frontage along a single street.

(History: Ord. No. 406)

3.04.00. SECOND STREET COMMERCIAL CORRIDOR

3.04.01. Purpose

The purpose of the Second Street Commercial Corridor is to maintain and encourage a pedestrian oriented shopping and commercial district on Second Street in downtown Cedar Key.

3.04.02. Designation of Second Street Commercial Corridor

The Second Street Commercial Corridor is hereby established as an overlay district covering those parcels of property in downtown Cedar Key that abut the north and south sides of Second Street between the west side of B Street and the east side of D Street.

3.04.03. Development Standards

The requirements of this subsection apply to all properties in the Second Street Commercial Corridor and shall be applied when determining whether to authorize development during the development review process provided for in Article XII of this Chapter.

A. All new buildings shall be built to the nearest edge of the adjacent sidewalk.

B. All new buildings shall include architectural features such as porches, balconies

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or awnings that are built over and shade the sidewalk.

(History: Ord. No. 407)

C. It is unlawful to construct, cut, break out or remove any curb or otherwise establish any new curb cut.

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ARTICLE IV: CONSISTENCY AND CONCURRENCY DETERMINATIONS

4.00.00. GENERALLY

4.00.01. Purpose

It is the purpose of this Article to describe the requirements and procedures for determining the consistency of proposed development with the city's Comprehensive Plan, including meeting the concurrency requirements of the Plan.

4.00.02. Definitions

Concurrency

A condition where specified facilities and services have or will have the necessary capacity to meet the adopted level of service standard at the time of impact of the proposed development except that transportation facilities needed to serve new development shall be in place or under actual construction within three (3) years after the local government approves a building permit or its functional equivalent that results in traffic generation.

(History Ord. No. 444)

4.01.00. CONSISTENCY WITH COMPREHENSIVE PLAN

4.01.01. Determination of Consistency

No development proposal shall be approved unless the Administrator has determined that the proposed development is consistent with and furthers the intent of the adopted Comprehensive Plan.

4.01.02. Method of Resolving Inconsistencies

A. Proposed development which is not found to be consistent with the Comprehensive Plan may be resolved in two ways:

B. By modifying the development proposal, or

C. By amendment of the comprehensive plan as described in F.S. 163.

4.02.00. CONCURRENCY MANAGEMENT SYSTEM (CMS)

4.02.01. Generally

The method of ensuring concurrency described herein shall be known as the Concurrency Management System (CMS). The CMS is based on the city's adopted Comprehensive Plan, especially the level of service (LOS) Standards and Capital Improvements Element. The CMS also includes a monitoring system for determining the availability of adequate capacity of public facilities and services to meet the adopted LOS standards.

4.02.02. Purpose

The purpose of the CMS is to ensure that no development will be permitted when that development will result in a degradation of the adopted level of service (LOS) for specified public facilities and services.

4.02.03. Adopted Levels of Service (LOS) Shall Not Be Degraded

A. General Rules

1. All applications for development orders shall demonstrate that the proposed development does not degrade adopted LOS in the city.

2. An application for a development permit shall demonstrate that the proposed development does not degrade adopted LOS if there is no development order under which the permit is sought.

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3. Concurrency shall be determined at the earliest point in the permit process, or application procedure.

B. Exceptions. Notwithstanding the foregoing, the prescribed Levels of Service (LOS) may be degraded during the actual construction of new facilities which will provide capacity to the development, if upon completion of the new facilities the prescribed LOS will be met. Developers must clearly show that capacity to serve the development has been allocated and will be available concurrent with the impacts of the development. Evidence of compliance may consist of documentation that new facilities are under construction or are the subject of a binding, executed contract for construction or an enforceable development

agreement meeting the requirements of Chapters 163 or 380 Florida Statutes which guarantees that the necessary facilities and services will be in place when the impacts of the development occur.

4.02.04. Determination of Available Capacity

A. Available capacity is the total of existing capacity and capacity being created by new facilities which are under construction, subject to a binding contract for construction or subject to a binding development agreement, minus (less) the demand for capacity from existing development and the capacity allocated to approved but incomplete development.

B. Example of Available Capacity Determination

Level of Service Capacity Allocation System For: Facility or Service

EXISTING SYSTEM CAPACITY _____

(Less) PEAK USE (Year: _____)

(- _____)

AVAILABLE CAPACITY OR (CAPACITY DEFICIT) _____

(LESS) CAPACITY ALLOCATED AFTER (year: ____) and

(LESS) CAPACITY ALLOCATED FOR INCOMPLETE

DEVELOPMENT

(- _____)

REMAINING CAPACITY AVAILABLE _____

CAPACITY ALLOCATED TO THIS APPLICATION

Name _____ Site _____

Level of Service _____

Population Served _____

Date Authorized: _____

By: _____

Projected Date of Impact: _____

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4.02.05. Required Authorizations

Authority to allocate capacity shall be made by the appropriate public agency, including but not limited to, the Cedar Key Water and Sewer District, Suwannee River Water Management District, the City of Cedar Key and agencies or department of state government. No development order or permit may be issued without an authorized allocation, signed by an official representative of the authorizing agency. An enforceable development agreement or binding contract for construction may be used by the Administrator to substantiate an authorization by the city.

4.02.06. Failure to Show Available Capacity

Where available capacity cannot be shown, the following methods may be used to maintain the adopted LOS:

- A. The project owner or developer may provide the necessary improvements to maintain LOS. In such cases the application shall include appropriate plans for improvements, documentation that such improvements are designed to provide the capacity necessary to achieve or maintain the LOS, and recordable instruments guaranteeing the construction, consistent with calculated capacity need, including required authorizations from other agencies.
- B. The proposed development may be altered so that the projected LOS is not less than the adopted LOS.
- C. For an inability to show available transportation capacity, the project owner or developer may mitigate traffic impacts pursuant to the Proportionate Fair-share Program as provided in § 4.05.00 of this Article.

(History: Ord. No. 444)

4.02.07. Burden of Showing Compliance on Developer

The burden of showing compliance with adopted Level of Service (LOS) requirements shall be on the developer. Applications for development approval shall provide sufficient information showing compliance with the LOS standards in order to be approved.

4.02.08. Initial Determination of Concurrency

The initial determination of concurrency shall occur during Preliminary Development Plan Review and shall include compliance with the LOS standards adopted by the city.

4.02.09. Annual Report

The Administrator shall prepare and the City Commission shall review and adopt an Annual Report on the Concurrency Management System (CMS). The Annual Report shall include:

- A. A summary of actual development activity, including a summary of certificates of occupancy including quantity of development represented by type, units, square footage and average occupancy (population) for residential units.
- B. A summary of building permit activity, indicating:
 - 1. permits active at the time of the report;
 - 2. permits which expired without construction;
 - 3. quantity of development represented by active permits;

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C. A summary of development approvals that have been issued, but for which building permits have not been issued, indicating:

1. active development approvals;
2. quantity of development represented by approved development;
3. approvals which expired without subsequent permits

D. An evaluation of each facility and service for which a LOS standard has been established, indicating:

1. capacity available at the beginning and end of the reporting period.;
2. capacity being held for active permits and approvals;
3. a comparison of actual capacity to calculated capacity resulting from approved development;
4. a comparison of actual capacity and levels of service to adopted LOS from the city's comprehensive plan;
5. a forecast of capacity based on the most recently updated schedule of capital improvements in the Capital Improvements Element of the city's comprehensive plan and the Annual Report of other governmental agencies;
6. actual reserve capacity.

4.02.10. Use of the Annual Report

The CMS Annual Report shall constitute prima facie evidence of the capacity and levels of service of public facilities and services for the purpose of issuing development approvals and building permits during the twelve (12) months following completion of the Annual Report.

4.03.00. ADOPTED LEVELS OF SERVICE (LOS)

4.03.01. Potable Water

No development activity shall be approved unless there is sufficient available capacity allocated by the Cedar Key Water and Sewer District (CKW&SD) to sustain the following LOS for potable water as established in the Potable Water sub-Element of the city's comprehensive plan:

- A. Minimum design flow: 200 gallons per capita per day
- B. Storage Capacity: 250,00 gallons
- C. Pressure: 50 psi static
- D. Pumping Capacity: 200 gallons per minute or 150,000 gallons per 10-hour period
- E. Minimum Design Fire Flow: 500 gpm at 20 psi

4.03.02. Wastewater

No development activity shall be approved unless there is sufficient available capacity allocated by the Cedar Key Water and Sewer District(CKW&SD) or an approved alternative system as hereinafter provided to sustain the following LOS for wastewater treatment as established in the Sanitary Sewer sub-Element of the city's Comprehensive Plan:

- A. Residential: 183 gallons per capita per day
- B. Commercial and Institutional: 183 gallons per capita per day at 50% of peak occupancy for commercial space and 100% for any dwelling unit as defined in Article VI of this Code

4.03.03. Alternative Wastewater Systems

Septic systems and alternative wastewater treatment systems, including package treatment plants, shall conform to the rules of the Department of Environmental Regulation and Department of Natural Resources in siting,

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construction and outfall or disposal locations, and no system shall dispose of effluent in coastal waters. No approval or permit shall be granted for any development proposing to use alternative septic systems unless the Levy County Sanitation Department has provided written assurance and approval of soil suitability, land area and coastal water or groundwater impacts.

4.03.04. Limitation on Septic Systems

Septic systems shall be permitted only for conditional periods when capacity from the CKW&SD system is not available or not-in-compliance with DER standards. Upon a DER finding that the CKW&SD wastewater system is in-compliance, the city shall not issue any approval or permit for development which proposes to use a septic system when a collector line to the CKW&SD is available and accessible, and any conditionally approved septic systems shall be connected within one year of an in-compliance finding.

4.03.05. Transportation and Traffic Circulation

No development activity shall be approved unless there is sufficient available capacity to sustain the following LOS for transportation systems as established in the Traffic Circulation Element of the city's comprehensive plan:

- A. Arterial Roads Level "C" at Peak Hour
- B. Local Roads Level "C" at Peak Hour
- C. Collector Roads Level "C" at Peak Hour

4.03.06. Determination of Traffic Impact

The projected level of service for roads within a traffic shed (the area of impact of the development) shall be calculated based upon estimated trips to be generated by the project. Where the development will have access to more than one road the calculations shall show the split in generated traffic and shall state the

assumptions used in the assignment of traffic to each facility.

4.03.07. Traffic Evacuation Level of Service

In addition to peak hour LOS for all roads, no development shall be approved which would increase the evacuation time to more than eight-hours for the residential and visitor population in the city and contiguous unincorporated enclaves.

4.03.08. Stormwater Drainage Systems

No development activity shall be approved unless there is sufficient available capacity to sustain the following LOS for the drainage system as established in the Drainage sub-Element of the city's Comprehensive Plan:

- A. Design Storm: 25-year Frequency
- B. Duration: 24-hours
- C. Rainfall Intensity Curve Zone: 6
- D. Treatment/retention Capacity: First 3/4 Inch of Run-off Entire Lot Area

(History: Ord. No. 247)

4.03.09. Solid Waste

No development activity shall be approved unless there is sufficient available capacity to sustain the following LOS for solid waste is sufficient available capacity to sustain the following LOS for solid waste as established in the Solid Waste sub-Element of the city's Comprehensive Plan: 7.5 POUNDS PER CAPITA PER DAY.

4.03.10. Recreation

A. No development activity shall be approved unless there is sufficient available capacity to sustain the following LOS for recreation as established in the Recreation and Open Space Element of the city's Comprehensive Plan:

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B. Standard by Reference: OUTDOOR RECREATION IN FLORIDA Department of Natural Resources, 1989, Tables 6.1 through 6.5, herewith incorporated by reference.

(History: Ord. No. 247)

4.04.00. CHANGE IN LEVEL OF SERVICE STANDARDS

4.04.01. Evaluation and Appraisal

At least every five (5) years after adoption of the city's Comprehensive Plan the city shall evaluate and recommend any changes in adopted levels

of service which may have occurred, and shall transmit any adopted or recommended changes to the state land planning agency (DCA) for a finding of compliance.

4.04.02. Plan Amendment Shall Be In Compliance. No plan amendment which changes level of service standards shall become effective until such time as it has been found to be in compliance by the state land planning agency (DCA).

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City of Cedar Key
Concurrency Management System
GUARANTEE OF ALLOCATED CAPACITY
for Potable Water and Wastewater by:
CEDAR KEY WATER & SEWER DISTRICT

The City of Cedar Key cannot issue a building permit or development order for a project that proposes to use potable water or wastewater facilities without the following information and a guaranteed allocation by CKW&SD

Applicant _____	Date _____	
Site _____	Type of Use _____	
Proposed Occupancy Level _____	No. of _____	
CKW&SD INFORMATION REQUIRED	WATER IN GPD	WASTEWATER
System Capacity at this date _____	_____	_____
(Less) Peak Flow (Year:) (_____)	(_____)	(_____)
CAPACITY RESERVE OR (DEFICIT)		
(YEAR _____)	_____	_____
(Less) Previously Allocated Capacity to the date of this application (_____)	(_____)	(_____)
AVAILABLE CAPACITY _____	_____	_____
CAPACITY ALLOCATED TO THIS APPLICANT _____	_____	_____
Effective Dates of Authorized Allocation _____	_____	_____
Expiration Dates if Allocation Unused _____	_____	_____

The undersigned official representative Cedar Key Water and Sewer District Guarantees the allocation of capacity of the indicated above with the following conditions. (if any)

CKW&SD

Title _____

Level of Service Standards

POTABLE WATER: 200 Gallons Per Day Per Capita

WASTEWATER: 183 Gallons Per Day Per Capita for Residential Uses; 183 Gallons Per Day Per Capita at 50% of Peak Occupancy for Commercial Uses and 100% for a Dwelling Unit

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4.05.00. Proportionate fair share program

4.05.01. Purpose and Intent

The purpose of this ordinance 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 § 163.3180(16), F.S.

(History: Ord. No. 444)

4.05.02. Findings

The City Commission of the City of Cedar Key finds and determines that transportation capacity is a commodity that has a value to both the public and private sectors and the Proportionate Fair-Share Program:

- A. Provides a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors;
- B. Allows developers to proceed under certain conditions, notwithstanding the failure of transportation concurrency, by contributing their proportionate fair-share of the cost of a transportation facility;
- C. Contributes to the provision of adequate public facilities for future growth and promotes a strong commitment to comprehensive facilities planning, thereby reducing the potential for moratoria or unacceptable levels of traffic congestion;
- D. Maximizes the use of public funds for adequate transportation facilities to serve future growth, and may, in certain circumstances, allow the City of Cedar Key to expedite transportation improvements by supplementing funds currently allocated for transportation improvements in the CIE.

E. Is consistent with § 163.3180(16), F.S., and supports Policies 2-2.3, 2-4.3, and 2-4.11 of the Cedar Key Comprehensive Plan.

(History: Ord. No. 444)

4.05.03. Applicability

The Proportionate Fair-Share Program shall apply to all developments in Cedar Key that have been notified of a lack of capacity to satisfy transportation concurrency on a transportation facility in the Cedar Key CMS, including transportation facilities maintained by FDOT or another jurisdiction that are relied upon for concurrency determinations, pursuant to the requirements of Section 4.05.04. The Proportionate Fair-Share Program does not apply to developments of regional impact (DRIs) using proportionate fair-share under § 163.3180(12), F.S.

(History: Ord. No. 444)

4.05.04. General Requirements

A. An applicant may choose to satisfy the transportation concurrency requirements of the City of Cedar Key by making a proportionate fair-share contribution, pursuant to the following requirements:

1. The proposed development is consistent with the comprehensive plan and applicable land development regulations.
2. The five-year schedule of capital improvements in the Cedar Key Comprehensive Plan Capital Improvements Element (“CIE”) includes a transportation improvement(s) that, upon completion, will satisfy the requirements of the Cedar Key transportation CMS. The provisions of Subsection 4.05.04.B. may apply if a project or projects needed to satisfy concurrency are not presently contained within the local government CIE or an adopted long-term schedule of capital improvements.

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B. Cedar Key may choose to allow an applicant to satisfy transportation concurrency through the Proportionate Fair-Share Program by contributing to an improvement that, upon completion, will satisfy the requirements of the Cedar Key transportation CMS, but is not contained in the five-year schedule of capital improvements in the CIE, where the following apply:

1. Cedar Key adopts, by resolution or ordinance, a commitment to add the improvement to the five-year schedule of capital improvements in the CIE no later than the next regularly scheduled update. To qualify for consideration under this section, the proposed improvement must be reviewed by the City Commission of the City of Cedar Key, and determined to be:

a. Financially feasible pursuant to § 163.3180(16) (b) 1, F.S. Financial feasibility for this section means that additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed 10 years to fully mitigate impacts on the transportation facilities; and

b. are consistent with the comprehensive plan; and

c. are in compliance with the provisions of this ordinance.

2. If the funds allocated for the five-year schedule of capital improvements in Cedar Key's CIE are insufficient to fully fund construction of a transportation improvement required by the CMS, the City may still 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, in the opinion of the governmental entity or entities maintaining the

transportation facilities, significantly benefit the impacted transportation system. The improvement or improvements funded by the proportionate fair-share component must be adopted into the five-year capital improvements schedule of the comprehensive plan at the next annual capital improvements element update.

C. Any improvement project proposed to meet the developer's fair-share obligation must meet Cedar Key's design standards for locally maintained roadways and those of the FDOT for the state highway system.

(History: Ord. No. 444)

4.05.05. Intergovernmental Coordination

Pursuant to policies in the Intergovernmental Coordination Element of the Cedar Key comprehensive plan, Cedar Key shall coordinate with affected jurisdictions, including FDOT, regarding mitigation to impacted facilities not under the jurisdiction of the local government receiving the application for proportionate fair-share mitigation. An interlocal agreement may be established with other affected jurisdictions for this purpose.

(History: Ord. No. 444)

4.05.06. Application Process

A. Upon notification of a lack of capacity to satisfy transportation concurrency, the applicant shall also be notified in writing of the opportunity to satisfy transportation concurrency through the Proportionate Fair-Share Program pursuant to the requirements of Section 4.05.04.

B. Prior to submitting an application for a proportionate fair-share agreement, a pre-application meeting shall be held to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. If the impacted facility is on the Strategic Intermodal System ("SIS"), then the FDOT will

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be notified and invited to participate in the pre-application meeting.

C. Eligible applicants shall submit an application to the City that includes the following:

1. Name, address and phone number of owner(s), developer and agent;
2. Property location, including parcel identification numbers;
3. Legal description and survey of property;
4. Project description, including type, intensity and amount of development;
5. Phasing schedule, if applicable;
6. Description of requested proportionate fair-share mitigation method(s); and
7. Copy of concurrency application.

D. The Planning and Development Administrator shall review the application and certify that the application is sufficient and complete within 10 business days. If an application is determined to be insufficient, incomplete or inconsistent with the general requirements of the Proportionate Fair-Share Program as indicated in Section 4.05.04, then the applicant will be notified in writing of the reasons for such deficiencies within 10 business days of submittal of the application. If such deficiencies are not remedied by the applicant within 30 days of receipt of the written notification, then the application will be deemed abandoned. The City Commissioner may, in its discretion, grant an extension of time not to exceed 60 days to cure such deficiencies, provided that the applicant has shown good cause for the extension and has taken reasonable steps to effect a cure.

E. Pursuant to § 163.3180(16)(e), F.S., proposed proportionate fair-share mitigation for

development impacts to facilities on the SIS requires the concurrency of the FDOT. The applicant shall submit evidence of an agreement between the applicant and the FDOT for inclusion in the proportionate fair-share agreement.

F. When an application is deemed sufficient, complete, and eligible, the applicant shall be advised in writing and a proposed proportionate fair-share obligation and binding agreement will be prepared by the City or by the applicant with direction from the City and delivered to the appropriate parties for review, including a copy to the FDOT for any proposed proportionate fair-share mitigation on an SIS facility, no later than 60 days from the date at which the applicant received the notification of a sufficient application and no fewer than 14 days prior to the City Commission meeting when the agreement will be considered.

G. Cedar Key shall notify the applicant regarding the date of the City Commission meeting when the agreement will be considered for final approval. No proportionate fair-share agreement will be effective until approved by the City Commission.

(History: Ord. No. 444)

4.05.07. Determining Proportionate Fair-Share Obligation

A. Proportionate fair-share mitigation for concurrency impacts may include, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities.

B. A development shall not be required to pay more than its proportionate fair-share. The fair market value of the proportionate fair-share mitigation for the impacted facilities shall not differ regardless of the method of mitigation.

C. The methodology used to calculate an applicant's proportionate fair-share obligation

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shall be as provided for in Section 163.3180(12), F. S., as follows:

1. “The cumulative number of trips from the proposed development expected to reach roadways during peak hours from the complete build out of a stage or phase being approved, divided by the change in the peak hour maximum service volume (MSV) of roadways resulting from construction of an improvement necessary to maintain the adopted LOS, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted LOS.”

OR

Proportionate Fair-Share = $\square(((\text{Development Trips}_i)/(\text{SV Increase}_i)) * \text{Cost}_i)$

Where:

- “Development Trips_i” are 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_i” is the service volume increase provided by the eligible improvement to roadway segment “i” per section D;
- “Cost_i” is the 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.

D. For the purposes of determining proportionate fair-share obligations, the City shall determine improvement costs based upon the actual cost of the improvement as obtained from the CIE or the FDOT Work Program. Where such information is not available, improvement cost shall be determined using one of the following methods:

1. An analysis by the City of costs by cross section type that incorporates data from recent projects and is updated annually and approved by the City Commission. In order to accommodate increases in construction material costs, project costs shall be adjusted by an inflation factor derived from historic increases in road construction costs or an acceptable economic indicator; or

2. 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.

E. If the City has accepted an improvement project proposed by the applicant, then the value of the improvement shall be determined using one of the methods provided in this section.

F. If the City has accepted right-of-way dedication for the proportionate fair-share payment, credit for the dedication of the non-site related right-of-way shall be valued on the date of the dedication at the most recent assessed value by the Levy County property appraiser. In the event that no valuation by the Levy County property appraiser exists, the fair market value may be established by an independent appraisal prepared at the expense of the applicant and approved by the City. The applicant shall supply a drawing and legal description of the land and a certificate of title or title search of the land to the City at no expense to the City. If the estimated value of the right-of-way dedication proposed by the applicant is less than the City estimated total proportionate fair-share obligation for that development, then the applicant must also pay the difference. Prior to purchase or acquisition

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of any real estate or acceptance of donations of real estate intended to be used for the proportionate fair-share, public or private partners should contact the FDOT for essential information about compliance with federal law and regulations.

(History: Ord. No. 444)

4.05.08. Proportionate Fair-Share Agreements

A. Upon execution of a proportionate fair-share agreement ("Agreement") the applicant shall receive an allocation of capacity as described in Section 4.02.05 of this article. Should the applicant fail to apply for a development permit within 12 months, then the Agreement shall be considered null and void, and the applicant shall be required to reapply.

B. Payment of the proportionate fair-share contribution is due in full 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 Section 4.05.07. and adjusted accordingly.

C. All developer improvements authorized under this ordinance 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 section that any required improvements be completed before issuance of building permits or certificates of occupancy.

D. 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.

E. 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.

F. Applicants may submit a letter to withdraw from the proportionate fair-share agreement at any time prior to the execution of the agreement. The application fee and any associated advertising costs to the City will be non refundable.

4.05.09. Appropriation of Fair-Share Revenues

A. Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the City CIE, or as otherwise established in the terms of the proportionate fair-share agreement. At the discretion of the local government, 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% local match for funding under the FDOT TRIP.

B. In the event a scheduled facility improvement is removed from the CIE, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or sector that would mitigate the impacts of development pursuant to the requirements of Section 4.05.04.B2. Where an impacted regional facility has been designated as a regionally significant transportation facility in an adopted regional transportation plan as provided in Section 339.155, F.S., then the City may coordinate with other impacted jurisdictions and agencies to apply proportionate fair-share contributions and public contributions to seek funding for

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improving the impacted regional facility under the FDOT TRIP. Such coordination shall be ratified by the City through an interlocal agreement that establishes a procedure for earmarking of the developer contributions for this purpose.

(History: Ord. No. 444)

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ARTICLE V: RESOURCE PROTECTION STANDARDS

5.00.00. GENERALLY

5.00.01. Purpose

The purpose of this Article is to protect natural resources, including, but not limited to, shellfish harvesting areas, marine breeding grounds, and coastal waters, from the specific and cumulative impacts and harmful effects of development.

5.00.02. Application

Developers should apply the provisions of this Article to a proposed development site before any other development design work is done. Application of the provisions of this article will divide a proposed development site into areas that may be developed and areas that must generally be left free of development activity. The proposed development should then be designed to fit within the areas that may be developed.

5.00.03. Relationship to Plan and Other Requirements

In addition to meeting the provisions of this Article, development plans shall comply with the adopted comprehensive plan and applicable federal, state and water management district regulations relating to conservation, environmentally sensitive lands, and resource protection. In all cases the strictest of the applicable standards shall apply.

5.00.04. Compliance When Subdividing Land

Each lot of a proposed subdivision or resubdivision of land into two or more lots must include a site suitable for constructing a structure in conformity with the standards of this Article.

5.01.00. ENVIRONMENTALLY SENSITIVE AND CONSERVATION AREAS

5.01.01. Definitions

Accessory Use

A use of land or structure or portion thereof customarily incidental and subordinate to the principal use of the land or structure and located on the same parcel with the principal use.

Adjacent to a Protected Area

Any location within five hundred (500) feet of the boundary of any protected environmentally sensitive or conservation area, whether the location is on or off the development site.

Adverse Effects

Any modifications, alterations, or effects on waters, associated wetlands, or shore lands, including their quality, quantity, hydrology, surface area, species composition, or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the reasonable use of property, including outdoor recreation or commercial fisheries. The term includes secondary and cumulative as well as direct impacts.

Associated Wetlands

Any wetland that is adjacent or contiguous to waters, or which has a direct hydrologic connection to waters.

Beneficial Functions of a Protected Area

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Those functions described in the city's comprehensive plan which justify designating an area as environmentally sensitive.

Clearing

The removal of trees and vegetation from the land, not including the ordinary mowing lawn grass.

Direct Hydrologic Connection

A surface water connection which, under normal hydrological conditions, occurs on the average of thirty (30) or more consecutive days per year. In the absence of reliable hydrologic records, a continuum of wetlands may be used to establish a direct hydrologic connection.

Mean High Water Line

The intersection of the tidal plane of mean high water with the shore. Mean high water means the average height of the high waters over a 19-year period. For shorter periods of observation, mean high water means the average height of the high waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of a mean 19-year value.

Pollutant

Any substance, contaminant, noise, or man-made or man-induced alternation of the chemical, physical, biological, or radiological integrity of air or water in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation and commercial fisheries.

Protected Environmentally Sensitive Area

An environmentally sensitive area designated for protection in the Conservation, Coastal Management or other elements of the city's Comprehensive Plan.

Significant Adverse Effect

Any modification, alteration, or effect upon a Protected Environmentally Sensitive Area which measurably reduces the area's beneficial functions as delineated in the city's comprehensive plan.

Water or Waters

Includes, but is not limited to, water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, coastal waters, bays, inlets, bayous, streams, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground.

Water Body

Any natural or artificially created area with a discernible shoreline which ordinarily or intermittently contains water.

Watercourse

Any natural or artificially channel, ditch, canal, stream, waterway or wetland through which water flows, either continuously or intermittently, and which has a discernible boundary.

Water's Edge/Wetland's Edge

The boundary established by the mean high water line.

5.01.02. Creation of Wetland and Shoreline Protection Zones

A. Creation. There are hereby created environmentally sensitive "Wetland and Shoreline Protection Zones", (Protected Zones) in which special restrictions on development apply. The boundaries of these zones shall be the most landward extent of the following:

1. Areas fifty (50) feet landward of the mean high water line.

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2. Areas within the dredge and fill jurisdiction of the Department of Environmental Regulation as authorized by §403, Florida Statutes.

3. Areas within the jurisdiction of the U.S. Army Corps of Engineers as authorized by Section 404, Clean Water Act, or Section 10, River and Harbor Act.

4. Areas within the jurisdiction of the Suwannee River Water Management District.

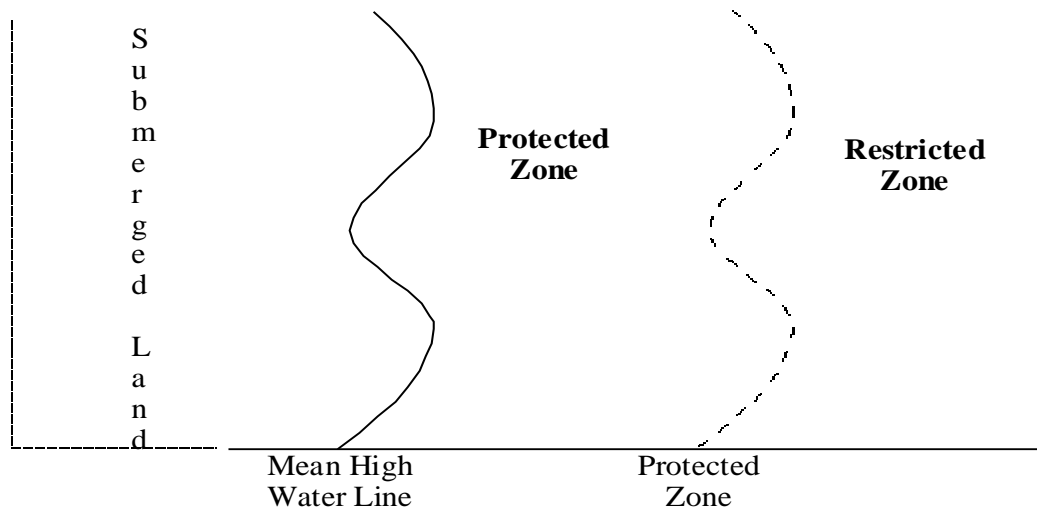
B. Determination of Boundaries. A developer may obtain a determination of the boundaries of a Protected Zone by submitting to the department by certified mail or hand delivery a Request for Determination of Boundaries. The request must, at a minimum, set forth an adequate description of the land the developer wishes to develop, the nature of the developer's

right to ownership or control of the land, and other information needed to make the determination. The department shall have ten (10) working days after receipt of the request to respond to the developer.

C. Purpose: To protect natural resources such as coastal waters, shellfish harvesting areas and marine breeding grounds.

D. Definitions: The "Protected Zone" is 50 feet landward of the Mean High Water Line or within state jurisdiction. (See Section 5.01.02). The "Restricted Zone" is land which abuts a protected zone for a distance of five hundred (500) feet, or which is in the Coastal High Hazard Area. (See Section 5.01.07).

a. ILLUSTRATION OF PROTECTED AND RESTRICTED ZONES



EXAMPLES OF PROTECTIVE MEASURES AND RESTRICTIONS

A. Protected Zone: Development is prohibited, except for water-dependent uses such as docks and walkways. All vegetation is protected and removal is by permit only. Variances may be

allowed and compensatory protective measures or mitigation may be required when variances are granted.

B. Restricted Zone: Twenty-five (25) percent of vegetation is protected. Impervious surface (lot coverage) is limited to forty (40) percent of the land

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area (Land area includes both the protected and restricted zones, but coverage is limited to the restricted zone).

EXAMPLES OF PROHIBITED ACTIVITIES

- A. Clearing: Clearing more land than permitted is prohibited without authorization.
- B. Pollutants: Fertilizers, pesticides and other toxic chemicals are prohibited in the protected zone and use is restricted in the restricted zone.
- C. Stormwater Discharge: Direct disposal of stormwater into coastal waters is prohibited, i.e., no drainage ditches into coastal waters.

5.01.03. Development Activities Within Protected Zones

- A. Except as expressly provided herein, no development activity shall be permitted in Protected Zone.
- B. Presumed Insignificant Adverse Affects Permitted. Certain activities and certain activities when mitigated are presumed to have an insignificant adverse effect on the beneficial functions of Protected Zones. Notwithstanding the prohibition in Section 5.01.03 above, these activities may be undertaken or may be permitted with mitigation unless it is shown by competent and substantial evidence that the specific activity would have a significant adverse effect on the Protected Environmentally Sensitive Area. The following uses and activities are presumed to have an insignificant adverse effect on Protected Zones:
 - 1. Scenic, historic, wildlife or scientific preserves.
 - 2. Minor maintenance or emergency repair to structures or improved areas existing before adoption of this Code.
 - 3. Commercial or recreational fishing.

- 4. Cultivating aquacultural, agricultural or horticultural products that occur naturally on the site.
- 5. Constructing fences where no fill activity is required and where navigational or shoreline access will not be impaired by construction of the fence.
- 6. Developing a "Wetlands Stormwater Discharge Facility" or "Treatment Wetland" in accordance with state permits under § 17-25 and 17-6 F.A.C..
- 7. When mitigated, as hereinafter provided, clearing of shoreline vegetation to provide a corridor or walking trail not to exceed fifteen (15) feet in width per one hundred (100) feet of shoreline, of sufficient length from the shore to allow access for boats, swimmers or fishermen.
- 8. When mitigated, as hereinafter provided, constructing timber docks, catwalks, and trail bridges that are less than or equal to four (4) feet wide, provided that no filling, flooding, dredging, draining, ditching, tiling or excavating is done, except limited filling and excavating necessary for the installation of pilings.
- 9. Developing an area that no longer functions as a wetland, except a former wetland that has been filled or altered in violation of any rule, regulation, statute, or this Code. The developer must demonstrate that the water regime has been permanently altered, either artificially or naturally, in a manner to preclude the area from maintaining surface water or hydroperiodicity necessary to sustain wetland structure and function. If the water regime of a wetland has been artificially altered, but wetland species remain the dominant vegetation of the area, the department shall determine the feasibility of restoring the altered hydrology. If the wetland may be restored at a cost that is reasonable in relation to the benefits to be derived from the restored wetland, the developer shall, as a condition of development, restore the wetland and comply with the requirements of this Code.

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C. Mitigation of Activities in Protected Zones. Clearing of wetland and shoreline vegetation for access shall be mitigated by increasing the native vegetation buffer zone to compensate for the loss of wetlands or shoreline vegetation. The increase in the native vegetation buffer zone shall be in addition to any vegetative zones required by this Code and shall be computed on a minimum area equal to the area cleared. When site elevation is too high for wetland vegetation, a buffer zone of upland vegetation shall be maintained or created.

D. Prohibited Activities in Protected Zones. Only those activities authorized in Part 5.01.03.A may be permitted in a protected zone and the following activities are specifically prohibited:

1. Drain fields for septic tanks or gray water systems.
2. Dredging or filling.
3. The use or storage of fertilizers, herbicides, defoliants or pesticides.

(History: Ord. No. 247)

5.01.04. Special Uses in Protected Zones

A. When Allowed. Water dependent activities identified in Article II of this Code which would otherwise be prohibited may be allowed if the developer shows:

1. That the public benefit of the activity substantially outweighs the adverse environmental effects; and
2. That no practical alternative to placement in the protected zone exists; and
3. A recorded deed restriction limits the use to water-dependent uses.

B. Permittable Water Dependent Activities. Development of a protected zone may include the following permittable water-dependent activities:

1. Projects not exceeding 10,000 cubic yards of material placed in or removed from watercourses, water bodies or wetlands.

2. Dockage or marinas where dock length does not exceed twenty-five (25) percent of the width of the water body and containing less than one (1) slip per one hundred feet (100') of shoreline. All docks and slips shall be at least 100 feet from any federal navigation project. No docking terminus or other structure shall be located over sea grass bed.

3. New riprap or similar structures (not including seawalls, bulkheads or the like) not exceeding fifty (50) feet of shoreline. Rip rap shall be placed at the toe of all replaced bulkheads and seawalls.

4. Installation of buoys, aids to navigation, signs and fences.

5. Performance of maintenance dredging for 10 years from the date of the original permit. Thereafter, performance of maintenance dredging so long as less than 10,000 cubic yards of material is removed.

6. Installation of subaqueous transmission and distribution lines for water, wastewater, electricity, communication cables, oil or gas. Lines may be entrenched in (not exceeding 10,000 cubic yards of dredging), laid on, or embedded in bottom waters.

7. Construction of foot bridges and vehicular bridges.

8. Replacement or widening of bridges on pilings or trestles where the effects of pollutants discharged into open waters are minimized.

9. Construction of artificial reefs.

10. Other activities allowed by FDER Rule §17.90 F.A.C.

C. Minimization of Impacts. The water dependent activity shall be designed, constructed, maintained and undertaken in a way that minimizes

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the adverse impacts on the beneficial functions of the protected zone.

(History: Ord. No. 247)

5.01.05. Design Standards for Special Uses

A. Generally. The following standards apply to special uses allowed in Protected Zones and are in addition to the standards for the Coastal High Hazard Area Restricted Development Zone in Section 5.01.07.

1. Development in the Protected Zone shall be designed to:

- a. Allow the movement of aquatic life requiring shallow water;
- b. Maintain existing flood and tidal channel capacity;
- c. Assure stable shoreline embankments.

2. Development that encroaches on the Protected zone shall not be located:

- a. On unstable shorelines where water depths are inadequate to eliminate or minimize the need for offshore or foreshore channel construction dredging, maintenance dredging, spoil disposal, filling, beach feeding, and other channel maintenance activities;
- b. In areas where there is inadequate water mixing and flushing;
- c. In areas which have been identified as hazardous due to high winds, flooding, or boating activity.

3. Access roads, parking areas, and similar structures shall be located on upland sites.

4. Non-developed portions of the Protected Zone that are damaged during construction shall be restored or replaced through replanting of vegetation, restocking of fish, shellfish, and wildlife, re-establishment of drainage patterns and the like. To the maximum extent possible, the

restored or replaced areas shall match their prior ecological functioning.

5. Accessory uses shall be limited to those which are water-dependent or necessary for operation of the development. Accessory uses shall be consistent in scale and intensity and shall be clearly subordinate to the principal and surrounding uses. Fill shall not be placed in waters or associated wetlands to create usable land space for accessory uses.

B. Mitigation of Special Uses in Protected Zones. The following policies shall apply to special uses permitted in Protected Zones:

1. Compensatory mitigation is required whenever a special use is permitted under Section 5.01.04 of this Code. Mitigation required shall meet the standards of the Florida Administrative Code Rules 17-312.300 through 17-312.390.

2. Environmentally sensitive lands of the same type as those destroyed or degraded shall be purchased, created, enhanced and/or restored to compensate for the loss of such lands.

3. Compensatory mitigation shall not be the basis for approving a project that could not otherwise be approved.

4. A developer of a compensatory mitigation plan shall grant a conservation easement under Section 704.06, Florida Statutes, on the newly purchased, created, enhanced or restored environmentally sensitive lands to protect them from any future development except those allowed in Section 5.01.03 of this Code.

5. Compensatory mitigation for wetlands shall require that the amount of wetlands purchased, created, enhanced, or restored shall be large enough to assure that amount of wetlands destroyed or degraded will be completely and successfully replaced. Replacement through purchase or conservation easement of existing functional wetlands shall be on a 1.5:1 ratio. Replacement by creation, enhancement or restoration shall be on a

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2:1 ratio for salt marsh and a 3:1 ratio for mangroves. Replacement which depends substantially upon natural recolonization of created or restored wetlands shall be at 3:1 for salt marsh and 4:1 for mangroves.

(History: Ord. No. 247)

5.01.06. Additional Criteria and Requirements for Marinas

In addition to the Design Standards for Special Uses, marinas and multi-slip docking facilities shall meet all requirements as cited in the Laws of Cedar Key, Chapter 3, 4-7.3.

5.01.07. Creation of Restricted Development Zones

There is hereby created a Restricted Development Zone (Restricted Zone) adjacent to each Wetland and Shoreline Protected Zone (Protected Zones). The Restricted Zone shall encompass all land within the Coastal High Hazard Area (CHHA) which abuts or is adjacent to a Protected Zone or any lands within five hundred (500) feet of a Protected Zone.

A. Development Within Restricted Zones. Resource protection within the Restricted Zone shall be assured through the following regulations:

1. All development within the Restricted Zones shall be designed, constructed and maintained to avoid significant adverse effects on adjacent Protected Zones.
2. Areas landward of the mean high water line which are within a Protected Zone may be used to determine the allowable units or square footage (density or intensity) that will be allowed on a site containing all or part of such a zone. This development potential may be transferred from the Protected Zone to the Restricted Zone, or may be transferred beyond the zone as provided for in the clustering and Transfer of Development Rights (TDR) provisions of Article X of this Code.

Allowable development potential may not, however, be transferred from outside a Protected or Restricted Zone to within such a zone.

B. Design Standards in Restricted Zones. The following special design standards shall apply within Restricted Zones adjacent to Protected Zones:

1. Developers shall completely restore any portion of a Protected Zone damaged during construction. Complete restoration means that any damaged area shall, within three (3) years, be operating as effectively as the natural system did prior to being destroyed.
2. The development shall leave a minimum of twenty-five (25) percent of the site within the Restricted Zone as trees, shrubs, or other natural vegetation, or replace existing vegetation at a minimum 2:1 ratio.
3. Total impervious surface, including but not limited to buildings, houses parking and driving areas, garages, accessory buildings, pools and walkways, is limited to forty (40) percent of the land area of the entire site.
4. Point source and non-point source discharges are prohibited, except for stormwater, which may be discharged only if it meets the standards of the Suwannee River Water Management and shall provide for off-line retention or detention with filtration of the first one-inch of run-off.
5. Siltation and erosion control measures shall be applied to stabilize banks and other un-vegetated areas during and after construction. Sediment settling ponds shall be installed for stormwater runoff prior to creation of any impervious surface. For lots and parcels that are cleared, silt screens shall be placed between the construction site and the water body to prevent erosions and siltation.
6. Wherever possible, natural buffers shall be retained between all development and all Protected Zones. If a natural buffer does not exist, a buffer of

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the minimum size necessary to prevent significant adverse effects on the Protected Zone shall be created. The factual basis for the decision as to the size of the buffer shall be stated as a finding in the written record.

7. Any channels constructed shall be of a minimum depth and width capable of achieving the intended purposes. Sides of channels shall reflect an equilibrium shape to prevent slumping and erosion and to allow re-vegetation.

8. Any dredging shall be conducted at times of minimum biological activity to avoid fish, shellfish and crustacean migration and spawning and other cycles and activities of wildlife.

9. Any spoil that results from dredging shall be disposed of at upland sites and stabilized within thirty (30) days, unless the spoil is causing turbidity or other problems, in which case immediate stabilization is required.

10. If dredging changes the littoral drift processes and causes any adjacent shores to erode, the developer shall periodically replenish these shores with the appropriate quantity and quality of aggregate.

11. Septic tank permitting in Restricted Zones, when permitted, shall conform to the requirement of /sections 4.03.03 and 4.04.04 of this Code. If septic tanks are allowed, there may be no more than two (2) septic tanks per acre of land within the Restricted Zone, unless it denies reasonable use of the land and no alternative is available.

12. If no natural vegetation exists, strips of buffer vegetation shall be planted between development activities and the Protected Zone. Buffers shall consist of a minimum of twenty-five (25) percent of the site area and shall be composed of native plant species.

C. Coastal Setbacks. Development in the Restricted Zone shall not encroach on the Protected Zone, except as provided in Section 5.01.03 of this Code or by a variance which shall be the minimum

required to allow reasonable use of property and prevent a "taking". Granting of a variance may require other reasonable protective measures necessary to prevent significant adverse effects on a Protected Zone.

D. Protective Measures. The factual basis for the decision to require one or more of the following protective measures in addition to the design standards shall be stated as a finding in the written record, such as a request for a variance from the coastal setback or encroachment on a protected zone. Protective measures may include, but are not limited to the following:

1. Limiting removal of vegetation to the minimum necessary to carry out the development activity.

2. Expeditiously replanting denuded areas.

3. Maintaining the natural drainage pattern.

4. Stabilizing banks and other unvegetated areas by siltation and erosion control measures.

5. Minimizing the amount of fill used in the development activity.

6. Decreasing lot coverage, impervious surface, to compensate for the areas of encroachment on the Protected Zone.

7. Designing, locating, constructing and maintaining all development in a manner that minimizes environmental damage.

8. Using deed restrictions and other legal mechanisms to require the developer and successors to protect the environmentally sensitive areas and maintain the development and protective measures applied.

9. Prohibiting septic tanks.

10. Creating buffer zones of native vegetation greater than the minimum required.

Increasing off-line detention and retention with filtration of stormwater.

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5.01.08. Prohibited On-Going Activities

The following standards shall apply to post-development activities in a Protected or Restricted Zone:

- A. Clearing. Absent an amendment to the development order, no person shall clear more vegetation than was permitted for the original development.
- B. Point Source and Non-point Source Discharges. Absent an amendment to the development order, point and non-point source discharges shall continue to meet the standards applicable to the original development.
- C. Fertilizers, Herbicides, Pesticides, or Defoliants. Fertilizers, herbicides, pesticides, or defoliants shall not be applied in Protected Zones unless authorized under §373.451-373.4575 F.S. or a governmentally authorized mosquito control program. Restricted Zone usage shall be at minimum appropriate quantities and frequencies.
- D. Fuel, Hazardous and Toxic Substances, and Wastes.
 - 1. Storage or disposal of all types of wastes is prohibited in Protected and Restricted Zones.
 - 2. No toxic or hazardous wastes or substances shall be stored in outdoor containers.
 - 3. Developments where fuel or toxic substances will be stored, sold or transferred shall employ the best available facilities and procedures for the prevention, containment, recovery, and mitigation of spillage. Facilities and procedures shall be designed to prevent substances from entering the water or soil and shall employ adequate means for prompt and effective clean-up of spills.
- E. Spray Vehicles. Vehicles used for mixing or spraying of chemicals are prohibited from withdrawing water directly from surface waters.

F. Pump-out, Holding, and Treatment of Wastes from Mobile Sources. Sewage, solid wastes, and petroleum waste generated by vessels or vehicles on a site shall be properly collected and disposed of as provided by law.

G. Prohibited Uses. Long-term storage of equipment or materials, and the disposal of wastes is prohibited.

5.02.00. HABITAT OF ENDANGERED OR THREATENED SPECIES

5.02.01. Purpose, Intent and Application

The purpose of this part is to provide standards necessary to protect the habitats of species-both flora and fauna-of endangered, threatened, or special concern status in the city with the intent that appropriate amounts of land be set aside to protect those habitats. Areas to which this part applies shall be identified in the Conservation Element of the Comprehensive Plan.

5.02.02. Habitat Management Plan Required

A Habitat Management Plan shall be prepared as a prerequisite to the approval of any development proposed on a site containing areas subject to this part.

A. Content. The plan shall be prepared by an ecologist, biologist or other related professional and shall be approved by the Department of Natural Resources or Game and Freshwater Fish Commission. The plan shall document the presence of affected species, the land needs of the species that may be met on the development site, and shall recommend appropriate habitat management plans and other measures to protect the subject wildlife.

B. Conformity of Final Development Plan. The Final Development Plan approved for a development shall substantially conform to the recommendations in the Habitat Management Plan.

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C. Preservation of Land. Where land on a proposed development site is to be preserved as habitat of rare, endangered or special concern species, such land shall be adjacent to existing viable habitat, a significant wetland system, floodplain, or wildlife corridor. If such lands are not adjacent to the development site, land to be set aside shall be of such quantity and quality as to provide viable habitat, as documented in the requirements of part 5.02.02.A, above.

D. Fee-in-Lieu. As an alternative to preservation of land, the city may establish a fee-in-lieu-of-land program, whereby the city can purchase land which will provide a significant habitat.

5.02.03. Bird Colony Habitat

Any mangrove or wetland area which serves as an active nesting, feeding or breeding area for a colony of birds shall not be altered, including any of the special uses which may have otherwise been permitted under this Article, unless specifically authorized by an approved Habitat Management Plan meeting the requirements of Part 5.02.02 of this Code.

(History: Ord. No. 247)

5.03.00. TREES AND NATIVE VEGETATION

5.03.01. Definitions

Crown

The main mass of branching of a plant above the ground.

DBH (Diameter at Breast Height)

"Breast Height" is defined to be fifty-four (54) inches above the surface of the ground at the base of the plan or tree. In the case of a plant with multiple main stems, the diameter shall be the sum of the diameters of the stems.

Drip Line

The outermost perimeter of the crown of a plant as projected vertically to the ground.

Mangrove

Rooted trees and seedlings of the following species: Buttonwood Mangrove-.*Conocarpus erecta*, Red Mangrove - *Rhizophora mangle*, White Mangrove-*Laguncularia racemosa* Gaertn., and Black Mangrove - *Avicennia germinans*.

Protected Trees

Any tree that has a DBH of more than eight (8) inches, and which is not otherwise exempted from this Code. For the purposes of this Code, all Mangroves, Cedars - *Juniperus silicola*, Red Bay - *Persea borbonia*, and all palm trees with at least four and one-half (4 ½) feet of clear trunk between the ground level and lowest branch are declared to be "Protected Trees."

Protected Vegetation

For the purposes of this code, all Salt Marsh vegetation, including Smooth Cordgrass - *Spartina alterniflora*, Black Needlerush - *Juncus roemerianus*, Saltgrass - *Distichlis spicata*, Glasswort - *Salicornia perennia*, and Saltwort - *Batis maritima*, are declared to be "Protected Vegetation."

Remove

To clear, cut down, damage, poison, or in any other manner destroy or cause to be destroyed, a tree or vegetation.

Tree Protection Zone

A circular zone around each protected tree with a minimum radius of six (6) feet and a maximum radius of twenty (20) feet to be determined by the drip line of the tree.

5.03.02. Exemptions for Nuisance Trees and Certain Activities

Nuisance trees, including Brazilian Pepper, *Malaleuca* and Australian Pine shall be exempt

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from the tree protection requirements of the Code. Certain activities, including utility operations, surveying, and activities required by emergencies such as hurricanes, shall be exempt to the minimum extent required to achieve the purpose of the activity. Except for emergencies, a permit shall be required for utility and surveying removal of trees and vegetation.

5.03.03. Approval Required for Removal of Trees and Vegetation

It is the intent of this section to minimize the removal of protected trees and to preserve not-less-than twenty-five (25) percent of existing native vegetation on a site. A permit shall be required for removal of trees and vegetation. No permit may be issued unless the conditions of this section are met. The permit fee shall include an amount to be dedicated for future costs of maintenance of Protected and Heritage Trees situated on City Property and annual costs of purchasing and planting new trees. The fee shall be calculated on a per inch sliding scale, based on the size of the tree removed. The fee shall be promulgated by resolution of the City Commission and shall be adjusted periodically to reflect current maintenance and replanting costs. In the event that a tree or vegetation is removed without a permit, a double fee will be charged in accordance with The Laws of Cedar Key, Chapter 5, §1.01. In the event that a tree is removed without a permit, the diameter shall be measured at the top of the remaining stump. A tree which is removed due to death caused by a naturally occurring disease shall be subject to the permit requirement, but shall be exempt from the permit fee.

A. Conditions for Authorization. Developers shall take reasonable measures to design and locate the proposed improvements so that the amount and number of protected vegetation and trees to be removed is minimized. The design must attempt to preserve specimen, historic or landmark trees. No authorization for the removal of protected vegetation or trees shall be granted unless the

developer demonstrates one or more of the following conditions:

1. A permissible use of the site cannot reasonably be undertaken unless specific trees and vegetation are removed or relocated.
 2. The tree is located in such proximity to an existing or proposed structure that the safety, utility or structural integrity of the structure is impaired.
 3. The tree materially interferes with the location, servicing or functioning of existing utility lines or services.
 4. The tree or vegetation creates a substantial hazard to motor, bicycle, or pedestrian traffic by virtue of physical proximity to traffic or visual impairment.
 5. The tree is diseased or weakened by age, abuse, storm or fire and is likely to cause injury or damage to people, buildings or improvements.
 6. Any law or regulation requires the removal.
- B. Replacement of Removed Vegetation, Removed vegetation in excess of seventy-five (75) percent of the existing vegetation in the restricted area and any vegetation removed from the protected area shall be replaced according to the mitigation provisions of part 5.01.05.B of this code and the following:
1. For each square foot of vegetation removed, one square foot shall be replaced.
 2. Replacement may be accomplished by moving vegetation from one location to another on the site, providing measures are taken to ensure survival, or by replacement with other native species.
 3. Where practicable, replacement vegetation shall be planted on the development site. Where impracticable, replacements may be donated, or a fee-in-lieu may be paid, to the city for the purpose of planting on public property. The fee-in-lieu shall

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be based on the cost of replacement vegetation required.

C. Historic, Specimen and Landmark Trees. Historic, specimen and landmark trees are those that have been officially designated by the city commission, upon the advice of the administrator or the Cedar Key Garden Club, to be of high value because of their history, location, size, age, type or other relevant criteria. A public hearing on the designation shall be held by the city with due notice to the owner of the tree.

D. Removal of Historic, Specimen and Landmark Trees. No historic, specimen or landmark trees shall be removed without a finding by the city commission that the tree is a hazard or that it is not economically or practically feasible to develop the parcel without removing the tree. The developer shall explain in detail why the tree is a hazard or why it is not economically or practically feasible to develop the parcel without removing the tree. The Administrator shall make a recommendation to the commission as to whether the removal should be denied or approved. The decision by the commission shall be made within thirty (30) days of the date the application to remove the tree is filed.

5.03.04. Protection of Trees and Vegetation During Development Activities

In order to assure the health and survival of protected trees and vegetation that are not to be removed, including injuries caused by clearing, grade changes, excavations, chemicals or mechanical injuries, developers shall take appropriate protective measures as specified in the "Tree Protection Manual for Builders and Developers," published by the Florida Division of Forestry, herewith incorporated by reference. Protected trees and vegetation which do not survive the impacts of development shall be replaced as provided in part 5.03.03.02 of this Code.

5.03.05. Special Protection of Mangroves and Saltmarshes

Removal or alteration of Mangroves and Salt Marshes shall be in accordance with all applicable Florida DEP rules, regulations and standards.

5.04.00. GROUNDWATER AND WELLHEADS

5.04.01. Delegation of Responsibility

The city hereby delegates the responsibility for groundwater, wellhead and aquifer recharge area identification and protection to the Cedar Key Water and Sewer District and Suwannee River Water Management District, (Districts).

5.04.02. Protection Upon Identification

Any future groundwater aquifer recharge area identified by CKW&SD or SRWMD shall be protected by the city by designation as an environmentally sensitive conservation area subject to the protective provisions of this code and the Districts' Rules and Regulations.

5.05.00. COASTAL HIGH HAZARD AREAS

5.05.01. Title

The provisions contained herein shall constitute the Coastal Construction Code for construction within the coastal building zone of Cedar Key, Florida, and shall be referred to as the "Coastal Code".

5.05.02. Purpose

The purpose of the Coastal Code is to provide minimum standards for the design and construction of buildings and structures to reduce the harmful effects of hurricanes and other severe storms occurring in the Gulf of Mexico which surrounds Cedar Key. These standards are intended to specifically address design features which affect the structural stability of the beach, dunes, and topography of adjacent properties. The Coastal Code is site specific to the coastal building zone as defined herein and is not applicable to other locations. In the event of a conflict between this section and other sections of this Code, the requirements resulting in the more restrictive design shall apply. No provisions in this chapter

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shall be construed to permit any construction in any area prohibited by city, county, state, or federal regulation.

5.05.03. Scope

A. Applicability. The requirements of this Coastal Code shall apply to the following types of construction in the coastal building zone and on coastal barrier islands in Cedar Key, Florida:

1. The new construction of, or substantial improvement to major structures, uninhabitable major structures, and minor structures as defined herein.
2. Construction which would change or otherwise have the potential for substantial impact on coastal zone (i.e. excavation, grading, paving).
3. Construction located partially within the coastal building zone.
4. Reconstruction, redevelopment or repair of a damaged structure from any cause which meets the definition of substantial improvement as defined herein.

B. Exceptions. The requirements of the coastal code shall not apply to the following:

1. Minor work in the nature of normal beach cleaning and debris removal.
2. Structures in existence prior to the effective date of the code, except for substantial improvements as defined herein.
3. Construction for which a valid and unexpired building permit was issued prior to the effective date of this code.
4. Construction extending seaward of the seasonal high-water line which is regulated by the provisions of section 161.041, Florida Statutes (i.e. groins, jetties, moles, breakwaters, seawalls, piers, revetments, beach nourishment, inlet dredging, etc.).

5. Construction of non-habitable major structures as defined herein, except for the requirements of Section 5.05.05D.

6. Construction of minor structures as defined herein, except for the requirements of Section 5.05.05E.

7. Structures listed in the National Register of Historic Places or the State Inventory of Historic Places.

8. Construction for improvement of a major structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

C. Application for Permits. Applications for building permits for construction in the coastal building zone shall be required by the Building Official to be certified by an architect or professional engineer registered in the State of Florida. Such certifications shall state that the design plans and specifications for the construction are in compliance with the criteria established by this Coastal Code.

5.05.04. Definitions

General. The following terms are defined for general use in the Coastal Code:

Beach

The zone of unconsolidated material that extends landward from the mean low water line to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves. "Beach" is alternatively termed "shore"

Breakaway Wall or Frangible Wall

A partition independent of supporting structural members that will withstand design wind forces, but which will fail under hydrodynamic, wave, and run-up forces associated with the design storm surge. Under such conditions, the wall shall fail in a

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manner such that it breaks up into components which minimize the potential for damage to life or adjacent property. It shall be a characteristic of a breakaway or frangible wall that it shall have a horizontal design loading resistance of no less than 10 nor more than 20 pounds per square foot.

Building Support Structure

Any structure which supports floor, wall, or column loads, and transmits them to the foundation. The term shall include beams, grade beams, or joists, and includes the lowest horizontal structural member exclusive of piles columns, or footings.

Coastal Barrier Islands

All of Cedar Key.

Coastal Building Zone

The land area seaward of the most landward velocity zone (V-zone) boundary line established by the Federal Emergency Management Agency and shown on the Flood Insurance Rate Maps.

Coastal Construction Control Line

The landward extent of that portion of the beach-dune system which is subject to severe fluctuations based upon a 100-year storm surge, storm waves, or other predictable weather conditions as established by the Department of Natural Resources in accordance with section 161.053, Florida Statutes.

Construction

The building of or substantial improvement to any structure or the clearing, filing or excavation of any land. It shall also mean any alterations in the size or use of any existing structure or the appearance of any land. When appropriate to the context, "Construction" refers to the act of construction or the result of construction.

Dune

A mound or ridge of loose sediments, usually sandsized, deposited by natural or artificial means, which lies landward of the beach.

Major Structure

Includes but is not limited to residential buildings (including mobile homes), commercial, institutional, industrial, and other construction having the potential for substantial impact on coastal zones.

Mean High-water Line

The intersection of the tidal plane of mean high water with the shore. Mean high water is the average height of high waters over a 19 year period.

Minor Structure

Includes but is not limited to pile-supported, clavated dune and beach walkover structures; beach access ramps and walkways; stairways; pile-supported elevated viewing platforms, gazebos and boardwalks; lifeguard support stands; public and private bathhouses; sidewalks, driveways, parking areas, shuffleboard courts, tennis courts, handball courts, racquet-ball courts, and other uncovered paved areas; earth retaining walls; sand fences, privacy fences, ornamental walls, ornamental garden structures, aviaries, and other ornamental construction. It shall be a characteristic of minor structures that they are considered to be expendable under design wind, wave, and storm forces.

Mobile Home

Manufactured housing which conforms to the Federal Manufactured Housing Construction and Safety Standard or the Uniform Standards Code ANSI A 119.1 pursuant to Section 320.823, Florida Statutes.

Nonhabitable Major Structure

Includes but is not limited to swimming pools, parking garages, pipelines, piers, canals, lake ditches, drainage structures, other water retention structures, water and sewage treatment plants, electrical power plants, transmission and distribution lines, transformer pads, vaults, and

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substations, roads, bridges, streets, and highways, and underground storage tanks.

NGVD

National Geodetic Vertical Datum - a geodetic datum established by the National Ocean Service and frequently referred to as the 1929 Mean Sea Level Datum.

One Hundred Year Storm or 100-Year Storm

A shore incident hurricane or any other storm with accompanying wind, wave, and storm surge intensity having a one percent (1%) chance of being equaled or exceeded in any given year, during any 100-year interval.

Seasonal High-Water Line

The line formed by the intersection of the rising shore and the elevation of 150 percent of the local mean tidal range above mean high water.

State Minimum Building Code

The building code adopted by Cedar Key pursuant to the requirements of Section 553.73, Florida Statutes.

Substantial Improvement

Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- a. Before the repair or improvement is started; or
- b. If the structure has been damaged and is being restored, before the damage occurred.

Where two or more permits are applied for within a one-year period, the cost of the repairs, reconstructions or improvements associated with such permits shall be added together to determine whether the cost equals or exceeds a total of 50 percent of the market value of the structure.

Regardless of value, in no instance may more than 50% percent of the existing floor area be added without being treated as a "substantial improvement." For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary, and safety code specifications which are solely necessary to assure safe living conditions; or any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

5.05.05. Coastal Construction Requirements

A. General. Construction within the coastal building zone and on coastal barrier islands shall meet the requirements of this chapter. All structures shall be designed so as to minimize damage to life, property, and the natural environment. Assistance in determining the design parameters to minimize such damage may be found in the reference documents listed in Section 5.05.05C.

B. Structural Requirements for Major Structures.

1. Design and Construction: Major structures, except for mobile homes, shall be designed and constructed in accordance with section 1205 of the 1986 revisions to the 1985 Standard Building Code using a fastest-mile wind velocity of 110 miles per hour. Major structures, except mobile homes, shall also comply with the applicable standard for construction found elsewhere in the Standard Building Code.

2. Mobile Homes: Mobile Homes shall conform to the Federal Mobile Home Construction and Safety Standards or the Uniform Standards Code ANSI A-119.1, pursuant to Section 320.823,

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Florida Statutes as well as the requirements of Section 5 (B) (3) which follows.

3. Elevation, Flood proofing, and Siting: All major structures shall be designed, constructed and located in compliance with the National Flood Insurance Regulations as found in 44 CFR Parts 59 and 60 or the Cedar Key Flood Plain Ordinance, whichever is more restrictive.

C. Design Conditions.

1. Velocity Pressure. Major Structures, except mobile homes, shall be designed in accordance with the requirements of Section 1205 of the 1986 revisions of the 1985 Standard Building Code using a minimum fastest-mile wind velocity of 110mph. These minimum design pressures are as follows:

VELOCITY PRESSURE (PSF)

BUILDING HEIGHT 60 FEET OR LESS

MEAN HEIGHT IN FEET	PRESSURE
0 TO 15	25
20	28
40	34
60	38

GUST VELOCITY PRESSURE (PSF)

BUILDING HEIGHT OVER 60 FEET

MEAN ROOF HEIGHT (FT)	PRESSURE
0 – 30	35
31-51	40
51-100	47
100 – 200	54
200 – 300	61
300 – 400	66
400 – 500	70

2. Foundations. The elevation of the soil surface to be used in the design of foundations, calculation of pile reactions and bearing capacities shall not be greater than that which would result from the erosion reasonably anticipated as a result of design or conditions. Foundation design and construction of a major structure shall consider all anticipated loads acting simultaneously with live and dead loads. Erosion computations for foundation design shall account for all vertical and lateral erosion and scour producing forces, including localized scour due to the presence of structural components. Foundation design and construction shall provide for adequate bearing capacity taking into consideration the type of soil present and the anticipated loss of soil above the design grade as a result of localized scour. Erosion computations are not required landward of coastal construction control lines established or updated since June 30, 1980. Upon request the Department of Natural Resources may provide information as to those areas within coastal building zones where erosion and scour of a 100-year storm event is applicable.

3. Wave Forces. Calculations for wave forces resulting from design storm conditions on building foundations and superstructures may be based upon the minimum criteria and methods prescribed in the Naval Facilities Engineering Command Design Manual, NAVFAC DM-26, U.S. Department of Navy; Shore Protection Manual. U.S. Department of the Army Corps of Engineers; U.S. Department of Army Coastal Engineering Research Center Technical Papers and Reports; the Technical and Design Memoranda of the Division of Beaches and Shores, Florida Department of Natural Resources; or other professionally recognized methodologies which produce equivalent design criteria. Breaking, broken, and non-breaking waves shall be considered as applicable. Design wave loading analysis shall consider vertical uplift pressures and all lateral pressures to include impact as well as

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dynamic loading and the harmonic intensification resulting from repetitive waves.

4. Hydrostatic Loads: Calculations for hydrostatic loads shall consider the maximum water pressure resulting from a fully, peaked, breaking wave super-imposed upon the design storm surge with dynamic wave setup. Both free and hydrostatic loads shall be considered. Hydrostatic loads which are confined shall be determined by using the maximum elevation to which the confined water would freely rise if unconfined. Vertical hydrostatic loads shall be considered both upward and downward on horizontal or inclined surfaces of major structures (i.e. floors, slabs, roofs, walls). Lateral hydrostatic loads shall be considered as forces acting horizontally above and below grade on vertical or inclined surfaces. Hydrostatic loads on irregular or curved geometric surfaces shall be determined by considering the separate vertical and horizontal components acting simultaneously under the distribution of the hydrostatic pressures.

5. Hydrodynamic Loads. Hydrodynamic loads shall consider the maximum water pressure resulting from the motion of the water mass associated with the design storm. Full intensity loading shall be applied on all structural surfaces above the design grade which would affect the flow velocities.

D. Structural Requirements for Utilities. All sewage treatment and public water supply systems shall be flood-proofed to prevent infiltration of surface water anticipated under design storm conditions. Underground utilities, excluding pad transformers and vaults, shall be flood-proofed to prevent infiltration of surface water expected under design storm conditions or shall otherwise be designed to function when submerged under such storm conditions.

E. Structural Requirements for Minor Structures. Minor structures need not meet the specific structural requirements of Section 5.05.05, except that they shall be designed to produce the

minimum adverse impact on the beach and dune system and shall comply with the applicable standards of construction found in the Standard Building Code as adopted by Cedar Key, Florida.

F. Location of Construction. Construction, except for elevated walkways, lifeguard support stands, piers, beach access ramps, gazebos, and coastal or shore protection structures, shall be located a sufficient distance landward of the beach to permit natural shoreline fluctuations and to preserve dune stability. Construction, including excavation, may occur to the extent that the natural storm buffering and protection capability of the dune is not diminished.

G. Public Access. Where the public has established an access way through private lands to lands seaward of mean high tide or water line by prescription, prescriptive easement, or other legal means, development or construction shall not interfere with such right of access unless a comparable alternative access way is provided. The developer shall have the right to improve, consolidate, or relocate such public access ways so long as they are:

1. Of substantially similar quality and convenience to the public;
2. Approved by the City Commission and approved by the Department of Environmental Protection whenever improvements are involved seaward of the coastal construction control line; and
3. Consistent with the coastal management element of the Cedar Key Comprehensive Plan adopted pursuant to Florida Statutes 163.3178.

5.05.06. Rules of Interpretation

It is anticipated that there may be some conflict between this provision and the flood hazard mitigation requirements of this Code, which was required to be passed by the Federal Emergency Management Agency (FEMA) in order to ensure that the City of Cedar Key, Florida, could remain eligible for participation in the Federal Flood

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Insurance Program. Both said ordinances shall be administered and enforced within the City. In the event of conflict, between the provisions of said ordinances, then the most stringent or strict regulation applicable to a give situation shall apply.

(History: Ord. No. 330)

5.06.00. VIOLATIONS AND ENFORCEMENT

5.06.01. General

Any violation of this Code is a public nuisance and may be restrained by injunction or otherwise abated in a manner provided by law.

5.06.02. Restoration

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken in a reasonable time after notice, the city may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

5.06.03. Additional Remedies and Penalties

In addition to any remedy or penalty provided in this Article, any person who violates the provisions of this Article shall be subject to the remedies and penalties provided in Article XII of this Code.

(History: Ord. No. 220)

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ARTICLE VI: DEVELOPMENT DESIGN AND IMPROVEMENT STANDARDS

6.00.00. GENERALLY

6.00.01. Purpose

The purpose of this Article is to provide development design and improvement standards applicable to all development activity in the city.

6.00.02. Responsibility for Improvements

All improvements required by this Article shall be designed, installed, and paid for by the Developer.

6.00.03. Principles of Development Design

The provisions of this Article are intended to ensure functional and attractive development.

Development design shall first take into account the protection of natural resources as prescribed in Article V of this Code, Resource Protection Standards. All development shall be designed to:

- A. avoid unnecessary impervious surface cover;
- B. provide adequate access to lots and sites;
- C. provide adequate parking;
- D. and assure compatibility with surrounding properties by avoiding the adverse effects of drainage, noise, odor, traffic, shadow, glare and utilities.

6.00.04. Residential Subdivisions

Notwithstanding any other provisions of this Article, residential subdivisions for single-family homes or duplexes, including Minor Replats, shall comply with the following. Except as specifically provided below, no other provisions of this Article, or the submittal requirements in Article XII, shall apply to such subdivisions.

- A. Submittals. The submittals for subdivisions shall comply with the requirements of Chapter 177,

Florida Statutes, and shall, in addition, show the setback lines established by Article V of this Land Development Code, and the outlines of a buildable area upon which a home can be built in compliance with the setbacks and the impervious surface ratios in 6.01.02, the setback requirements in 6.01.03, height limitations in 6.01.03.

B. Streets.

1. Streets shall conform to the general design standards in 6.02.04 A through G. Nothing else in Section 6.02.04 shall apply, including the classification system in 6.02.02 and 6.02.03

2. If the streets are to be dedicated to the City of Cedar Key, they shall meet the design standards for residential streets contained at Technical Construction Standards cited at Section 1.06.02 of this Code.

3. If the streets are to remain private, they shall meet the design standards for residential streets contained at Technical Construction Standards cited at Section 1.06.02 of this Code.

4. Dead-end streets shall provide a turn-around of adequate dimension to accommodate emergency service and waste collection vehicles.

C. Sidewalks. Sidewalks may be required on streets that connect to an existing street with sidewalks. When required, the sidewalk shall extend the entire length of the new street on the same side, or sides, of the street so as to match the sidewalk(s) on the existing street. Sidewalks may only be required by action of the City Commission following a determination by the Commission that sidewalks are needed and appropriate for the proposed residential subdivision.

D. Utilities. Prior to approval of the plat, the developer shall document the manner in which each

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lot is serviceable by the following utilities: electricity, water, sewer and telephone. All utilities shall be placed underground in accord with 6.04.03 and 6.04.04 of this Article.

E. Responsibility for Improvements. It shall be the responsibility of the developer to install all improvement required by this section. Section 12.02.13 relating to Guarantees and Sureties shall apply.

(History: Ord. No. 299)

6.01.00. LOT AREA, LOT COVERAGE, AND SETBACKS

6.01.01. Minimum Lot Area Requirements

All developments shall have total land area sufficient to meet all requirements of this Code including, but not limited to, land required to provide setbacks, buffers, stormwater management, off-street parking and circulation, protection of environmentally sensitive land and natural resources, open space, and any other provisions which may require land area to be set aside.

A. Definitions. The following terms when used in this section shall mean:

Lot

“Lot” means the least fractional part of subdivided lands having limited fixed boundaries, and an assigned number, letter, or other name through which it may be identified.

Lot of Record

“Lot of record” means a platted residential lot in existence on February 17, 1997.

Parcel of Record

“Parcel of record means any parcel of land recognized as a single parcel for ad valorem taxation purposes by the Levy County Property Appraiser’s office on February 17, 1997.

B. Minimum Upland Lot Size. In all areas within the limits of the City of Cedar Key not included within the boundaries identified by Map 6.01.01 of this section, the minimum lot size shall be 7,500 square feet and no real estate parcel therein shall be divided, subdivided, replatted or recorded so as to create any lot with an upland area of less than 7,500 square feet or the average size of lots in any adjacent subdivision, whichever lot size is larger.

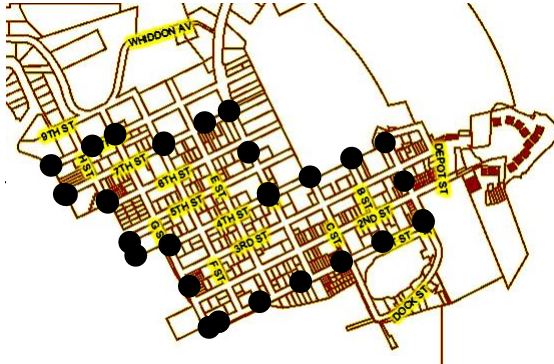
C. Specific Requirements for Substandard Residential Lots. Residential lots of record within the limits of the City of Cedar Key not included within the boundaries identified by Map 6.01.01 of this section, containing less than 7,500 square feet of upland area are legal non-conforming lots of record and may be developed without necessity of obtaining a variance. It is the intent of this subsection, however, to discourage the development of rows of houses with narrow, uniform façades and repetitive architecture. In furtherance of that intent, legal nonconforming lots of record that are adjoining, face public right-of-way, and under common ownership may only be developed or redeveloped as follows:

1. the lots are combined in a way that makes them conforming or more conforming with the requirements of section 6.01.01.B. herein, or
2. one residential unit per lot is permitted if no existing historic structures, as defined by section 3.01.03 of this Code, are demolished and if the City Commission finds, at a hearing held pursuant to the requirements of section 12.02.04 of this Code, that the proposed development avoids repetitive architecture by varying the dimension and massing of buildings, varying the architectural style or embellishments of the various buildings, and/or varying between detached and attached single-family homes. This provision shall not be interpreted to prohibit development of structures on or across parcel boundaries where otherwise not prohibited by this Code.

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D. Specific Requirements within Area Indicated in Map 6.01.01.



1. Minimum Upland Lot Size. In all areas included within the boundaries identified by Map 6.01.01 of this section, the minimum lot size shall be 2,500 square feet and no lot of record or parcel of record within said boundaries shall be divided, subdivided, replatted or recorded so as to create any lot with an upland area of less than 2,500 square feet.

2. Exception. Within the boundaries identified by Map 6.01.01 of this section, residential parcels of record containing less than 2,500 square feet of upland area may be developed with a maximum of one residential unit per parcel of record in accordance with paragraph 6.01.01.C herein, if all other provisions of this Code are met. Multiple abutting parcels of record under common ownership may be replatted through the minor replat provisions of this Code to create new platted lots that are not less than 2,500 square feet.

(History: Ord. Nos. 294, 410, 425, 458)

6.01.02. Impervious Surface Ratio (ISR)

A. Generally. Impervious surface on a development site shall not exceed the limits established in § 2.02.10, Article II, Chapter Four, Laws of Cedar Key.

B. Treatment of Cluster Development and TDR Provision. Site design within a development

may provide for the clustering of building units to provide common open space as impervious surface, and land development rights may be transferred from one site to another. As a condition of approval, deed restrictions, covenants or conservation easements shall guarantee the maintenance of such open space in perpetuity. Lands proposed for a Transfer of Development Rights (TDR) shall be in the same zoning districts and shall share the same characteristics and development potential.

(History: Ord. No. 426)

6.01.03. Setback Requirements

A. Coastal Construction Setback Line. Except as provided for water-dependent commercial uses guaranteed by deed restrictions and residential water access structures allowed in Section 5.01.03 of this Code, all structures and buildings shall be located fifty (50) feet landward of the Mean High Water Line or any existing bulkhead or water surface. A hardship variance may be granted for the minimum amount required to prevent a taking of private property without compensation, providing the encroachment on the protected zone is mitigated and protective measures as provided in Section 5.01.07 C and D are taken to reduce the adverse effect of the variance. The Coastal Construction Setback line may be interpreted as the average distance from the mean high water line to the face(s) or side(s) of structures nearest the water, and shall be measured from the eaves or roofline. Open decks or walkways which encroach on the protected zone shall meet the requirements of Section 5.01.03 of this Code.

B. Front, Side and Rear Yard Setbacks. There are no minimum setbacks required for front, side and rear yards providing that one of the following requirements is met:

1. Compatibility is assured through compliance with Section 3.02.00, Infill Development, of this Code.

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2. If the distance from the exterior wall to the property line of adjacent property is less than five (5) feet, the applicant must show evidence of a maintenance easement granted by adjacent property owners.

3. A structure may be built on the property line provided the owners shall grant an attachment easement to the adjacent property owners.

6.01.04. Building Height

A. Generally. Building height is limited to:

Thirty-two (32) feet on a structure with a flat roof;
or

Thirty-eight (38) feet on a structure with a pitched roof.

B. Measurement of Building Height. Structure height is measured as the vertical distance from the base of a structure to the top of the structure. For the purposes of this subsection:

1. The base of a structure is the highest point of the natural or existing ground elevation immediately adjacent to the subject building or structure; except that in those areas of the city located in whole or in part within the Coastal High Hazard Area (FEMA "V" Zone) as delineated on the Flood Insurance Rate Map (FIRM), where the base is the Base Flood Elevation (BFE) as established on the FIRM; and

2. The top of a structure is the highest point on the roof of the structure.

C. Exceptions to Height Limitations. Church spires, chimneys, water towers, transmitter towers, smoke stacks, flag poles, television antennae, parapets, and similar structures and their necessary mechanical appurtenances, may, where specifically permitted by the commission, be erected above the height limits established herein.

(History: Ord. No. 426.)

6.02.00. TRANSPORTATION SYSTEMS

6.02.01. General

This section establishes minimum requirements applicable to public and private streets, parking and loading areas, bikeways, pedestrian ways, and access control to and from public streets. The standards in this section are intended to minimize the traffic impacts of development, to assure that all development adequately and safely provides for the storage and movement of vehicles consistent with good engineering design and construction standards.

A. Compliance with Technical Construction Standards. All required elements of the transportation system shall be provided in compliance with the engineering design and constructions standards contained in the Technical Construction Standards sources cited in Section 1.06.02 of this Code.

B. Average Daily Traffic (ADT). Average Daily Traffic (ADT) shall be calculated from trip generation rates prepared by the Institute of Traffic Engineers. Other sources may be used if the developer demonstrates that the alternative source better reflects local conditions.

6.02.02. Streets

The Future Traffic Circulation Map and any amendments thereto adopted by the city as part of the Comprehensive Plan is the official street map and classification system for streets in the city. Existing and proposed streets shall be classified according to the following hierarchy and functions in order to allow for regulation of access; road, right-of-way, lane and pavement widths; design speed, ADT, circulation patterns; and construction standards.

C. Local Roads. This is the lowest order of street in the hierarchy. Local Roads provide direct access to abutting properties with an access driveway allowed every twenty (20) feet. Design speed for local roads is fifteen (15) to twenty-five (25) miles per hour (MPH). Maximum ADT is one

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thousand five hundred (1,500). Right-of-Way (ROW) width shall be sixty (60) feet. Moving lanes shall be nine (9) feet and parking lanes eight (8) feet wide. Total pavement width is thirty-four (34) feet. Gutters and curbs shall be required.

D. Collector Roads. Collector roads provide access to and from Local Roads. Access points are allowed every forty (40) feet. Design speed for collector roads is twenty-five (25) to thirty-five (35) MPH. Maximum ADT is three thousand (3,000). ROW width shall be sixty (60) feet. Moving lanes shall be eleven (11) feet wide and parking lanes eight (8) feet wide. Total pavement width is thirty-eight (38) feet. Gutters and curbs shall be required.

E. Arterial Roads. Arterial roads provide a link between the city and regional or state highways. Access points are allowed every fifty (50) feet. Design speed for arterial roads is thirty-five (35) to fifty-five (55) MPH. Maximum ADT is seven thousand (7,000). ROW width shall be eighty (80) feet. Moving lanes shall be fourteen (14) feet wide and parking lanes shall be eight (8) feet wide. Total pavement width is fifty-four (54) feet. Arterial roads shall meet all DOT requirements.

F. Special Purpose Streets. The city may require the designation or creation of Special Purpose Streets such as alleys, divided streets, limited traffic streets, pedestrian walkways and marginal access streets. The standards shall be established at the time of creation of any special purpose street.

6.02.03. Rights-of-Way (ROW)

Rights-of-Way requirements for road construction shall be as specified for the street classification indicated in part 6.02.02 of this Code. The ROW shall be measured from lot line to lot line.

A. Future Rights-of-Way. Where roadway construction, improvement or reconstruction is not required to serve the needs of the proposed development, future ROW shall nevertheless be

reserved for future use. No part of reserved areas, ROW easements or existing ROW shall be used to satisfy minimum requirements of this Code.

B. Encroachment. No encroachment shall be permitted into existing ROW, except as follows:

1. Temporary use, such as festivals, street dances and street markets, when authorized by the city commission.
2. To allow the use of air space over city sidewalks in the Historic District Overlay Zone for porches or balconies with unenclosed walls (except for insect screening and protective railings) and canopies, marquees or awnings. Permitted uses shall have a minimum vertical clearance of nine feet, six inches (9'6") from ground (sidewalk) level and shall be visually compatible with adjacent uses. Supporting posts or columns may be permitted on the ROW between the curb and the first one (1) foot of sidewalk, but no other permanent obstruction of the ROW shall be allowed. Applicants for the use of ROW shall sign a hold harmless and waiver of liability agreement before the city shall authorize such use.
3. To use ROW for public or private utilities including, but not limited to, sanitary sewer, potable water, telephone, cable or electric transmission wires and gas lines, subject to the placement specifications and technical construction standards which apply.

4. Sidewalks and bicycle ways shall be placed within the ROW

C. Vacations of Rights-of-Way. Applications to vacate a ROW may be approved by the City Commission upon a finding that all of the following requirements are met:

1. The requested vacation is consistent with the Comprehensive Plan.
2. The ROW does not provide the sole access to any property. Remaining access shall not be by easement.

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3. The vacation shall not jeopardize the current or future location of any utility.

4. The proposed vacation is not detrimental to the public interest.

5. The proposed vacation provides a positive benefit to the city.

6. The proposed vacation does not involve a ROW with coastal access.

6.02.04. Street Design Standards

A. Generally. The following standards are in addition to the classification requirement in section 6.02.02 and 6.02.03 of this code, and shall be in compliance with technical construction standards.

1. Streets shall be dedicated to the city upon completion, inspection and acceptance by the city. No street shall be accepted unless designed and constructed in accordance with the standards of this code.

2. Streets shall, to the extent practicable, conform to the natural topography of the site, preserving existing hydrological and vegetative patterns, and minimizing erosion potential, runoff, and the need for site alteration. Particular effort should be directed toward securing the flattest possible grade near intersections.

3. Streets shall be laid out to avoid environmentally sensitive areas and to avoid stormwater runoff into those areas.

4. Private streets and streets under common ownership may be allowed, provided they meet the design and construction standards of this Code.

5. The street layout in all new development shall be coordinated with and interconnected to the street system of the surrounding area.

6. Streets in proposed subdivisions shall be connected to rights-of-way in adjacent areas, or allow for future connection to undeveloped areas, to allow for proper inter-neighborhood traffic flow.

7. Residential streets shall be arranged to discourage through traffic.

8. Streets shall intersect as nearly as possible at right angles and in no case shall be less than seventy-five degree (75°) angles.

9. New intersections along one side of an existing street, shall where possible, coincide with existing intersections.

10. No two (2) streets may intersect with any other street on the same side at a distance of less than three hundred (300) feet measured from centerline to centerline of the intersecting street.

B. Curbing Requirements. Curbing constructed in accordance with the standards cited in this code shall be required for the purposes of drainage, safety and delineation and protection of pavement edge along streets in the following cases:

1. Along designated parking lanes.

2. Where the channeling of stormwater is required.

3. Where narrow lots averaging less than forty (40) feet in width take direct access from a street upon which no on-street parking is required.

C. Shoulders. Where required, shoulders shall measure at least four (4) feet in width and shall be required on each side of streets and shall be located within the ROW. Shoulders shall consist of stabilized turf or other material permitted by technical construction standards. Shoulders and/or drainage swales are required as follows:

1. On local roads where necessary for stormwater management or road stabilization;

2. On collector streets, two (2) 4-foot wide shoulders. Shoulders will be grass surfaced except in cases where grass cannot be expected to survive. In no case will shoulders be paved;

3. Where required by FDOT; and

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4. On arterial streets where curbing is not required.

D. Acceleration, Deceleration, and Turning Lanes. The city may require deceleration or turning lanes or acceleration lanes if indicated by a traffic study. Design of lanes shall be indicated in the study and lanes shall be the same width as for moving lanes in the roadway type.

E. Clear Visibility Triangle. In order to provide a clear view of intersecting streets to motorists, there shall be a triangular area of clear visibility formed by two intersecting streets or the intersection of a driveway and a street. The following standards shall be met:

1. Nothing shall be erected, placed, parked, planted or allowed to grow in such a manner as to materially obstruct or impede vision between a height of two (2) feet and ten (10) feet above the grade, measured at the centerline of the intersection.

2. The clear visibility triangle shall be formed by connecting a point on each street centerline, to be located at a distance of seventy-five (75) feet from the intersection of the street centerlines, and a third (3rd) line which connects the two (2) points. (See example illustrated)

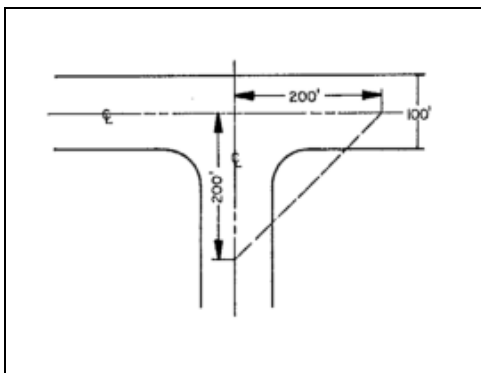


Figure 6.02.04-A Example Of Clear Visibility Triangle

F. Street Signs and Signals. The developer shall deposit with the city sufficient funds to provide all necessary roadway signs and traffic signals as may be required based on city, county or state traffic standards, including street sign names at each intersection created by the development.

G. Street Trees. The developer shall provide street trees in accordance with the landscaping provisions of this article.

6.02.05. Sidewalks and Bikeways

Developers shall provide sidewalks on both sides of local and collector roads within the development. New road construction shall include bikeways. Sidewalks and bikeways shall be designed and constructed in accordance with technical construction standards, including provisions for access by physically handicapped persons.

6.02.06. Access

All developments shall have access to public rights-of-way at the rate of one (1) access point for each fifty (50) residential units or any fraction thereof. Driveways and access points shall be as specified in section 6.02.02 of this Code and the distance between access points shall be measured from the centerline of the proposed driveway to the centerline of the nearest adjacent driveway or access point. Adjacent uses may share a common driveway provided that appropriate access easements are granted between or among the property owners.

6.02.07. Standards for Drive-up Facilities

All facilities providing drive-up or drive-through service shall provide on-site stacking lanes in accordance with the following standards:

A. Turning movements in relation to driveways and intersections shall be minimized.

B. The facilities and stacking lanes shall be designed and located to minimize or avoid conflict

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with or obstruction of vehicular or pedestrian traffic.

C. A by-pass lane shall be provided.

D. Stacking lanes shall provide a minimum of one hundred and twenty (120) feet on the site, exclusive of other access and parking.

E. Construction of stacking lanes shall conform to the technical construction standards referenced in this Code.

6.02.08. Driveway Aprons

A. Definitions. For the purpose of this section the following definitions shall apply:

Curb Cut

The opening along the curb line at which point vehicles may enter or leave the roadway.

Driveway Apron

The improved area between a public street and private property (not to exceed six (6) feet nor be less than three (3) feet in length) intended to provide ingress and/or egress of vehicular traffic from the public street or thoroughfare to a property.

Driveway Apron Width

The width of the driveway apron measured parallel with the edge of the street or roadway at the street right-of-way line.

Right-of-Way

Lands conveyed or dedicated to the public to be used for a street, alley, walkway, drainage facility, or other public purpose.

B. Compliance Required. All driveways aprons constructed or removed within the city limits shall be constructed or removed as provided for in this section. All required driveway aprons shall be constructed prior to the initiation of construction of any improvements on the property served by the driveway.

C. Unauthorized Construction, Curb Cutting Declared Unlawful. It shall be unlawful for any person to construct, cut, break out or remove any curb along a street or alley except as authorized by the provisions of this section.

D. Permit Required. No person shall remove, alter or construct any curb, driveway apron, gutter, pavement, or perform any other improvement on any public street or designated street right-of-way without obtaining a permit authorizing the improvement from the city building official.

E. Submission of Plans; Information Required.

1. No driveway apron permit shall be issued until there is filed with the building official two copies of plans showing the location and dimensions of all proposed improvements. Plans are not required for driveway aprons serving a single-family residence. The building official shall meet with applicants for single-family residential driveway permits at the single family lot and determine the eligibility and appropriate location for requested driveways.

2. Additional plans may be required for driveways connecting to streets maintained by the Florida Department of Transportation or Levy County within the corporate limits.

3. Information required on plans submitted shall include:

a. Existing and proposed driveway locations and widths;

b. Proposed location of off-street loading and unloading facilities, interior parking arrangements, and traffic circulating patterns;

c. Retaining walls, drainage, utility poles, trees and other physical features which affect the driveway location;

d. Driveways on adjacent properties and on opposite side of the street.

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F. Design Standards.

1. The number of driveways serving any one parcel shall be reduced to a practical minimum, and shall be located to reduce vehicular and pedestrian conflicts.

2. All aprons shall be hard surfaced in conformance with the standards and specifications adopted by the city commission by resolution and on file in the office of the city building official.

3. Where applicable, driveway aprons shall cross the sidewalk area at the sidewalk grade established by the city building official.

4. Driveway aprons shall be constructed to conform to the existing paved street grade or grade approved by the city building official for non-paved streets.

5. Driveway aprons shall be constructed as nearly to a right angle to the street or roadway as possible.

6. The width of a driveway apron shall be within the minimum and maximum limits as specified below.

Location	Minimum (ft)	Maximum (ft)
Single-Family Residential	10	20
Residential Other Than Single-Family	12	20
All other uses: One-way	15	20
All other uses: Two-way	20	20

7. For single family residential, the width of the driveway apron shall not be less than sixteen (16) feet measured from the outside edge to outside edge. For all other driveways the width of the opening shall not exceed the driveway width by more than three (3) feet on each side.

8. No curb shall be cut unless a concrete driveway apron is constructed the full width of the

opening with adequate curb on each end and the construction extends from the gutter to the sidewalk. Where there is no existing sidewalk, this construction shall extend a sufficient distance from the gutter so that the rise of the drive will be at least six inches above the level of the gutter at the extreme end.

9. All driveway aprons shall be constructed with a minimum setback distance of five (5) feet from any interior property line, and with a two-foot minimum offset from the property line at the roadway connection. These offsets may be reduced for single-family residences at the recommendation of the city building official.

10. No driveway apron shall be permitted to interfere with any municipal facility such as traffic signal standards, catch basins, fire hydrants, utility poles, fire alarm supports or other similar type structures.

G. Costs.

1. All costs of any change proposed in any physical improvements originally installed by the city and all costs of the installation of any driveway apron or necessary signing shall be borne by the property owner.

2. All costs and responsibilities for maintenance and/or repair of any driveway apron.

H. Unnecessary Driveway Aprons.

1. When the use of any driveway apron is changed, making any portion or all of a driveway apron unnecessary, the owner of the property accessed by such driveway apron shall, at his/her expense, replace all necessary curbs, gutters, sidewalks, and grass areas within the public right-of-way.

2. All driveway aprons in the city except those serving a single-family residence, shall be reviewed and approved by the city building official prior to the issuance of any building permit for the

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erection, construction, reconstruction or change in the use of any building, structure or land.

I. Prohibited Curb Cuts. It is unlawful for any person to construct, cut, break out or remove any curb or establish any new curb cuts along both sides of 2nd Street downtown and bounded by D Street to the west and Depot Street to the east.

(History: Ord. Nos. 356, 403)

6.03.00. OFF-STREET PARKING AND LOADING

6.03.01. Basic Requirement for Off-Street Parking

Off-street parking facilities or a fee-in-lieu of parking facilities shall be provided for all development within the city except for the downtown exception area. Where applicable, the parking facilities shall be maintained as long as the use exists that the facilities were designed to serve.

A. Invalidation of Previous Provisions and Waivers.

1. Any change of use, redesign or increase in space which would change the parking requirements of this Code shall invalidate any previous parking provisions or waiver of parking requirements and parking shall be re-computed and the provisions of this code applied, except that any previously granted waiver may be considered in determining parking requirements for existing areas to the extent that such waiver has been documented. When no specific number of parking spaces previously waived has been documented the administrator may determine a past waiver on the basis of one (1) parking space per single-family residential dwelling unit or one (1) parking space per two hundred and fifty (250) square feet of commercial space which existed prior to the change of use, redesign or increase in space.

2. In determining parking requirements for new uses the administrator shall consider the highest use to which the structure may be used, unless limited by a legal instrument which specifies

the intended use for which the parking requirement applies.

3. Waivers shall run with the property and shall not be transferable from one site to another.

4. Uses shall be determined by part 6.03.02 of this code. When a proposed use is not considered in part 6.03.02 or when an interpretation is required, the administrator shall apply the use classifications or categories of Chapter 4 of the Standard Building Code adopted by reference in part 1.06.02 of this code.

B. Computations. Floor area shall be the sum of the gross horizontal area of all floors of a building measured from the exterior faces of walls. Fractional numbers of one-half ($\frac{1}{2}$) (.5) shall be rounded to the next whole number.

C. Parking Study. When a parking study is required by this Code the study shall include, but shall not be limited to, estimates based on professionally accepted sources such as ULI, ITE or the Traffic Institute for uses comparable to the proposed use. Comparability shall be determined by density, scale, bulk, area, type of activity and location. The study shall document the source(s) of data used to develop recommendations.

(History: Ord. Nos. 250, 399)

6.03.02. Number of Parking Spaces Required

A. The minimum number of parking spaces required for off-street parking shall be according to Table 6.03.02:

TABLE 6.03.02. Number of Parking Spaces Required

USE PARKING SPACES REQUIRED

Residential Dwelling Unit(s) (D/U) that are listed individually on the Local Register of Historic Places or are within the Historic District

2 or fewer bedrooms 1 space per D/U

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3 bedrooms	2 spaces per D/U
4 or more bedrooms	3 spaces per D/U

Residential Dwelling Unit(s) (D/U) that are not listed individually on the Local Register of Historic Places or within the Historic District

3 or fewer bedrooms	2 spaces per D/U
4 or more bedrooms	3 spaces per D/U

Commercial Uses 2 spaces per business,
PLUS

General Commercial + 1 space per 250 square
feet

Hotel/Motel, Not a D/U + 1 space per Hotel/Motel
Unit

Restaurant/Bar/Entertainment + 1 space per 100
square feet

OR

+ 1 space per four (4) seats

Combined Uses Each Use Computed Separately
and Adjusted to Avoid Duplication

B. Parking Study Required for Change in Minimum Requirements. Any development, except for one single-family dwelling unit, proposing fewer than the required number of parking spaces or any request for a change, waiver or variance from the requirements of this Code shall provide the City Commission with five (5) copies of a parking study, as described in Section 6.03.01.A of the Code. Said study shall be conducted at the expense of the developer or petitioner and shall provide justification for any change in the minimum requirements of this Code. The City Commission shall make a determination, after

public notice and a public hearing, on the basis of the study within thirty (30) days of public notice.

C. Fee-in-lieu of Parking Space Requirements. The City Commission may allow the developer to pay a fee-in-lieu of providing some or all of the spaces required by this Code. The fee shall be a one-time, non-refundable fee per parking space avoided, paid to the city prior to the issuance of a certificate of occupancy or authorization for a change of use, redesign or increase in space. The amount of the fee shall be determined by the City Commission and shall be equal to the costs of land acquisition, construction costs and maintenance costs of parking spaces that are deferred by this provision. These fees shall be used by the city solely for the purchase of land and construction, operation and maintenance of parking facilities serving the area of the development. The area of development shall mean an area within one-half (½) mile of the proposed development or existing use. Land area required and construction costs shall be computed on the basis of 275 square feet per parking space required, including access and common areas.

D. Assessed Parking. The city may assess the owner(s) of areas to be served by parking for the creation of public parking areas. The required off-street parking for a particular use shall be reduced by its proportionate share of any public parking area for which it has been specially assessed.

E. Joint Use Parking. The city may authorize a reduction in the total number of required parking spaces for two or more uses jointly providing parking when their respective hours of operation and need for parking do not normally overlap. As a condition of approval, the owner(s) shall submit a legal agreement guaranteeing the joint use of off-street parking for as long as the uses requiring parking exist or until the required parking is provided elsewhere.

F. Parking Deferral. The city commission may defer all or part of the parking requirements of this

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Code through a written agreement with the owner(s) or developer which provides that deferred parking spaces required shall be provided, or a fee-in-lieu of said spaces shall be paid within three (3) years of the date of the agreement. Thereafter, the parking deferral may only be extended as the result of a parking study which meets the requirements of this Code. The decision to grant or deny an extension of the deferral shall be based on findings in the parking study. An extension shall not exceed the three (3) year period of the original deferral.

G. Historic Preservation Exemption. The city commission may grant a reduction in, or exemption from, the parking requirements of this Code for the preservation of any property that has been placed on the Local Register of Historic Places or located in a Historic District and subject to the historic preservation provisions of this Code. The city may grant the reduction or exemption without the need for a parking study unless a severe parking shortage or severe traffic congestion exists or will result from the reduction or exemption. The reduction or exemption shall apply only to the area of existing buildings which are included in the Local Register or District.

H. Handicapped Parking. Parking areas to be used by the general public shall provide handicapped parking consistent with Florida Statute 316.1955/1956.

I. Off-Shore Development Parking. Any off-shore development within three (3) miles seaward of the city limits and not connected by a bridge or ferry system, which cannot show evidence of accessible parking for owners or users, shall meet the requirements of this Code through a fee-in-lieu of or the provision of alternate off-site off-street parking.

J. Downtown Exception Area. All parcels or lots with existing structures as of December 1, 2005 and within an area bounded by: 1st Street on the south; 3rd street on the north; A street on the east; and D street on the west shall be exempt from the

off-street parking and loading requirements of this Code. In addition, all parcels or lots with existing structures on the north side of 3rd Street between A and D streets; and, all parcels or lots with existing structures along both sides of Dock Street shall be exempt from the off-street parking and loading requirements of this Code. The Planning and Development Administrator shall maintain an inventory of the lots and parcels within the downtown exception area that have existing structures as of December 1, 2005.

(History: Ord. Nos. 399, 429)

6.03.03. Off-Street Loading

Spaces to accommodate off-street loading for business vehicles shall be provided at the rate of one (1) space for the first ten thousand (10,000) square feet of floor area, and one (1) space for each additional twenty thousand (20,000) square feet. Joint uses may be authorized for businesses located within a radius of three hundred (300) feet of the loading area, provided that all businesses submit a legal agreement which guarantees the joint use of the area.

6.03.04. Design Standards of Off-Street Parking and Loading Areas

All facilities shall meet the location, size and layout provisions of this Code.

A. Location. Except as provided herein, all required off-street parking and the use it is intended to serve shall be located on the same parcel.

B. Alternate Locations. The City Commission may authorize the use of off-site off-street parking spaces which will serve the use for which it is intended. Residential off-site off-street parking shall be within 250 feet of the units served. Commercial or offshore off-site off-street parking shall be within one-half (½) mile of the commercial site or shoreline. Land designated for off-site off-street parking shall meet the standards of this code and shall be reserved for parking purposes through recorded deed restrictions or legal agreements

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which shall continue in effect for so long as the parking need of the use it serves shall continue.

C. Size.

1. Standard and compact parking spaces shall be sized according to FIGURE 6.03.04.C.

2. Other spaces shall be sized as follows:

a. Parallel parking spaces shall be a minimum of eight (8) feet wide and twenty-two (22) feet long.

b. Tandem parking spaces shall be a minimum of nine (9) feet wide and twenty (20) feet long.

c. Handicapped parking spaces shall be as specified in F.S. 316.1955.

d. Off-street loading spaces shall be ten (10) feet wide, twenty-five (25) feet long, provide vertical clearance of fifteen (15) feet, and provide adequate area for maneuvering, ingress and egress. Larger spaces may be required or built to accommodate larger vehicles and up to fifty-five (55) feet in length may be required if full-length tractor-trailers must be accommodated.

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Figure 6.03.04.C.

“Standard Cars”

A	B	C	D	E	F	G
0°	9.0'	9.0'	12.0'	23.0'	30.0'	--
	9.5'	9.5'	12.0'	23.0'	31.0'	--
	10.0'	10.0'	12.0'	23.0'	32.0'	--
20°	9.0'	15.3'	12.0'	26.3'	42.6'	34.2'
	9.5'	15.7'	12.0'	27.8'	43.4'	34.4'
	10.0'	16.2'	12.0'	29.2'	44.4'	35.0'
30°	9.0'	17.8'	12.0'	18.0'	47.6'	39.8'
	9.5'	18.2'	12.0'	19.0'	48.4'	40.2'
	10.0'	18.7'	12.0'	20.0'	49.4'	40.8'
40°	9.0'	19.7'	12.0'	14.0'	51.4'	44.6'
	9.5'	20.1'	12.0'	14.8'	52.2'	45.0'
	10.0'	20.5'	12.0'	15.6'	53.0'	45.4'
45°	9.0'	20.5'	12.0'	12.7'	53.0'	46.6'
	9.5'	20.8'	12.0'	13.4'	53.6'	46.8'
	10.0'	21.2'	12.0'	14.1'	54.4'	47.4'
50°	9.0'	21.1'	16.0'	11.7'	58.2'	52.4'
	9.5'	21.4'	16.0'	12.4'	58.8'	52.6'
	10.0'	21.7'	16.0'	13.1'	59.4'	53.0'
60°	9.0'	21.8'	18.0'	10.4'	61.6'	57.0'
	9.5'	22.1'	18.0'	11.0'	62.2'	57.4'
	10.0'	22.3'	18.0'	11.5'	62.6'	57.6'
70°	9.0'	21.9'	20.0'	9.6'	63.8'	60.8'
	9.5'	22.0'	20.0'	10.1'	64.0'	60.8'
	10.0'	22.2'	20.0'	10.6'	64.4'	61.0'
80°	9.0'	21.3'	24.0'	9.1'	66.6'	65.0'
	9.5'	21.3'	24.0'	9.6'	66.6'	65.0'
	10.0'	21.4'	24.0'	10.2'	66.8'	65.0'
90°	9.0'	20.0'	24.0'	9.0'	64.0'	--
	9.5'	20.0'	24.0'	9.5'	64.0'	--
	10.0'	20.0'	24.0'	10.0'	64.0'	--

“Compact Cars”

A	B	C	D	E	F	G
0°	8.0'	8.0'	12.0'	16.0'	28.0'	--
	8.5'	8.5'	12.0'	16.0'	29.0'	--
20°	8.0'	13.0'	12.0'	23.4'	38.0'	30.5'
	8.5'	13.5'	12.0'	24.9'	39.0'	31.0'
30°	8.0'	14.9'	12.0'	16.0'	41.8'	34.9'
	8.5'	15.4'	12.0'	17.0'	42.8'	35.4'
40°	8.0'	16.4'	12.0'	12.4'	44.8'	38.7'
	8.5'	16.8'	12.0'	13.2'	45.6'	39.1'
45°	8.0'	17.0'	12.0'	11.3'	46.0'	40.4'
	8.5'	17.3'	12.0'	12.0'	46.6'	40.6'
50°	8.0'	17.4'	16.0'	10.4'	50.8'	45.6'
	8.5'	17.8'	16.0'	11.1'	51.6'	46.2'
60°	8.0'	17.9'	18.0'	9.2'	53.8'	49.8'
	8.5'	18.2'	18.0'	9.8'	54.4'	50.1'
70°	8.0'	17.7'	20.0'	8.5'	55.4'	52.6'
	8.5'	17.9'	20.0'	9.0'	55.8'	52.8'
80°	8.0'	17.2'	24.0'	8.1'	58.4'	57.0'
	8.5'	17.3'	24.0'	8.6'	58.6'	57.2'
90°	8.0'	16.0'	24.0'	8.0'	56.0'	--
	8.5'	16.0'	24.0'	8.5'	56.0'	--
	10.0'	20.0'	24.0'	10.0'	64.0'	--

A = Parking Angle

B = Stall Width

C = Stall to Curb

D = Aisle Width

E = Curb length per car

F = Minimum overall double row with aisle between

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G = Stall center (does not include overhang)

E. Layout. Parking and loading areas, circulation facilities, roadways and driveways shall be designed to be safe and convenient and meet the following regulations:

1. No parking space shall be located so as to block access by emergency vehicles.
2. The design shall be based on a definite and logical system of drive lanes to serve the parking and loading spaces. A physical separation or barrier, such as vertical curbs, may be required to separate parking spaces from travel lanes.
3. Parking spaces for all uses, except single family residential uses, shall be designed to permit entry and exit without moving any other vehicles.
4. Aisles and driveways shall not be used for parking vehicles, except that the driveway of a single family or duplex residence may be counted as one or more, depending on length, parking spaces as determined by the administrator.
5. Each off-street parking space shall open directly onto an aisle or driveway that, except for single family or duplex residences, is not a public street.
6. The overall layout of a site shall assure that buildings, parking and loading areas, landscaping and open space shall be designed as integral parts of the development plan so that pedestrians moving within the site are not unreasonably exposed to vehicular traffic or obstacles.
7. No more than twenty-five (25) percent of the parking spaces in a layout shall be for compact cars.

6.03.05. Aquaculture Commercial Fishing Exemption

The city commission may grant an exemption from the parking requirements of this Code for property having a land use designation of Commercial and which is to be used solely for aquacultural and or commercial fishing purposes and is adjacent to a water dependant facility, loading/unloading area, or upland support facility. The city commission may grant the exemption following a finding that the requested exemption will not create a parking problem or exacerbate an existing parking problem on public rights-of-ways within five hundred (500) feet of the property for which an exemption is requested. Anyone seeking the exemption shall make application to the city for said exemption and the request shall be acted upon by the city commission following a hearing on the matter conducted in accordance with the procedural requirements of Section 12.02.04, of this Chapter.

(History: Ord. No. 394)

6.04.00. UTILITIES

6.04.01. Requirements for All Developments

The following basic utilities are required for all developments subject to the criteria listed herein:

- A. Electricity. Every principal use and every lot within a subdivision shall have available to it a source of electric power adequate to accommodate the reasonable needs of such use and every lot within the subdivision.
- B. Telephone. Every principal use and every lot within a subdivision shall have available to it a telephone service cable adequate to accommodate the reasonable needs of such use and every lot within such subdivision.
- C. Water and Sewer. Every principal use and every lot within a subdivision shall have central potable water and wastewater hookup whenever required by the city's Comprehensive Plan and where the topography permits the connection to a District water or sewer line by running a connecting line no more than 200 feet from the lot line to such water or sewer line.

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D. Illumination. All streets, driveways, sidewalks, bikeways, parking lots and other common areas and facilities within a development, except a single-family residence, shall provide illumination meeting the standards of the Technical Construction Standards cited in this code.

E. Fire Hydrants. All developments served by a central water system shall include a system of fire hydrants consistent with Technical Standards.

6.04.02. Compliance with Technical Construction Standards

All utilities required by this Code shall meet or exceed the minimum standards contained in the Technical Construction Manuals referenced in Part 1.06.02 of this Code.

6.04.03. Underground Utilities

All electric, telephone, cable television, and other communication lines (exclusive of transformers or enclosures containing electrical equipment), gas distribution, sewer and water lines shall be placed underground within easements or dedicated public rights-of-way in any area not presently served by utilities. Existing areas may convert to underground utilities at the expense of the owner(s) of the properties involved. Any utility apparatus placed above ground shall be appropriately screened.

6.04.04. Utility Easements

When a developer installs or causes the installation of water, sewer, electrical power, telephone or cable television facilities and intends that such facilities shall be owned, operated or maintained by a public utility or any entity other than the developer, the developer shall transfer to such utility or entity the necessary ownership or easement rights to enable the utility or entity to operate and maintain such facilities.

6.05.00. STORMWATER MANAGEMENT

6.05.01. Definitions

Alter or Alteration

Work done on a Stormwater Management System other than that necessary to maintain the system's original design and function.

Detention

The collection and storage of surface water for subsequent discharge.

Existing

For the purposes of this part, the average condition immediately before development or redevelopment of a site begins.

Impervious Surface

A surface that has been compacted or covered with a layer of material so that it is highly resistant to the infiltration of water. It includes, but is not limited to, semi-impervious surfaces such as compacted clay or lime rock, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots and other similar structures.

Maintenance

That action taken to restore or preserve the original design and function of any Stormwater Management System.

Natural Systems

Systems which predominantly consist of or are used by those communities or plants, animals, bacteria and other flora and fauna which occur indigenously on the land, in the soil or in water.

Rate

Volume per unit of time.

Retention

The collection and storage of runoff without subsequent discharge to surface waters.

Runoff Coefficient

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Ratio of the amount of rain which runs off a surface to that which falls on it; a factor from which runoff can be calculated.

Sediment

The mineral or organic particulate material that is in suspension or has settled in surface or ground waters.

Site

Generally, any tract, lot or parcel of land or combination of tracts, lots, or parcels of land that are in one ownership, or in diverse ownership but contiguous, and which are to be developed as a single unit, subdivision or project.

Stormwater Runoff

That portion of the stormwater that flows from the land surface of a site either naturally, in manmade ditches, or in a closed conduit system.

Stormwater Management System

The system, or combination of systems, designed to treat stormwater, or collect, convey, channel, hold, inhibit, or divert the movement of stormwater on, through and from a site.

Surface Water

Water above the surface of the ground whether or not flowing through definite channels, including the following:

- a. Any natural or artificial pond, lake, reservoir, or other area which ordinarily or intermittently contains water and which has a discernible shoreline; or
- b. Any natural or artificial canal, channel, ditch, culvert, drain, stream, river, creek, waterway, gully, ravine, street, roadway, swale or wash in which water flows in a definite direction, either continuously or intermittently, and which has a definite channel, bed or banks; or
- c. Any wetland.

Wetland

Land that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do or would support, a prevalence of vegetation typically adapted for life in saturated soil conditions. The term includes, but is not limited to, salt marshes, tidal flats, mangrove swamps, marine meadows, swamp hammocks, hardwood swamps, cypress ponds, bay heads and bogs, wet prairies and freshwater marshes.

6.05.02. Relationship to Other Stormwater Management Requirements

In addition to meeting the requirements of this Code, the design and performance of all stormwater management systems shall comply with applicable state regulations, including Chapter 17-25, F.A.C. and the rules of the Suwannee River Water Management District. In all cases the strictest of the applicable standards shall apply.

6.05.03. Stormwater Management Requirements

Before any development permit may be issued, all development, except a single family or duplex residential dwelling unit, must be designed, constructed and maintained to meet the performance standards of the Suwannee River Water Management District (SRWMD) or DEP. In addition, all development shall meet the requirements of the City's Comprehensive Plan, including the following:

- A. Impervious surface cover shall be limited to forty percent (40%) of the site area.
- B. A vegetated coastal buffer zone (Protected Zone) fifty (50) feet landward of the mean high water line shall be retained or created along the shores, banks or edges of all natural or man-made surface waters, except as may be otherwise provided by this Code or the comprehensive plan.
- C. To the maximum extent practicable, natural systems shall be used to accommodate stormwater.

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D. No surface water shall be channeled or directed into coastal waters, a central sanitary sewer system, or onto abutting property.

E. All residential development which is exempt from SRWMD standards shall meet the following standards:

1. Lots shall be graded to provide on-site retention of stormwater volume equal to three-quarters (3/4) inch of depth over the entire lot area or site.

2. Erosion and sediment control (such as fabric silt fences or staked straw bales) shall be used during construction.

F. The above standards shall apply to all new development and redevelopment, (for purpose of the above standards, redevelopment shall be defined as projects where the estimated value of construction exceeds fifty percent (50%) of the assessed value of the improvements on the property as shown on the tax assessment roll at the time of construction).

(History: Ord. No. 247)

6.05.04. Stormwater Management Manual

The department shall use The Florida Development Manual: A Guide to Sound Land and Water Management, published by DEP, for the guidance of persons seeking approval of a Stormwater Management System.

6.06.00. BUFFER ZONES AND LANDSCAPING

6.06.01. Exemption

Lots or parcels of land on which a single family home without a home occupational license is used as a residence shall be exempt from the provisions of these buffer zone and landscaping regulations. This shall not be construed to exempt any residential developments that require the approval of a development plan.

6.06.02. Required Landscaping for Vehicle Use Areas

All vehicle use areas containing more than one thousand (1,000) square feet, including parking lots and circulation areas, shall be landscaped at the rate of five (5) canopy trees, one (1) understory tree and twelve (12) shrubs per 1,500 square feet of planting area.

6.06.03. Required Landscaping for Buffer Zones

A landscaped strip along parcel boundaries shall be required as a buffer zone between incompatible uses and zoning districts. This shall not be interpreted to mean that parcels within a planned mixed use development must meet these requirement. The width and vegetated density of the buffer zone will depend on the nature of the adjoining uses, as follows:

A. **Minimum Buffer Zone.** The minimum buffer zone required shall consist of an area ten (10) feet wide, landscaped at the rate of five (5) canopy trees, two (2) understory trees and twenty (20) shrubs per 100 feet of boundary. Plants shall be spread reasonably evenly along the length of the buffer.

B. **Maximum Buffer Zone.** The maximum buffer zone required shall consist of an area twenty (20) feet wide, landscaped at the rate of six (6) six canopy trees, three (3) understory trees and twenty-eight (28) shrubs per 100 feet of boundary, spread reasonably evenly along the length of the buffer.

C. **Determination of Buffer Required.** Noise, hours of operation, visual compatibility and principal uses shall be considered in the determination of the required buffer zone.

D. **Responsibility for Buffer Zones.** The desired width of a buffer zone between two parcels is the sum of the required buffer zones of the parcels. Where a new use is proposed next to an existing use that has less than the required buffer zone for that use, an inadequate buffer zone will be tolerated, except as provided below, until the

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nonconforming parcel is redeveloped and brought into conformity with the buffer zone requirements of this Code. Where a residential use is proposed next to an existing non-residential use, or a non-residential use is proposed next to an existing residential use, and the existing use does not have a conforming buffer zone abutting the property proposed for development, the proposed use shall provide seventy-five (75%) of the combined required buffer zones of the two uses.

6.06.04. Required Landscaping for Streets

Developers shall plant or retain, within five (5) feet of the right of way of each street within a residential development, one shade tree for every fifty (50) linear feet of right of way. Existing trees and native tree species that need less water and maintenance are preferred.

6.06.05. Landscape Design and Materials

All landscaped areas required by this Code shall conform to Section 5.03.00, "Trees and Native Vegetation" and the following general design and maintenance principles:

A. The functional elements of the development plan, particularly the drainage systems and internal circulation systems for vehicles and pedestrians, should be integrated into the landscaping plan.

B. Landscaping should be used to minimize potential erosion through the use of ground covers or any other type of landscape material that aids in soil stabilization. Mulches shall be a minimum depth of two (2) inches and plastic surface covers shall not be used.

C. Landscaping should enhance the visual environment through the use of materials that achieve variety with respect to seasonal changes, species of living material selected, textures, colors and size at maturity.

D. Landscaping should enhance public safety and minimize nuisances.

E. Landscaping should be used to provide windbreaks, channel wind and increase ventilation.

F. Landscaping should maximize the shading of streets and vehicle use areas.

G. The selection and placement of landscaping materials should consider the effect on existing or future solar access, of enhancing the use of solar radiation, and of conserving the maximum amount of energy.

H. Landscaping should be protected from vehicular and pedestrian encroachment by means of raised planting surfaces, depressed walks, curbs, edges, etc.

I. Landscaping should not interfere, at or before maturity, with power, cable television, or telephone lines, sewer or water pipes, or any other existing or proposed overhead or underground utility service.

J. The developer should provide sufficient soil and water to sustain healthy growth of all plants.

6.06.06. Replacement of Plants

Within six (6) months of a determination by the department that a plant is dead or severely damaged or diseased, the plant shall be replaced by the developer in accordance with the standards specified in this code.

6.07.00 FLOOD HAZARD PREVENTION

6.07.01. General

A. Title. These regulations shall be known as the Floodplain Management Ordinance of the City of Cedar Key, hereinafter referred to as "these regulations."

B. Scope. The provisions of these regulations 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

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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.

C. Intent. The purposes of these regulations 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 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 Title 44 Code of Federal Regulations, Section 59.22.

D. Coordination with the Florida Building Code. These regulations 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.

E. Warning. The degree of flood protection required by these regulations 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. These regulations do not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring 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 these regulations.

F. Disclaimer of Liability. These regulations shall not create liability on the part of the City Commission of the City of Cedar Key or by any officer or employee thereof for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

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6.07.02. Applicability

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

B. Areas to which these regulations applies. These regulations shall apply to all flood hazard areas within the City of Cedar Key, as established in 6.07.02 (C) of these regulations.

C. Basis for establishing flood hazard areas. The Flood Insurance Study for Levy County, Florida and Incorporated Areas dated November 2, 2012, 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 these regulations and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at City Hall.

D. Submission of additional data to establish flood hazard areas. To establish flood hazard areas and base flood elevations, pursuant to 6.07.05 of these regulations 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 these regulations 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.

E. Other laws. The provisions of these regulations shall not be deemed to nullify any provisions of local, state or federal law.

F. Abrogation and greater restrictions. These regulations supersede 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 these regulations and any other ordinance, the more restrictive shall govern. These regulations shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by these regulations.

G. Interpretation. In the interpretation and application of these regulations, 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..

6.07.03. Duties and Powers of the Floodplain Administrator

A. Designation. The Building Official is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

B. General. The Floodplain Administrator is authorized and directed to administer and enforce the provisions of these regulations. The Floodplain Administrator shall have the authority to render interpretations of these regulations consistent with the intent and purpose of these regulations 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

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provided in these regulations without the granting of a variance pursuant to 6.07.07 of these regulations.

C. 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 these regulations;
3. Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
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 these regulations is demonstrated, or disapprove the same in the event of noncompliance; and
8. Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of these regulations.

D. Substantial improvement and substantial damage determinations. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

1. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
2. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
3. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
4. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the Florida Building Code and these regulations is required.

E. Modifications of the strict application of the requirements of the Florida Building Code. The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the Florida Building Code to determine whether such requests require the

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granting of a variance pursuant to 6.07.07 of these regulations.

F. Notices and orders. The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with these regulations.

G. Inspections. The Floodplain Administrator shall make the required inspections as specified in 6.07.06 of these regulations for development that is not subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

H. Other duties of the Floodplain Administrator. The Floodplain Administrator shall have other duties, including but not limited to:

1. Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to 6.07.03 (D) of these regulations;

2. 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 or flood hazard area boundaries; such submissions shall be made within 6 months of such data becoming available;

3. Review required design certifications and documentation of elevations specified by these regulations and the Florida Building Code to determine that such certifications and documentations are complete;

4. Notify the Federal Emergency Management Agency when the corporate boundaries of the City of Cedar Key are modified; and

5. 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."

- I. Floodplain management records. Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations and the flood resistant construction requirements of the Florida Building Code, including Flood Insurance Rate Maps; Letters of Map 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 these regulations; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to these regulations and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at City Hall.

6.07.04. Permits

A. Permits required. Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of these regulations, 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

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obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of these regulations and all other applicable codes and regulations has been satisfied.

B. Floodplain development permits or approvals. Floodplain development permits or approvals shall be issued pursuant to these regulations 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.

C. Buildings, structures and facilities exempt from the Florida Building Code. Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of these regulations:

1. Railroads and ancillary facilities associated with the railroad.
2. Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
3. Temporary buildings or sheds used exclusively for construction purposes.
4. Mobile or modular structures used as temporary offices.
5. Those structures or facilities of electric utilities, as defined in section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.

6. Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term “chickee” means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.

7. Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.

8. Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.

9. Structures identified in section 553.73(10)(k), F.S., are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on Flood Insurance Rate Maps

D. 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 6.07.05 of these regulations.
5. State the valuation of the proposed work.

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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.

E. Validity of permit or approval. The issuance of a floodplain development permit or approval pursuant to these regulations shall not be construed to be a permit for, or approval of, any violation of these regulations, 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.

F. 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.

G. 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 these regulations or any other ordinance, regulation or requirement of this community.

H. 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 Suwannee River Water Management District; section 373.036, F.S.

2. Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.

3. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.

4. 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.

5. Federal permits and approvals

6.07.05. Site Plans and Construction Documents

A. Information for development in flood hazard areas. The site plan or construction documents for any development subject to the requirements of these regulations shall be drawn to scale and shall include, as applicable to the proposed development:

1. Delineation of flood hazard areas, flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.

2. 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.

3. Location, extent, amount, and proposed final grades of any filling, grading, or excavation.

4. 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.

5. Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration

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is approved by the Florida Department of Environmental Protection.

B. The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by these regulations 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 these regulations.

C. Alteration of sand dunes or mangrove stands in coastal high hazard areas. For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas (Zone V), an engineering analysis that demonstrates the proposed alteration will not increase the potential for flood damage shall be signed and sealed by a Florida Licensed engineer and submitted with the site plan and construction documents.

D. Submission of additional data. When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations 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.

6.07.06. Inspections

A. General. Development for which a floodplain development permit or approval is required shall be subject to inspection.

B. Development other than buildings and structures. The Floodplain Administrator shall inspect all development to determine compliance with the requirements of these regulations and the

conditions of issued floodplain development permits or approvals.

C. Buildings, structures and facilities exempt from the Florida Building Code. The Floodplain Administrator shall inspect buildings, structures and facilities exempt from the Florida Building Code to determine compliance with the requirements of these regulations and the conditions of issued floodplain development permits or approvals.

D. Buildings, structures and facilities exempt from the Florida Building Code, lowest floor inspection. Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the Florida Building Code, or the owner's authorized agent, shall submit to the Floodplain Administrator the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor.

E. Buildings, structures and facilities exempt from the Florida Building Code, final inspection. As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in 6.07.06 (D) of these regulations.

F. Manufactured homes. The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of these regulations and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Floodplain Administrator.

6.07.07. Variances and Appeals

A. General. The City Commission shall hear and decide on requests for appeals and requests for

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variances from the strict application of these regulations. Pursuant to section 553.73(5), F.S., the City Commission 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.

B. Appeals. The City Commission 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 these regulations. Any person aggrieved by the decision may appeal such decision to the Circuit Court, as provided by Florida Statutes.

C. Limitations on authority to grant variances. The City Commission shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in 6.07.07 (F) of these regulations, the conditions of issuance set forth in 6.07.07 (G) of these regulations, and the comments and recommendations of the Floodplain Administrator and the Building Official. The City Commission has the right to attach such conditions as it deems necessary to further the purposes and objectives of these regulations.

(Editor's Note: See Resolution 380, §4, for required conditions for aquaculture facilities variance)

D. 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 12 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.

E. Functionally dependent uses. A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in these regulations, provided the variance meets the requirements of Section 6.07.07 (F), is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

F. Considerations for issuance of variances. In reviewing requests for variances, the City Commission shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, these regulations, 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;

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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.

G. 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 these regulations or the required elevation standards;

2. Determination by the City Commission that:

a. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;

b. The granting of 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 (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

6.07.08. Violations

A. Violations. Any development that is not within the scope of the Florida Building Code but that is regulated by these regulations that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with these regulations, shall be deemed a violation of these regulations. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by these regulations or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.

B. Authority. For development that is not within the scope of the Florida Building Code but that is regulated by these regulations 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.

C. Unlawful continuance. Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to

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perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

6.07.09. Definitions

Unless otherwise expressly stated, the following words and terms shall, for the purposes of these regulations, have the meanings shown in this section. Where terms are not defined in these regulations and are defined in the Florida Building Code, such terms shall have the meanings ascribed to them in that code. Where terms are not defined in these regulations or the Florida Building Code, such terms shall have ordinarily accepted meanings such as the context implies.

Accessory Storage Shed. Means a Storage Shed with a floor area 200 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential.

Appeal. A request for a review of the Floodplain Administrator's interpretation of any provision of these regulations.

ASCE 24. A standard titled Flood Resistant Design and Construction that is referenced by the Florida Building Code. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

Base flood. A flood having a 1-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 202.] The base flood is commonly referred to as the "100 year flood" or the "1-percent-annual chance flood."

Base flood elevation. The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum

specified on the Flood Insurance Rate Map (FIRM). [Also defined in FBC, B, Section 202.]

Basement. The portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 202; see "Basement (for flood loads)".]

Coastal high hazard area. A special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal high hazard areas are also referred to as "high hazard areas subject to high velocity wave action" or "V Zones" and are designated on Flood Insurance Rate Maps (FIRM) as Zone V1 V30, VE, or V.

Design flood. The flood associated with the greater of the following two areas: [Also defined in FBC, B, Section 202.]

- a. Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or
- b. Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated

Design flood elevation. The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet. [Also defined in FBC, B, Section 202.]

Development. Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling,

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grading, paving, excavations, drilling operations or any other land disturbing activities.

Encroachment. The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

Existing building and existing structure. Any buildings and structures for which the “start of construction” commenced before March 1, 1984. [Also defined in FBC, B, Section 202.]

Existing manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before March 1, 1984.

Expansion to an existing manufactured home park or subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Federal Emergency Management Agency (FEMA). The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B, Section 202.]

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

Flood damage-resistant materials. Any construction material capable of withstanding direct and

prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, Section 202.]

Flood hazard area. The greater of the following two areas: [Also defined in FBC, B, Section 202.]

- a. The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.
- b. The area designated as a flood hazard area on the community’s flood hazard map, or otherwise legally designated.

Flood Insurance Rate Map (FIRM). The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section 202.]

Flood Insurance Study (FIS). The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, Section 202.]

Floodplain Administrator. The office or position designated and charged with the administration and enforcement of these regulations (may be referred to as the Floodplain Manager).

Floodplain development permit or approval. An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with these regulations.

Florida Building Code. The family of codes adopted by the Florida Building Commission, including: Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building

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Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

Functionally dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long term storage or related manufacturing facilities.

Hardship. As related to variance from the floodplain management regulations and the flood provisions of the Florida Building Code, means the exceptional difficulty associated with the land that would result from a failure to grant a requested variance. The City requires variances to be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

Historic structure. Any structure that is determined eligible for the exception to the flood hazard area requirements of the Florida Building Code, Existing Building, Chapter 12 Historic Buildings.

Letter of Map Change (LOMC). An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the 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. As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

a. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or

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b. Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

c. Available with special features enabling off-street or off-highway operation and use.

Lowest floor. The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the Florida Building Code or ASCE 24. [Also defined in FBC, B, Section 202.]

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

Manufactured home. A structure, transportable in one or more sections, which is eight (8) feet or more in width and greater than four hundred (400) square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." [Also defined in 15C-1.0101, F.A.C.]

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

Market value. The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in these regulations, the

term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

New construction. For the purposes of administration of these regulations and the flood resistant construction requirements of the Florida Building Code, structures for which the "start of construction" commenced on or after March 1, 1984 and includes any subsequent improvements to such structures.

New manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after March 1, 1984.

Park trailer. A transportable unit which has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. [Defined in section 320.01, F.S.]

Recreational vehicle. A vehicle, including a park trailer, which is: [See section 320.01, F.S.)

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

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quarters for recreational, camping, travel, or seasonal use.

Sand dunes. Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Special flood hazard area. An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1 A30, AE, A99, AH, V1 V30, VE or V. [Also defined in FBC, B Section 202.]

Start of construction. The date of issuance of permits 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 202.]

Substantial damage. Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. [Also defined in FBC, B Section 202.]

Substantial improvement. Any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 202.]

a. 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.

b. 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]

Variance. A grant of relief from the requirements of these regulations, or the flood resistant construction requirements of the Florida Building Code, which permits construction in a manner that would not otherwise be permitted by these regulations or the Florida Building Code.

6.07.10. Buildings and Structures

Design and construction of buildings, structures and facilities exempt from the Florida Building Code. Pursuant to 6.07.04(C) of these regulations, 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 6.07.16 of these regulations.

6.07.11. Subdivisions

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A. 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.

B. 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:

1. Delineation of flood hazard areas, flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats; and

2. Compliance with the site improvement and utilities requirements of Article 12 of these regulations.

6.07.12. Site Improvements, Utilities and Limitations

A. Minimum requirements. All proposed new development shall be reviewed to determine that:

1. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

2. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

3. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

B. Sanitary sewage facilities. All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.

C. Water supply facilities. All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

D. Limitations on placement of fill. Subject to the limitations of these regulations, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the Florida Building Code.

E. Limitations on sites in coastal high hazard areas (Zone V). In coastal high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if such alteration is approved by the Florida Department of Environmental Protection and only if the engineering analysis required by 6.07.05 (B) of these regulations demonstrates that the proposed alteration will not increase the potential for flood damage.

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Construction or restoration of dunes under or around elevated buildings and structures shall comply with 6.07.16 (E) of these regulations.

6.07.13. Manufactured Homes

A. General. All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to section 320.8249, F.S., and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of these regulations.

B. 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 these regulations. Foundations for manufactured homes subject to 6.07.13 (F), Section F are permitted to be reinforced piers or other foundation elements of at least equivalent strength.

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 these regulations.

C. 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.

D. Elevation. Manufactured homes that are placed, replaced, or substantially improved shall comply with 6.07.13 (E or F) or Section F of these regulations, as applicable.

E. General elevation requirement. Unless subject to the requirements of 6.07.13 (F) of these regulations, 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).

F. Elevation requirement for certain existing manufactured home parks and subdivisions. Manufactured homes that are not subject to 6.07.13 (E) of these regulations, 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 48 inches in height above grade.

G. Enclosures. Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential Section R322.2 or R322.3 for such enclosed areas, as applicable to the flood hazard area.

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H. 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.

6.07.14. Recreational Vehicles and Park Trailers

A. 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.

B. Permanent placement. Recreational vehicles and park trailers that do not meet the limitations in 6.07.14 (A), of these regulations for temporary placement shall meet the requirements of 6.07.13 of these regulations for manufactured homes.

6.07.15. Tanks

A. 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.

B. Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of 6.07.15 (C) of these regulations 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 flood-borne debris.

2. Not be permitted in coastal high hazard areas (Zone V).

C. Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

D. Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

1. At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

6.07.16 Other Development

A. General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in these regulations or the Florida Building Code, shall:

1. Be located and constructed to minimize flood damage;
2. Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;

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3. Be constructed of flood damage-resistant materials; and

4. Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, 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.

B. 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 (4) inches.

C. 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 twelve (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 twelve (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.

D. 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:

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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.

E. 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.

F. Accessory Storage Sheds. Relief from the requirements of these regulations for Accessory Storage Sheds, (as defined in §6.07.09), may be granted by the Floodplain Administrator, upon proof that the following standards are met:

1. Shall be constructed of flood resistant materials.

2. Shall be used only for storage.

3. Shall not be used for human habitation.

4. Shall be designed and anchored to resist wind loads and flotation.

5. Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.

6. Only one Accessory Storage Shed shall be allowed per lot, regardless of size.

7. Service facilities such as electrical and HVAC equipment shall be elevated or floodproofed to or above the BFE.

(For guidance, see FEMA Technical Bulletin 7, page 3 and Technical Bulletin 5, pages 18 & 19.)

6.08.00. SUPPLEMENTAL STANDARDS

6.08.01. Generally

Certain uses have unique characteristics that require the imposition of development standards and regulations in addition to those minimum standards which may pertain to the general group of uses encompassing the use. These uses are identified in this part together with the specific standards and additional regulations that apply to the development and use of land for the specified activity. These standards and regulations shall be met in addition to all other standards of this Code, unless specifically exempted.

6.08.02. Recreational Vehicles (RVs) and RV Parks

It is the intent of this section to regulate and provide standards for the location of recreational vehicles and development of RV parks.

A. Parking Location and Use. Parking of a recreational vehicle, except in an established RV Park, shall be permitted only for the purpose of storing the vehicle, and such vehicle shall not:

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1. Be used for storage of goods, materials or equipment other than those items considered to be part of the vehicle essential for its immediate use;

2. Discharge or discard any litter, effluent, sewage, or other matter into any public right-of-way or upon any private property while parked as provided in this section;

3. Be connected to any utility such as electricity or water;

4. Be occupied or used for living, sleeping or housekeeping purposes;

5. Be parked on public streets for longer than eight (8) hours in any twenty-four hour period, except as may be authorized for special events by action of the city commission.

B. Development of RV Parks. Recreational Vehicle Parks shall comply with the provisions of City Ordinance 221 - "FEMA" which is hereby incorporated by reference.

6.08.03. Junkyards

All junkyards shall comply with the following standards:

A. Junkyard operators shall be responsible for compliance with all applicable Federal and State regulations pertaining to the handling, storage and disposal of waste fluids. In no case shall disposal of waste fluids be permitted on site, except with the express approval of the DER.

B. In any open area, it shall be prohibited to keep any ice box, refrigerator, deep-freeze locker, clothes washer, clothes dryer, or similar air-tight unit having an interior storage capacity of 1.5 cubic feet or more from which the door has not been removed.

C. All outdoor storage facilities shall be surrounded by a substantial continuous masonry, wooden or metal fence (not including chain link or openwork fences), or a wall, any of which shall be a minimum of eight (8) feet in height without

openings of any type except for one entrance and/or one exit which shall not exceed twenty-five (25) feet in width.

D. Gates at the entrance and/or exit shall be of material without openings.

E. The fence shall be constructed of the same type of material throughout.

F. Fences shall be at least fifteen (15) feet from any street line or setback line. The area outside the fence shall be used as a vegetated buffer and no storage or dismantling shall be permitted outside the fenced area.

G. Fences shall not be constructed of metal that will rust, and will be maintained in good repair at all times.

H. Materials stored within the fenced area shall not be visible above the height of the fence.

6.08.04 Marinas

A. Purpose. The purpose of this section is to prevent the expansion of the area closed to shellfish harvesting established by the Florida Department of Agriculture, Shellfish Harvesting Classification Maps.

B. Definitions.

Marina.

Any structure, such as a dock or floating dock, which is used for docking, or otherwise mooring vessels, and constructed to provide temporary or permanent docking space for more than ten (10) boats.

C. Notwithstanding any other provisions of the Laws of Cedar Key to the contrary, the creation of new marinas is prohibited unless the applicant demonstrates that a proposed marina will not cause an expansion of the area closed to shellfish harvesting as established by the Florida Department of Agriculture, Shellfish Harvesting Classification Maps.

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D. In showing that the proposed marina will not cause an expansion of the area closed to shellfish harvesting, the applicant shall use the same dilution analysis calculation used by the Department of Agriculture to determine the impacts

of marinas and moorings. The dilution analysis calculation used by the Department of Agriculture calculates a “marina buffer,” or radii surrounding proposed marinas, using the following equations and assumptions:

Equations:

$$\text{Volume} = \frac{(\text{Boat occupancy})(\text{fecal coliform contribution/person/day})(\text{Number of boats})}{(\text{NSSP fecal coliform standard MPN/100 ml})(\text{Number of tides/day})}$$

$$\text{Radius} = \sqrt{((360^\circ/\text{Shoreline angle in degrees})(V \text{ in cubic feet})/(\pi)(\text{Water depth in feet}))}$$

Assumptions:

a. Waters of the marina buffer zone dilute fecal coliform density to the appropriate ISSC bacteriological water quality standard at the buffer zone boundary (i.e., 14 MPN/100 ml for Approved and Conditionally Approved waters).

b. Daily fecal coliform contribution per person is 2×10^9 FC/person/day.

c. Mixing of fecal coliform in receiving waters is uniform and fecal coliform die off is negligible.

d. All slips are occupied with two (2) people per boat.

e. All boats discharge in the time interval between consecutive tidal height (high/low) extremes.

f. Boats discharge during the tidal cycle (“TC”) of longest duration. Since tides are constant and predictable, if tides are always diurnal, $TC=1/\text{day}$, and if tides are always or sometimes semi-diurnal, $TC=2/\text{day}$.

E. Approval of proposed marinas by the City Commission must be made at a quasi-judicial hearing conducted pursuant to the requirements of Chapter 4, Section 12.02.04.

(History: Ord. No. 400)

6.08.05. Dog Friendly Dining

A. Public Food Service Establishments that have received a permit pursuant to this section are exempt from those sections of the Food and Drug Administration Food Code that prohibit live animals in Public Food Service Establishments to the extent allowed by the approved permit.

B. Definitions.

Administrator

The Cedar Key Code Enforcement Officer.

Division

The Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants.

Public Food Service Establishment

Public Food Service Establishment has the meaning given it by section 509.013, Florida Statutes.

B. No dog shall be in a Public Food Service Establishment unless allowed by state law and the Public Food Service Establishment has received and maintains a permit pursuant to this section allowing dogs in designated outdoor areas of the establishment.

C. Public Food Service Establishments must apply for and receive a permit from the Administrator before patrons' dogs are allowed

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on the premises. The City shall adopt a reasonable fee by resolution to cover the cost of processing the initial application, permitting, inspections, and enforcement. The application shall be submitted on a form provided for such purpose by the Administrator, and shall include, along with any other such information deemed reasonably necessary by the Administrator in order to implement and enforce the provisions of this section, the following:

1. Name, location, mailing address and Division-issued license number of the Public Food Service Establishment.
2. Title, name, mailing address, and telephone contact information of the permit applicant. Applications shall be accepted from only the owner of the Public Food Service Establishment or the owner's authorized agent, which authorization must be in writing and notarized. The name, mailing address, and telephone contact information of the owner of the Public Food Service Establishment shall be provided if the owner is not the permit applicant.
3. A diagram and description of the outdoor area which is requested to be designated as available to patrons' dogs, including dimensions of the designated area; a depiction of the number and placement of tables, chairs, and restaurant equipment, if any; the entryways and exits to the designated outdoor area; the boundaries of the designated area and of the other outdoor dining areas not available for patrons' dogs; any fences or other barriers; surrounding property lines and public rights-of-way, including sidewalks and common pathways. The diagram shall be accurate and to scale but need not be prepared by a licensed design professional. A copy of the approved diagram shall be attached to the permit.
4. Days of the week and hours of operation that patrons' dogs will be permitted in the

designated outdoor area of the Public Food Service Establishment.

D. Public Food Service Establishments that receive a permit to allow dogs in a designated outdoor area pursuant to this subsection are subject to the following requirements:

1. 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.
2. Patrons in a designated outdoor area shall be advised by appropriate signage, at conspicuous locations, that they should wash their hands before eating. Waterless hand sanitizer shall be provided at all tables in the designated outdoor area.
3. Patrons shall keep their dogs under control and on a leash at all times. 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 with food service operations.
4. Employees and patrons shall not allow dogs to come in contact with chairs, tables, or other furnishings.
5. All table and chair surfaces shall be cleaned and sanitized with an approved product between seating of patrons. Spilled food and drink shall be removed from the floor or ground as soon as possible but in no event less frequently than between seating of patrons.
6. All dog waste shall be cleaned immediately and the area sanitized with an approved product. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor area.

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7. Dogs shall not be permitted to be in, or to travel through, indoor or nondesignated outdoor portions of the Public Food Service Establishment. Ingress and egress to the designated outdoor area shall not require entrance into or passage through any indoor area or non-designated outdoor portions of the Public Food Service Establishment.

8. 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, notifying patrons 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 ($8\frac{1}{2} \times 11$) and printed in easily legible typeface of not less than 20 point font size.

9. At least one sign reminding employees and patrons of the applicable rules, including those contained in this section, and any permit conditions, which may be imposed by the Administrator, 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 ($8\frac{1}{2} \times 11$) and printed in easily legible typeface of not less than 20 point font size.

10. The Public Food Service Establishment and designated outdoor area shall comply with all permit conditions and the approved diagram.

11. Employees and patrons shall not allow any dog to be in the designated outdoor areas of the Public Food Service Establishment if the Public Food Service Establishment is in

violation of any of the requirements of this section.

12. Permits shall be conspicuously displayed in the designated outdoor area.

E. Expiration. A permit issued pursuant to this section shall expire automatically upon the sale of the Public Food Service Establishment and cannot be transferred to a subsequent owner. The subsequent owner may apply for a permit pursuant to this section if the subsequent owner wishes to continue to allow patrons' dogs in a designated outdoor area of the Public Food Service Establishment.

F. Request for Review of Permit Decision. An applicant or any adversely affected person may request an appeal to the City Commission of a final decision of the Administrator on an application pursuant to this section. The appeal shall be in accordance with part 12.12.00 of this Chapter.

G. Complaints and reporting.

Complaints may be made in writing to the Administrator. The Administrator shall accept, document, and respond to all complaints and shall timely report to the Division all complaints and the response to such complaints. The Administrator shall provide the Division with a copy of all approved applications and permits issued.

H. Enforcement and Penalties.

It shall be unlawful to fail to comply with any of the requirements of this section. Each instance of a dog on the premises of a Public Food Service Establishment that does not have a valid permit authorizing dogs at the Establishment is a separate violation. Any Public Food Service Establishment that fails to comply with the requirements of this section shall be guilty of violating this part of the Laws of Cedar Key and shall be subject to any and all enforcement proceedings consistent with the Laws of Cedar

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Key and general law. Each day a violation exists shall constitute a distinct and separate offense.

(History: Ord. No. 469)

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ARTICLE VII: ACCESSORY STRUCTURES AND USES

7.00.00. PURPOSE

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

7.01.00. ACCESSORY STRUCTURES

7.01.01. General Standards and Requirements

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

- A. There shall be a permitted principal development on the parcel, located in full compliance with all standards and requirements of this Code.
- B. All accessory structures shall comply with standards pertaining to the principal use, unless exempted or superseded elsewhere in this Code.
- C. Accessory structures shall not be located in a required buffer, landscape area, or minimum building setback area unless specifically authorized by this Code.
- D. Accessory structures shall be included in all calculations of impervious surface and stormwater runoff.
- E. Accessory structures shall be shown on any concept development plan with full supporting documentation as required in Article XII of this Code.

7.01.02. Storage Buildings, Utility Buildings, Greenhouses

The following standards shall apply to storage, utility and greenhouse buildings:

- A. No accessory building used for storage of hazardous, incendiary, noxious, or pernicious materials shall be located nearer than fifty (50) feet from any property line or within fifty (50) feet of a protected zone. The storage of said materials shall comply with F.S. 633.022, "Uniform Fire Safety Standards."
 - B. Storage buildings, greenhouses, and like structures shall be permitted only in compliance with the setback standards of this Code.
 - C. Accessory buildings regulated by this section shall be permitted only in side and rear yards, and shall not encroach into any required building setback from an abutting right-of-way.
 - D. Accessory building regulated by this section shall be included in calculations for impervious surface, floor area ratio, or any other site design requirements applying to the principal use of the lot.
 - E. Vehicles, including manufactured housing and mobile homes, shall not be used as storage buildings, utility buildings or other such uses.
- #### **7.01.03. Swimming Pools, Hot Tubs, and Similar Structures**
- A. Swimming pools shall be permitted only in side and rear yards and shall not encroach into any required building setback.
 - B. Enclosures for pools shall be considered a part of the principal structure and shall comply with standards for minimum distance between buildings, yard or open space requirements, impervious surface ratios, and other building location requirements of this Code.

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C. All pools shall be completely enclosed with an approved wall, fence or other substantial structure not less than four (4) feet in height. The enclosure shall completely surround the pool and shall be of sufficient density to prohibit unrestrained admittance to the enclosed area through the use of self-closing and self-latching doors or gates.

D. No overhead electric power lines shall pass over any pool unless enclosed in conduit and rigidly supported, nor shall any power line be nearer than ten (10) feet horizontally or vertically from the pool's water edge.

D. Excavations for pools to be installed for existing dwellings shall not exceed a 2:1 slope from the foundation of the dwelling, unless a trench wall is provided.

E. Surface waters of pools shall be included as impervious surface.

7.01.04. Fences

All fences to be built shall comply with the permitting process, Florida Building Code and the following:

A. Fence posts must be resistant to decay, corrosion, and termite infestation. Posts must also be pressure treated for strength and endurance.

B. Fences or hedges may be located in all front, side and rear yard setback areas. Fences located within the side and rear yard setbacks shall not exceed a height of eight (8) feet. Front yard fences or hedges shall not exceed a height of four (4) feet.

C. Fences or hedges may be located on side and rear yard property lines, provided said fence or hedge does not obstruct any maintenance easement area required by Section 6.01.03 of this Code. Fences or hedges along property lines shall not exceed a height of five (5) feet.

D. No fence or hedge may obstruct the Clear Visibility Triangle required by Section 6.02.04.E of this Code.

E. Any fence located adjacent to a public right-of-way or private road shall be placed with the finished side facing that right-of-way.

F. A fence required for safety and protection of hazard by another public agency may not be subject to height limitations above. Approval to exceed the height standards may be given by the Administrator upon receipt and documentation of satisfactory evidence of the need to exceed the height standard.

G. No fence or hedge shall be constructed or installed in such a manner as to interfere with drainage on the site.

H. Masonry walls, when permitted, shall comply with the standards of this part.

7.02.00. ACCESSORY USES

7.02.01. Accessory Residential Uses

Accessory residential uses, including accessory apartments, guest houses and garage apartments shall meet the standards of this Code.

A. Purpose. The purpose of this section is to provide for inexpensive housing units to meet the needs of younger and older households, making housing available to younger or older persons who might otherwise have difficulty in finding affordable housing; and to provide housing for visitors and guests. This section is also intended to protect the property values and residential character of neighborhoods where accessory residential uses are located.

B. Standards. An accessory residential use may be allowed on single-family residential lots provided that all of the following requirements are met:

1. No more than one (1) accessory residential use shall be permitted on any

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residential lot. No accessory residential use may be permitted in addition to the one (1) residential dwelling unit allowed on a commercial site.

2. The accessory residential use shall not exceed twenty-five percent (25%) of the gross floor area of the principal structure and the combined floor area ratio shall not exceed that allowed under this Code.

3. The accessory residential unit shall be located and designed to be compatible with and complement the appearance of the principal structure.

4. No variations, adjustments, or waivers to the requirements of this Code shall be allowed in order to accommodate an accessory residential use, and the standards of this code shall be applied before an accessory residential use is permitted.

7.02.02. Home Occupations

A home occupation shall be allowed in a bona fide, single-family dwelling unit, subject to the following requirements;

A. No person other than members of the family residing on the premises shall be engaged in such occupation.

B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character of the structure.

C. There shall be no change in the outside appearance of the building or premises, other than visible evidence of the conduct of such home occupation, other than one sign not exceeding one (1) square foot in area, non-illuminated, mounted flat against the wall of the principal building at a position not more than two (2) feet from the main entrance of the residence. No additional sign shall be allowed.

D. No home occupation shall occupy more than twenty-five percent (25%) of the floor area of the residence or more than ten percent (10%) of the lot area of the parcel of land on which the residence is located.

E. No traffic shall be generated by such occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall meet the off-street parking requirements of this Code for commercial uses.

F. No equipment, tools, or process shall be used in such a home occupation which creates interference to neighboring properties due to noise, vibration, glare, fumes, odors, or electrical interference. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio, telephone, or television receivers off the premises or causes fluctuations in line voltage off the premises.

G. Fabrication of articles commonly classified under the terms "arts and handicrafts" may be deemed a home occupation, subject to the other terms and conditions of this definition.

H. Outdoor storage of materials shall not be permitted.

I. A home occupation shall be subject to all applicable city, county and state occupation licensing requirements, fees, and other business taxes.

7.02.03. Dining Rooms, Recreation Centers, and Other Amenities

Residential and non-residential development projects may provide amenities for the exclusive use of the employees and/or residents of the project. Such amenities shall be allowed only as provided below.

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A. Dining Rooms, Cafeterias, Snack Shops, etc. A development may provide a central dining facility to serve the employees and/or residents of the project subject to the following restrictions:

1. The facility shall not be open to the general public; and

2. There shall be no off-site signs advertising the presence of the facility.

B. Community Centers, Recreation Centers. Residential projects may provide a central facility to provide a meeting place and indoor recreation opportunities for residents subject to the following restrictions:

1. Service provided shall not be available to the general public.

2. Parking to serve the building shall be as provided by this code.

3. No off-site sign may advertise the presence of the facility.

B. Employee Fitness Centers. Non-residential development projects may provide a fitness or exercise center for the use of employees subject to the following restrictions:

1. Such facilities shall not be open to the general public unless licensed as a commercial enterprise and located in a commercial district; and

2. Non-commercial facilities shall not advertise the presence of the facility.

7.02.04. Temporary Mobile Homes

A mobile home may be permitted on a residential lot for a temporary period of time, not to exceed six (6) months during the construction of a residence providing the following requirements are met:

A. Adequate sewer disposal, potable water and other utilities are available and connected temporarily to the mobile home.

B. A valid building permit has been issued.

C. Work continues without significant interruption.

D. The mobile home shall be maintained in a state of preparedness for evacuation and shall be evacuated upon issuance of a "Hurricane Watch" notice.

E. One extension of the temporary use may be allowed concurrent with the extension of the building permit, but in no case shall the total temporary use continue for more than twelve (12) months.

7.02.05. Docks and Boathouses

Docks and boathouses may be permitted as accessory uses under the conditions cited in Article V of this Code, and the following requirements:

A. The dock or boathouse has been permitted by appropriate state and federal agencies.

B. A boathouse shall not exceed fifteen (15) feet in height above mean sea level and the maximum enclosed area does not exceed five hundred square feet in area.

C. No more than one (1) such use shall be permitted per site or parcel or land.

D. No habitable space shall be created.

E. No dock may exceed four (4) feet in width.

F. A dock terminus or boathouse shall not be constructed over sea grass beds.

G. No dock may be designed to dock or otherwise moor more than ten (10) vessels at

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any time except as provided in section Chapter 4, Section 6.08.04 of this code.

(History: Ord. Nos. 247, 400)

7.02.06. Houseboats or Live-Aboard Vessels

Houseboats or live-aboard vessels may be permitted under the conditions cited in Section 5.01.06 of this Code and the following requirements:

A. The houseboat or live-aboard vessel is owned by the occupants or owners of the

property to which it is connected and is for their exclusive use, or

B. The houseboat or live-aboard vessel is owned by guests of the occupants or owners of the land to which it is connected and is at the property only on a temporary basis not to exceed fourteen (14) days in any consecutive thirty (30) day period.

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ARTICLE VIII: SIGNS

8.00.00. GENERALLY

8.00.01. Relationship to Florida Building Codes

These sign regulations are intended to complement the requirements of the Florida Building codes adopted by the Florida Legislature. Wherever there is inconsistency between these regulations and the building, the Florida Building Code shall apply.

8.00.02. No Defense to Nuisance Action

Compliance with the requirements of these regulations shall not constitute a defense to an action brought to abate a nuisance under the common law.

8.00.03. Maintenance

All signs, including their supports, braces, guys and anchors, electrical parts and lighting fixtures, and all painted and display areas, shall be maintained in accordance with the Florida Building Code, and shall present a clean and neat appearance. The vegetation around, in front of, behind, and underneath the base of ground signs for a distance of ten (10) feet shall be neatly trimmed and free of unsightly weeds, and no rubbish or debris that would constitute a fire or health hazard shall be permitted under or near the sign.

8.00.04. Definitions

Accessory Sign

A permanent ground or building sign that is permitted under this Code as incidental to an existing or proposed use of land.

Advertising

Sign copy intended to directly or indirectly promote the sale or use of a product, service, commodity, entertainment, or real or personal property.

Building Sign

A sign displayed upon or attached to any part of the exterior of a building, including walls, windows, doors, parapets, marquees and roof slopes of forty-five (45) degrees or steeper.

Copy

The linguistic or graphic content of a sign.

Electric Sign

Any sign containing electric wiring.

Erect a Sign

To construct, reconstruct, build, relocate, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish; but it shall not include any of the foregoing activities when performed as an incident to the change of message, or routine maintenance.

Ground Sign

A sign that is supported by one (1) or more columns, upright poles, or braces extended from the ground or from an object on the ground, or that is erected on the ground, where no part of the sign is attached to any part of a building.

Harmful to Minors

With regard to sign content or copy, any description or representation, in whatever form, of nudity, sexual conduct, or sexual excitement, when it:

a. Predominantly appeals to the prurient, shameful, or morbid interest of minors in sex; and

b. Is patently offensive to contemporary standards in the adult community as a whole with respect to what is suitable sexual material for minors; and,

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c. Taken as a whole, lacks serious literary, artistic, political or scientific value.

Illuminated Sign

A sign which contains a source of light or which is designed or arranged to reflect light from an artificial source including indirect lighting, neon, incandescent lights, back-lighting, and shall also include signs with reflectors that depend upon automobile headlights for an image.

Marquee

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

Message-Board Sign

A Permanent accessory sign such as a bulletin board or chalkboard that allows the occupant to post messages intended to reach pedestrian traffic.

Minor

Any person under the age of 18 years.

Multiple Occupancy Complex

A commercial use, i.e. any use other than residential, consisting of a parcel of property, or parcel of contiguous properties, existing as a unified or coordinated project, with a building or buildings housing more than one occupant.

Occupant (Occupancy)

A non-residential use.

Outdoor Advertising Sign

A permanent ground sign located on a parcel which advertise a product, service, commodity, entertainment, or real or personal property not located on the same parcel.

Parcel

A unit of land within legally established property lines.

Permanent

Designed, constructed and intended for more than short term use.

Portable Sign

Any sign which is manifestly designed to be transported by trailer or on its own wheels, including such signs even though the wheels may be removed and the remaining chassis or support structure is converted to an A or T frame sign and attached temporarily or permanently to the ground.

Roof Line

A horizontal line intersecting the highest point or points of a roof.

Roof Sign

A sign placed above the roof line of a building or on or against a roof slope of less than sixty (60) degrees from horizontal.

Sign

Any writing, pictorial presentation, number, illustration, or decoration, flag, banner or pennant, or other device which is used to announce, direct attention to, identify, advertise or otherwise make anything known. The term shall not be deemed to include the terms "building" or "landscaping," or any architectural embellishment of a building not intended to communicate information.

Sign Face

The part of a sign that is or may be used for copy.

Sign Structure

Any construction used or designed to support a sign.

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Street

A public or private right-of-way for vehicular traffic, including highways, thoroughfares, lanes, roads, ways and boulevards.

Temporary

Designed, constructed and intended for short term use.

Unit

That part of a multiple occupancy complex housing one (1) occupant.

Vehicle Sign

Any sign affixed to a vehicle.

8.01.00. EXEMPT SIGNS

A. The following signs are exempt from the operation of these sign regulations, and from the requirement in this Code that a permit be obtained for the erection of permanent signs, provided they are not placed or constructed so as to create a hazard of any kind:

1. Signs that are not designed or located so as to be visible from any street or adjoining property;
2. Traffic control signs installed by the applicable jurisdiction and that bear no commercial message;
3. Signs required by federal or state statute or regulation, or local ordinance or regulation;
4. Works of art that do not constitute advertising.
5. Merchandise displays behind storefront windows so long as no part of the display moves or contains flashing lights;

B. Signs Partially Exempt from This Part. Signs listed in this section shall be exempt from the permit requirements of this Article but shall

be subject to all other applicable standards of this Article;

1. Up to four signs per parcel of one (1) square foot or less that include no letters, symbols, numbers, logos or designs in excess of three (3) inches in vertical or horizontal dimension, provided that such sign, or combination of such signs, does not constitute a sign prohibited by Section 8.02.02 of this Code
2. One sign per building of six square feet or less when cut into any masonry surface or when constructed of bronze or other similar incombustible materials and attached to the surface of a building;
3. Signs incorporated into machinery or equipment by a manufacturer or distributor, which identify or advertise only the product or service dispensed by the machine or equipment, such as signs customarily affixed to vending machines, newspaper racks, telephone booths, and gasoline pumps;
4. Signs located on taxicabs, buses, trailers, trucks, or vehicle bumpers when consistent with the provisions of this Code;
5. Signs carried by a person; and

Except for banners authorized by section 8.03.06 of this Article, temporary signs pursuant to part 8.03.00 of this Article.

8.02.00. PROHIBITED SIGNS

8.02.01. Generally

It shall be unlawful to erect, cause to be erected, maintain or cause to be maintained, any sign not expressly authorized by, or exempted from, this Code.

8.02.02. Specifically

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The following signs are expressly prohibited unless exempted by section 8.01.00 A. of this Article or expressly authorized by parts 8.03.00, 8.04.00, or 8.05.00 of this Article:

A. Signs that are in violation of the Florida Building Code;

B. Any sign that, the building official has determined, does or will constitute a safety hazard;

SSSSS. Blank temporary sign;

C. Signs with visible moving, revolving, or rotating parts or visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic, or mechanical means;

D. Signs with the optical illusion of movement by means of a design that presents a pattern capable of giving the illusion of motion or changing of copy;

E. Signs with lights or illuminations that flash, move, rotate, scintillate, blink, flicker, or vary in intensity or color;

F. Strings of light bulbs other than white or clear used on commercially developed parcels for commercial purposes;

G. Signs, commonly referred to as wind signs, consisting of one or more banners, flags, pennants, ribbons, spinners, streamers or captive balloons or other objects or material fastened in such a manner as to move upon being subjected to pressure by wind;

H. Signs that incorporate projected images, emit any sound that is intended to attract attention, or involve the use of live animals;

I. Signs that emit audible sound, odor, or visible matter such as smoke or steam;

J. Signs or sign structures that interfere in any way with free use of any fire escape,

emergency exit, or standpipe, or that obstruct any window to such an extent that light or ventilation is reduced to a point below that required by any provision of this Code or building regulation;

K. Signs that resemble any official sign or marker erected by any governmental agency, or that by reason of position, shape or color, would conflict with the proper functioning of any traffic sign or signal, or be of a size, location, movement, content, color, or illumination that may be reasonably confused with or construed as, or conceal, a traffic-control device;

L. Signs that obstruct the vision of pedestrians, cyclists, or motorists traveling on or entering public streets;

M. Signs, within ten (10) feet of public rights-of-way or within one hundred feet of traffic-control lights, that contain colored lights that might be confused with traffic control lights;

N. Signs that are of such intensity or brilliance as to cause glare or impair the vision of any motorist, cyclist, or pedestrian using or entering a public way, or that are a hazard or a nuisance to occupants of any property because of glare or other characteristics;

O. Signs that contain any lighting or control mechanism that causes unreasonable interference with radio, television or other communication signals;

P. Searchlights except those used for public safety by governmental agencies;

Q. Signs that are painted, pasted, or printed on any curbstone, flagstone, pavement, or any portion of any sidewalk, street, or right-of-way, except house numbers, parking or locational identification numbers and traffic control signs;

R. Signs placed upon benches, bus shelters or waste receptacles except as may be authorized

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by the city commission pursuant to F.S. 337.407;

S. Signs, other than sandwich signs authorized by this Article, erected on public property, including but not limited to public rights-of-ways, or on private property (such as private utility poles) located on public property, other than signs erected by the governing agency for public purposes;

T. Signs erected over or across any public street except as may otherwise be expressly authorized by this Article;

U. Vehicle signs with a total sign area on any vehicle in excess of eight (8) square feet, when the vehicle

1. Is parked for more than sixty (60) consecutive minutes within one hundred (100) feet of any street right-of-way;

2. Is visible from the street right-of-way that the vehicle is within one hundred (100) feet of; and

3. Is not regularly used in the conduct of the business advertised on the vehicle. A vehicle used for the purpose of providing transportation for owners or employees of the occupancy advertised on the vehicle shall not be considered a vehicle used in the conduct of the business.

V. Signs displaying copy that is harmful to minors as defined in this Article;

W. Portable signs as defined in this Article;

X. Electronic message signs as defined in this Article.

(History: Ord. No. 271,513)

8.03.00. TEMPORARY SIGNS

8.03.01. Where Allowed

Temporary signs are allowed throughout the city, subject to the restrictions imposed by this Article.

8.03.02. Sign Types Allowed

A temporary sign may be a ground or building sign, but may not be an electric sign.

8.03.03. Removal of Illegal Temporary Signs

Any temporary sign not complying with the requirements of this section is illegal and subject to immediate removal by the city.

8.03.04. Restrictions on Content of Temporary Signs

A temporary sign may display any message for thirty (30) days so long as it is not otherwise prohibited.

8.03.05. Permissible Size, Height and Number of Temporary Signs

One (1) temporary sign not exceeding (5) feet in height shall be allowed per parcel, subject to the following size restrictions:

a. For residential land use districts as defined in section 2.02.02 of this Chapter, the sign area shall not exceed six (6) square feet.

b. For all other land use districts uses, the sign area shall not exceed twenty-four (24) square feet.

8.03.06 Banners in Rights-of-Ways

A. Banner signs not otherwise allowed within public right-of-ways may be authorized for events. The banners may be hung across the following streets: [Insert list of streets here.] The Administrator is authorized to establish requirements regulating the permit application, installation procedures and minimum banner specifications. An application shall be filed with the Administrator together with the permit fee required by Chapter 5, Laws of Cedar Key. In addition to the permit fee, the applicant shall pay

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the banner installation fee in an amount prescribed by the Administrator required to ensure full cost recovery by the City. The following conditions and restrictions shall apply:

1. The application shall be accompanied by a complete and accurate description and content of the banner.
2. Messages shall directly relate to a not-for-profit event that is scheduled to occur within the City or unincorporated Levy County and that will be open to the general public.
3. The Message may not contain any commercial advertising or promotion of any for-profit commercial event or enterprise.
4. Banners may be installed no more than 30 days prior to the event and shall be removed no later than seven days following the event.

8.04.00. PERMITTED PERMANENT ACCESSORY SIGNS

8.04.01. Where Allowed

Permanent signs are allowed in any area which is not residential. The signs must be incidental to an existing or proposed use on the parcel where it is located.

8.04.02. Sign Types Allowed

A permanent accessory sign may be a ground or a building sign, but may not be a roof sign.

8.04.03. Sign Permit Required

A permanent accessory sign may not be erected without obtaining a permit for the sign from the City and paying an application fee as provided in Chapter 5, Laws of Cedar Key. A permit shall be valid only for the location specified and may be transferred from one sign owner to another upon notice to the city. Any freestanding ground sign six (6) feet or more above grade, or containing electrical components shall also require a building permit.

8.04.04. Removal of Illegal or Abandoned Signs

Illegal or abandoned signs shall be subject to code enforcement as provided in 8.10.00 of this Article.

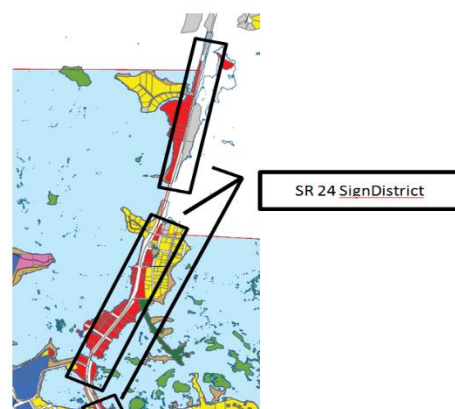
8.04.05 Sign Districts

Sign Districts. Four nonresidential sign districts with specific sign requirements is are hereby established. The sign districts are:

A. Dock Street. This district is the most permissive allowing the greatest flexibility in terms of number, size, height, placement and type of signs reflecting its unique character and tourist entertainment economic base. The Dock Street district standards hereby established, apply to all properties within the area indicated ion the following map:



B. State Road 24. The State Road 24 sign district is the City's most auto-oriented commercial area requiring larger signs in order for passing motorists to safely read and understand sign messages. The State Road 24 district standards are applicable to all properties designated Commercial land use within the area indicated in the following map:



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waterway. The building owner shall choose which side of the building is used in determining lineal footage.

8.04.07. District Specific Standards

The Sign District Standards contained in Table 8.04.07 shall apply to the sign districts.

C. Historic District. The Historic District is established in the Cedar Key Comprehensive Plan and this Code with the purpose of providing protections designed to maintain the unique quality and character of the area included within its boundaries. The Future Land Use and Historic Preservation Elements of the Comprehensive Plan require that the City shall implement sign regulations that provide adequate visual identification and ensure that signs are compatible with architectural and historic styles of the neighborhood where the signs are proposed. This Part is intended to implement the comprehensive plan requirement by establishing standards specific to the district. The standards apply to all properties designated with a future land use of Mixed Use within the boundaries of the Historic District set out in section 3.01.02, Laws of Cedar Key, Chapter 4.

D. General. The General District shall include all nonresidential property within the City not included within the Dock Street, SR 24 and Historic sign districts.

8.04.06. Standards Applicable to All Districts

The following standards shall apply to all permanent accessory signs in all sign districts:

A. Placement. The occupant of a single occupancy parcel or multiple occupancy complex may display permanent accessory signs on each side of the parcel which abuts a right-of-way or waterway.

B. The total allowed sign area of a parcel shall be based on the lineal footage of one side of the building abutting either a right-of-way or

8.04.07. District Specific Standards

The Sign District Standards contained in Table 8.04.07 shall apply to the sign districts.

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Table 8.04.07 Sign District Standards				
	Dock Street	SR 24	General	Historic
Sign Area Allowed for Single Occupancy	One and three quarters (1.75) square feet per lineal foot of building frontage with a minimum of forty-eight (48) square feet allowed for all parcels and a maximum of two hundred (200) square feet.	One and one half (1.5) square feet per lineal foot of building frontage with a minimum of forty (40) square feet for all parcels and a maximum of one hundred fifty (150) square feet.	One and one quarter (1.25) square feet per lineal foot of building frontage with a minimum of thirty-six (36) square feet allowed for all parcels and a maximum of one hundred twenty five (125) square feet.	One (1) square feet per lineal foot of building frontage with a minimum of thirty-two (32) square feet allowed for all parcels and a maximum of one hundred (100) square feet.
Sign Area Allowed for additional Occupants in a Multi-Occupancy Building	Thirty (30) square feet	Twenty-five (25) square feet.	Twenty (20) square feet.	Fifteen (15) square feet.
Roof Signs	Permitted	Not Permitted	Not Permitted	Not Permitted
Permanent Ground Signs	Not Permitted	One per parcel allowed. Maximum sign area: twenty-four (24) square feet. Maximum width: six (6) feet. Maximum height: eight (8) feet.	One per parcel allowed. Maximum sign area: twenty (20) square feet. Maximum width: five(5) feet. Maximum height: six (6) feet.	One per parcel allowed. Maximum sign area: fifteen(15) square feet. Maximum width: four (4) feet. Maximum height: five(5) feet.
Neon	Permitted	Permitted	Permitted	Not Permitted
Outdoor Advertising Signs	Permitted	Permitted	Permitted	Not Permitted

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8.04.08. Directional Signs

Directional signs limited in area to four (4) square feet, giving directions to motorists regarding the location of parking areas shall be permitted as permanent accessory signs on all parcels and shall not be counted as part of an occupancy's allowable sign area.

8.04.09. Signs at Entrances to Residential Developments

One (1) sign may be permitted at each entrance to a residential development with an aggregate sign area not to exceed twenty-four (24) square feet, and not to exceed a height of five (5) feet. Such signs shall be maintained perpetually by the developer, the owner of the sign, an owner's association or some person who is legally accountable under a maintenance agreement approved by the City. If no accountable person accepts legal responsibility to maintain the signs and no provision has been made for maintenance, the signs shall be removed by the developer or owner(s), or shall be deemed abandoned and removed as provided in part 8.04.04 of this Article.

8.04.10. Flags

No more than six (6) flags or insignias may be displayed on any one parcel of land. A flag or insignia may only bear a noncommercial message. The maximum distance from top to bottom of any flag shall be twenty percent (20%) of the total height of the flag pole, or in the absence of a flag pole, twenty percent (20%) of the distance from the top of the flag or insignia to the ground.

8.04.11. Utility Signs

Public utility signs that identify the location of underground utility lines and facilities, high voltage lines and facilities, and other utility facilities and appurtenances are permitted so long as they do not exceed three (3) feet in

height, and so long as the sign face does not exceed one half (½) of one square foot.

8.04.12. Reserved

8.04.13. Pedestrian-Oriented Signs

Pedestrian-oriented signs shall be allowed for businesses to attract pedestrian traffic. A pedestrian-oriented sign shall only be used to advertise events occurring at the site, or products or services available or for sale at the site where the sign is located:

- A. Sandwich Signs. One such sign per parcel is allowed within areas designated commercial and mixed-use land use. Sandwich signs shall:
1. not exceed twelve (12) square feet; and
 2. not to exceed three (3) feet in height and two (2) feet in width; and
 3. be displayed only during business hours; and
 4. be placed to provide a clear walkway of forty-two (42) inches on public sidewalks at all times; and
 5. not be placed on a roadway or street.

Sandwich Signs shall not be counted as part of an occupancy's allowable sign area.

- B. Message-Board Signs. One message-board shall be allowed per occupancy:

1. No more than one message board per parcel may be a ground sign.
2. If the message board is six (6) square feet or less in area and includes no letters, symbols, numbers, logos, or designs in excess of three (3) inches in vertical or horizontal dimension, the message board shall not be counted toward the parcel's allowable sign area.

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3. Message-board signs may be internally illuminated.

8.04.14. Neon Signs

Where allowed, neon signs shall be displayed from within a building and limited to a maximum of three (3) signs with a combined maximum of nine (9) square feet per parcel. The sign square footage shall be counted as part of an occupancy's allowable sign area. The signs shall not exceed three (3) feet in height and width.

8.05.00. PERMITTED PERMANENT OUTDOOR ADVERTISING SIGNS

8.05.01. Where Allowed

Outdoor advertising signs are allowed only in commercial districts. No other structure shall be permitted on the parcel displaying the sign.

8.05.02. Permit Required

An outdoor advertising sign may not be erected, used or maintained without obtaining a permit for the sign from the city and paying a nonrefundable application fee as provided in this Article. A permit is valid only for the location specified. Only one (1) permit shall be issued per site. All permits shall be issued pursuant to section 12.04.02 of this Chapter.

8.05.03. Removal of Illegal or Abandoned Signs

Illegal or abandoned signs shall be subject to code enforcement as provided in 8.10.00 of this Article.

8.05.04. Sign Types Allowed

An outdoor advertising sign shall be a ground sign. Nothing in this Article shall be interpreted to allow outdoor advertising on any building or structure.

8.05.05. Sign Content

An outdoor advertising sign may display any message not otherwise prohibited by this Article.

8.05.06. Landowner's Consent

Applications for an outdoor advertising permit shall include the written consent of the owner or other person in lawful possession or control of the site designated in the application for location of the sign. The city shall not authorize the location of any outdoor advertising on public property.

8.05.07. Permissible Number and Spacing of Outdoor Advertising Signs

Only one (1) outdoor advertising sign shall be permitted per site and no permit shall be granted for any sign unless such sign is located at least one thousand (1,000) feet radius from any other permitted outdoor advertising sign measured from the base sign's structures. No outdoor advertising sign shall be located within one hundred (100) feet radius of any church, school, park, marina, beach or other public area. Outdoor advertising signs shall be a minimum of five (5) feet within the property line of the site for which the sign has been permitted. Where two applications from different persons conflict with each other, so that only one of the applications may be granted, the first application received will be the first considered for approval. The second application shall remain pending until resolution of the first application. The second applicant shall be advised in writing of the first application and that his application will remain pending until the first application is acted upon. If the first application considered is granted, the second application shall be denied. If the first application is denied, the second application shall then be considered for approval.

8.05.08. Permissible Size, Area and Height of Outdoor Advertising Signs

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No permanent outdoor advertising sign may exceed twenty-four (24) square feet in size. The maximum allowable width shall be six (6) feet and no sign may exceed five (5) feet in height.

8.05.09. Reserved

8.05.10. Nonconforming Permanent Outdoor Advertising Signs

Any outdoor advertising sign which was lawfully erected but rendered nonconforming by any ordinance adopted by the City shall be allowed to remain as a legal nonconforming sign pursuant to section 70.20, Florida Statutes. Said signs shall be subject to the provisions of section 10.03.03.B.3.c of this Chapter regarding continuation of nonconforming signs.

8.05.11. Design Standards

Outdoor advertising signs where permitted shall be visually compatible to their location and in materials, texture and color. The City may deny a permit application for a sign which does not meet generally accepted professional design standards.

8.06.00. MEASUREMENT DETERMINATION

8.06.01. Distance Between Signs

The minimum distance between signs shall be measured by radius from the base of the sign.

8.06.02. Sign Area

The area of a sign shall be the area within the smallest common geometric figure such as a square, rectangle, triangle, circle or semicircle, the sides of which touch the extreme points or edges of the sign face. When a sign has two (2) or more sign faces, each face shall be included in the computation of the sign area.

8.06.03. Number of Signs

In general, the number of signs shall be the number of noncontiguous sign faces. When two

(2) sign faces are placed back to back and are at no point more than one (1) foot apart, it shall be counted as one sign. If a sign has more than two (2) faces, such as in a square or rectangle, it shall be counted as one sign.

8.06.04. Sign Height

The height of a sign shall be measured at the vertical distance from the finished grade at the base of the supporting structure to the top of the sign, or its frame or supporting structure, whichever is higher.

8.07.00. DESIGN, CONSTRUCTION, AND LOCATION STANDARDS

8.07.01. Compliance with Florida Building Codes Required

All permanent signs, and the illumination thereof, shall be designed, constructed and maintained in conformity with applicable provisions of the Florida Building Codes.

8.07.02. Illumination Standards

Illumination or lighting shall comply with the following provisions:

A. Sign lighting shall not be designed or located to cause confusion with traffic or emergency vehicle lights.

B. Illumination by floodlights or spotlights is permissible so long as none of the light emitted shines directly onto an adjoining property or into the eyes of motorists or pedestrians using or entering public rights-of-way.

C. Illuminated signs shall not have lighting mechanisms that project more than eighteen (18) inches perpendicularly from any surface of the sign over public space.

D. Illuminated signs fronting public waterways shall not create a hazard to or nuisance to navigation by boaters.

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E. Illumination from signs facing waterways shall be designed to ensure that the source of illumination is not directly visible to any person navigating a vessel on the water and shall not be directed on the water surface more than twenty (20) feet from the sign.

8.07.03. Placement Standards

Signs shall comply with the following placement standards:

A. No sign shall be located within the clear visibility triangle as defined in Section 6.02.04.E of this Article.

B. No sign or sign structure shall be erected that impedes use of any fire escape, emergency exit, or standpipe.

C. Supports for signs or sign structures shall not be placed in or upon a public right-of-way or public easement.

8.07.04. Clearance Standards

Signs which project over public rights-of-way shall meet the following clearance standards:

A. All signs over pedestrian ways shall provide a minimum of seven (7) feet six (6) inches of clearance.

B. All signs over vehicular ways shall provide a minimum of thirteen (13) feet six (6) inches of clearance.

8.07.05. Projection Standard

A sign may not project more than four (4) feet perpendicularly from the surface to which it is attached.

8.07.06. Relationship to Building Features

A building sign shall not obstruct or disrupt an architectural feature of the building such as a window or door.

8.07.07. Maximum Window Coverage

The combined area of temporary and permanent signs placed on the exterior or interior of windows shall not exceed twenty-five percent (25%) of the total window area at the same floor level on the side of the building or unit upon which the signs are displayed.

8.07.08. Format for Multiple Occupancy Complexes

Building signs for any multiple occupancy complex constructed or remodeled after the effective date of this Article shall conform to an approved sign format. The sign format shall be included as a submittal for authorization to erect a sign and shall be maintained on file by the City. The format shall be presented in a plan or sketch, together with written specifications in sufficient detail to enable the Administrator to authorize signs based on the specifications. As a minimum, the sign format shall specify the types of signs and dimensions (within limits prescribed by this Article) which will be permitted each occupant within the complex. The sign format shall also contain common design elements, such as placement, color, shape, or style of lettering, which lend a unified appearance to the signs of the occupants within the complex. The sign format may only be modified with the approval of the administrator upon submission of a revised plan and specifications detailing the revised format.

8.07.09. Engineer Certification

Signs over thirty-two (32) square feet in area and higher than six (6) feet above grade shall be designed and certified by a Florida registered engineer or architect for structural integrity and wind loading.

Building signs that project perpendicularly from the surface to which it is attached and that are more than twelve (12) square feet in area shall be designed and certified by a Florida registered engineer.

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8.08.00 Grandfather Clause

Any sign which was lawfully erected but rendered nonconforming by any later ordinance and in existence on or before October 18, 2016 shall be governed by the nonconforming signs provisions in Article 10 of this Code.

8.09.00 Appeal of Decision to Issue or Deny Sign Permit

Any person aggrieved by a decision on an application for a sign permit under this Article may appeal in accordance with Part 12.12.00 or may challenge the decision in the circuit court for the eighth judicial circuit.

8.10.00 Enforcement

A. General. The City may use any of the following remedies and enforcement powers to address violations of this Article

1. Referral to Hearing Officer. Violations of this Article may be referred to a Hearing Officer for enforcement in accordance with Part 1.05.00, Chapter 2, Laws of Cedar Key.

2. Civil Citations. A citation may be issued for violations of this Article in accordance with Part 1.03.00, Chapter 2, Laws of Cedar Key.

B. Unauthorized signs in right-of-way. Notwithstanding any other provision of this Article, any sign placed in the public right-of-way in violation of this Article shall be deemed to be abandoned property and may be removed immediately by any enforcing official or agent of the City. Any sign so removed may be disposed of without notice or compensation. This removal shall not preclude prosecution or imposition of penalties for violation of this Article.

8.11.00 Substitution of Message

Notwithstanding anything contained in this Article to the contrary, any sign erected pursuant

to the provisions of this Article or otherwise lawfully existing with a commercial message may, at the option of the owner, contain a noncommercial message in lieu of a commercial message. The noncommercial message may occupy the entire sign face or any portion thereof.

8.12.00. Severability

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

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

C. Without diminishing or limiting in any way the declaration of severability set forth in subsection A or elsewhere in this Article, this Code, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Article or any other law is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the

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declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Article that pertains to prohibited signs, including specifically those signs and sign-types prohibited and not allowed under part 8.02.00 of this Article. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of part 8.02.00 is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of part 8.02.00, thereby ensuring that as

many prohibited sign-types as may be constitutionally prohibited continue to be prohibited.

D. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Article and/or any other code provisions and/or laws are declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the regulation of outdoor advertising signs in this Article.

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ARTICLE IX: OPERATIONAL PERFORMANCE STANDARDS

9.00.00. GENERALLY

9.00.01. Purpose and Intent

It is the purpose of this section to provide appropriate standards relating to operation of certain activities throughout the city. Operations which create or maintain excessive noise, air pollution, odor, or electromagnetic interference may be a detriment to the public health, comfort, convenience, safety, and welfare. These standards are therefore provided to protect the public interest, and promote the public health, safety, and welfare.

9.00.02. Applicability

These standards shall apply to all lands with the city's jurisdiction.

9.00.03. Standard Manuals and Measuring Devices

Devices and instruments which have been standardized by the American National Standards Institute (ANSI) shall be used to measure applicable performance. The following references are cited in this Article:

- A. 40 CFR "Protection of Environment", Title 40, Code of Federal Regulations.
- B. 17-2 FAC "Air Pollution", Chapter 17-2, Florida Administrative Code.
- C. ANSI American National Standards Institute
- D. CFR10 "Standards for Protection Against Radiation", Title 10, CFR.

9.01.00. RESERVED

(History: Ord. No. 310)

9.02.00. AIR POLLUTION

9.02.01. Standard

To protect and enhance the air quality of the city, all sources of air pollution shall comply with rules set forth by the Environmental Protection Agency (EPA) in 40CFR and the Florida Department of Environmental Regulation (DER) in 17-2 FAC. No person shall operate a regulated source of air pollution without a valid permit issued by DER.

9.02.02. Testing

Air pollution emissions shall be tested and results reported in accordance with techniques and methods adopted by DER. Testing shall be carried out under the supervision of the State and at the expense of the person responsible for the source of pollution.

9.03.00. ODOR

9.03.01. Generally

The presence of untreated or improperly treated human waste, garbage, offal, dead animals, decaying organic matter, or gases which are harmful to human or animal life or the presence of improperly built or improperly maintained sewer treatment plants, septic tanks, water closets, privies or abattoirs shall constitute evidence of undesirable odor.

9.03.02. Exceptions

The following activities and equipment are exempt from the provisions of this part:

- A. Odors incidental to and commonly associated with commercial fishing, oystering, crabbing and aquaculture.
- B. Properly maintained public equipment used in the collection of garbage.

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9.03.03. Abatement of Public Nuisances

Evidence of undesirable odor is hereby declared a public nuisance and shall be abated upon notice by the Administrator. The city may employ the remedies cited in Florida Statute 823 "Public Nuisances", to enforce this Code.

9.04.00. FIRE AND EXPLOSIVE HAZARDS

9.04.01. Standards

In all districts in which the storage, use, or manufacture of flammable or explosive materials is permitted, the following standards shall apply:

A. Storage and utilization of solid materials or products which are combustible, or which in themselves support combustion and are consumed slowly as they burn, is permitted.

B. Storage, utilization, or manufacture of solid materials or products which are free burning and intense burning is permitted provided that said materials or products shall be stored, utilized, or manufactured within completely enclosed buildings which are noncombustible and which are protected throughout by an automatic fire extinguishing system. The requirement for an automatic fire extinguishing system may be waived by the Administrator in those cases where the introduction of water to a burning substance would cause hazards.

C. Outdoor storage of solid fuels is permitted when in conformance with the "Fire Protection Handbook" of the National Fire Protection Association (NFPA).

D. Storage, utilization or manufacture of flammable and combustible liquid or materials which produce flammable or explosive vapors or gases shall be permitted in accordance with National Fire Code # 30, exclusive of storage of finished products in original sealed containers which shall be unrestricted.

E. The following classifications of liquids are unrestricted, providing that storage, handling and use shall be in accordance with NFPA "Flammable and Combustible Liquids" Code #30.

CLASSIFICATION OF LIQUIDS		
CLASS	FLASH POINT	BOILING POINTS
I	Below 100E Fahrenheit (37.8E Celsius)	
I-A	Below 73E Fahrenheit (22.8E Celsius)	Below 100EF. (37.8E C.)
I-B	Below 73E F. (22.8EC.)	at or above 100EF.
I-C	At or above 73EF. (22.8EC.)	below 100EF. (37.8EC.)
II	At or above 100EF. (37.8EC.) and Below 140EF. (60EC.)	
III	At or Above 140EF. (60EC.)	
III-A	140EF to 200EF.	
III-B	At or Above 200EF. (93.4EC)	

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ARTICLE X: HARDSHIP RELIEF

10.00.00. GENERALLY

10.00.01. Purpose

The purpose of this Article is to provide mechanisms for obtaining relief from the provisions of this Code where hardship would otherwise occur, and to protect private property rights.

10.00.02. Methods

This Article provides for three (3) forms of hardship relief as follows:

A. Variances. Part 10.01.00 addresses the hardship that may be caused in particular cases by the imposition of the Code's development design standard.

B. Transfer of Development Rights. Part 10.02.00 addresses the hardship that may be caused in particular cases by the Code's Resource Protection Standard.

C. Existing Nonconforming Development. Part 10.03.00 addresses the hardship that would be caused if nonconforming development were required to immediately come into compliance with this Code.

10.01.00. VARIANCES

10.01.01. Restrictions on Variances

No variance may be granted from any of the provisions in Article II (Land Use) and Article IV (Consistency/Concurrency) or from the policies and objectives of the City Comprehensive Plan (Ordinance) except by Amendment of the Plan and ordinance in the manner prescribed by state law, except when the Code or Comprehensive Plan specifically allow for such variance.

10.01.02. Granted by City Commission

The Administrator may recommend the approval or denial of a variance from any provision of this Code, except as provided in Part 10.01.01 above, and the City Commission may grant a variance if the following procedures are followed and findings made.

A. Part of Development Review. Any person desiring to undertake a development activity not in conformance with this Code may apply for a variance in conjunction with the application of development review. A development activity that might otherwise be approved by the Administrator must be approved by the City Commission if a variance is sought. The variance shall be granted or denied in conjunction with the application for development review.

B. Process. The application for development review must be submitted at least thirty (30) days in advance of a hearing. Notice of a public hearing must be made by mail to all property owners whose property abuts the property requesting a variance; by posting a notice of the hearing on the property, and by posting a notice at City Hall. All required notices of the public hearing shall be made at least fifteen (15) days prior to the hearing. The developer or his designated representative must be present at the hearing.

10.01.03. Limitation on Granting Variances

A. Initial Determination. The Administrator and Technical Review Committee shall first determine whether the need for the proposed variance arises out of the physical surroundings, shape, topographical condition, or other physical or environmental conditions that are unique to the specific property involved, or if the condition(s) that exist(s) are common to numerous sites so that requests for similar

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variances are likely to be received. The City Commission shall make a finding that is:

1. Unique to this site alone; or,
2. Advises of the cumulative effect of granting the variance to all who may apply.

B. Required Findings. The City Commission shall not vary the requirements of any provision of this Code unless it makes a positive finding, based on substantial competent evidence, on each of the following:

1. There are practical or economic difficulties in carrying out the strict letter of the regulation.
2. The variance request is not based exclusively upon a desire to reduce the cost of developing the site.
3. The proposed variance will not substantially increase congestion on surrounding streets, and will not increase the danger of fire, or other hazards to the public.
4. The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site.
5. The effect of the proposed variance is in harmony with the general intent of this Code and the specific intent of the relevant subject area(s) of this Code, such as parking, buffer zones, accessory uses, and the like.

C. Imposition of Conditions. In granting a development approval involving a variance, the City Commission may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to allow a positive finding to be made on any of the foregoing factors, or to minimize the injurious effect of the variance.

D. Part of Public Hearing. The initial determination, required findings and imposition

of conditions shall be a part of the public hearing.

E. Record of Variances to Be Maintained. The Administrator shall maintain a record of all variances including the justification for their issuance and a copy of the notice of the variance. The Administrator shall report all variances in the annual report to the City Commission.

10.01.04. Coastal Construction Setbacks

Variances to the Coastal Construction setback shall only be granted consistent with the provisions contained at Section 5.01.07 C. and D. and Section 6.01.03 of this Code.

(History: Ord. No. 372)

10.01.05. Parking

Variances to the parking requirement of this code shall only be granted in accordance with the provisions contained at section 6.03.02 of this code.

(History: Ord. No. 372)

10.02.00. TRANSFER OF DEVELOPMENT RIGHTS (TDR) AND CLUSTERING

10.02.01. Generally

The density or intensity of a use that would have been allowed on a site designated as an "Environmentally Sensitive" or "Conservation" area in the absence of the application of this Code may be used through the transfer of development rights off-site or by "clustering" the development within non-sensitive areas within the project site.

10.02.02. Sending Zones

Lands from which development rights may be transferred are "sending zones." Only land within the jurisdiction of the City may be used

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as a sending zone. Submerged lands within the jurisdiction of the state are not eligible as a sending zone.

10.02.03. Receiving Zones

Lands to which development rights may be transferred are "receiving zones." Only land which is not a Wetland or Shoreline Protection Zone and which is not environmentally sensitive or a conservation area may be designated as a receiving zone. See Section 5.01.00 of this Code.

10.02.04. Transferable Development Rights

A. Development Rights Created. Development Rights are hereby created by the City of Cedar Key. All Protected Environmentally Sensitive Areas, except for those owned by a public agency and those subject to a conservation easement or other legal restriction precluding the physical development of the land on the effective date of the Code, are assigned City of Cedar Key Development Rights.

B. Transferable Ratio. Fifty percent (50%) of the development potential for Wetlands or other environmentally sensitive areas may be transferred. Owners of protected environmentally sensitive areas are entitled to transfer fractional development rights at the ratio herein established from lands which have not otherwise been used for determining development potential to lands which may be designated as receiving zones. In computing the land area and development rights to be transferred any fraction equal to one-half ($\frac{1}{2}$) or greater shall be rounded to the nearest whole number.

C. Severability. City of Cedar Key Development Rights shall be severable from the underlying use and shall be transferable to receiver zones.

D. Use of Development Rights on Commercial Receiving Zones. If the receiver site is designated for commercial uses, each Development right may be used to increase the intensity of the commercial use by fifty percent (50%) of the development potential of the sending zone. Fifty percent (50%) of the Impervious Surface Ratio (Lot Coverage) and fifty percent (50%) of the Floor Area Ratio that may have potentially existed on the sending zone may be transferred to the commercial receiving zone.

E. Use of Development Rights on Residential Receiving Zones. If the receiver site is designated for residential uses, each Development Right may be used to increase the density of the residential use by 2.5 dwelling units per acre of the development potential that may have existed on the sending zone.

F. Maximum Density/Intensity. Development rights transferred may not be used to increase the density or intensity of a site above the levels established in Part 2.04.00 of this Code, Density and Intensity Bonuses. A site may not exceed fourteen (14) dwelling units per acre and may not exceed fifty percent (50%) ISR (Lot Coverage) or one-hundred percent (100%) FAR (Floor Area Ratio) after receiving transferred rights.

G. Limitations Because of Conflicts. If the city determines, during the review process established in this Code, that the receiving zone parcel proposed for development reflects unique or unusual circumstances, or that development of the parcel at the maximum density would affect surrounding uses in a manner contrary to the public health, safety, and welfare, or would be inconsistent with the Comprehensive Plan, the City Commission may limit the number of development rights transferred to the receiver parcel. Any development order that limits the use of development rights to less than the maximum density indicated above shall include

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specific findings of fact on which the restriction is based and shall specify what changes, if any, would make the parcel proposed for development eligible for development at the maximum indicated density.

10.02.05. Procedure for Transferring Development Rights

- A. **Timing.** Development rights allotted to an environmentally sensitive area may be transferred to any person at any time and shall be deemed, for taxation and all other purposes, to be appurtenant to the land from which the rights are transferred until a development order is issued authorizing use of the Development Rights at a receiver parcel at which time they shall attach to the receiver parcel for all purposes.
- B. **Recordation of Transfer of Development Rights.** No development right shall increase the intensity or density of the use of a receiver site until the owner of the transferor parcel has recorded a deed in the chain of title of the transferor parcel expressly restricting the use of the land in perpetuity to a conservation zone. The deed restriction shall be expressly enforceable by the City, and a boundary plat for the transferor parcel shall be recorded reflecting the restriction. The plat shall indicate the area of the site so transferred by indicating the number of acres, fractions of acres or square feet therein.
- C. **Evidence of Restriction Required for Development Approval.** A developer of a receiver site must submit, in conjunction with his application for development approval, evidence that the transferor parcel has been restricted to non-development uses and that a boundary plat has been recorded in accordance with the above provision.
- D. **Process.** An application to Transfer Development Rights must be submitted at least thirty (30) days in advance of a hearing. Notice of a public hearing must be made by mail to all

property owners whose property abuts both the sending zone and the receiving zone; by posting a notice on both the sending zone and receiving zone property; and, by posting a notice at City Hall. All required notices shall be made at least fifteen (15) days prior to the hearing. An application to Transfer Development Rights shall be heard by the City Commission which shall make a determination to grant or deny the application based on the requirements of this Code. The decision by the City Commission shall be supported by written findings.

E. **Record of Transfer to Be Made and Land Posted.** The Administrator shall maintain a record of all Transfers of Development Rights and the City Land Use Map shall reflect the designation of sending zones as conservation areas. Sending Zones shall be posted with signs designating the area as a "Coastal Resource Protection Zone." Signs shall be no larger than twelve by eighteen inches (12 x 18) and limited to five (5) feet in height and shall not occur closer than a distance of ninety-eight (98) feet apart. The cost of signs required shall be paid by the person receiving the development rights transferred from the site.

10.02.06. Effect of a Transfer of Development Rights

By transferring the development rights of a sending zone the owner shall be deemed to have waived all future right of development, including but not limited to any development right(s) or activities which may have been authorized by Part 5.01.03 of this Code, Development Activities Within Protected Zones.

10.02.07. Limitations on Clustering

If the city determines, during the development review process established in this Code, that a proposed cluster development reflects unique or unusual circumstances, or that development of the parcel at the maximum density allowed would, as a result of the density concentration

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allowed through clustering, affect surrounding uses and properties in a manner contrary to the public health, safety, and welfare, or would be out of scale with surrounding development, the City Commission may limit the development to a level necessary to ensure compatibility with surrounding properties. Any development order that limits the use of development rights to less than the maximum density otherwise allowed by this code shall include specific findings of fact on which the restriction is based and shall specify what changes, if any, would make the parcel proposed for development eligible for development at the maximum indicated density.

(History: Ord. No. 371)

10.03.00. EXISTING NONCONFORMING DEVELOPMENT

10.03.01. Defined

Nonconforming development is development that does not conform to the land use regulations in Article II and/or the development design and improvement standards in Article VI and/or the sign standards in Article VII.

10.03.02. Continuation of Nonconforming Development

Subject to the provisions below for terminating nonconforming development, such development may, if otherwise lawful and in existence on the date of enactment of this Code, remain in use in its nonconforming state.

10.03.03. Termination of Nonconforming Development

A. Generally. Nonconforming development must be brought into full compliance with the use regulations in Article II of this Code, and the development design and improvement standards in Article VI of this Code, in conjunction with the following activities:

1. When the gross floor area of the development is expanded by more than twenty percent (20%). Repeated expansions of a development, constructed over any period of time commencing with the effective date of this Code, shall be combined in determining whether this threshold has been reached.

2. Reconstruction of the principal structure after the structure has been substantially destroyed by fire, storm or other calamity. A structure is "substantially destroyed" if the cost of reconstruction is fifty percent (50%) or more of the fair market value of the structure before the calamity. If there are multiple principal structures on a site, the cost of reconstruction shall be compared to the combined fair market value of all the structures. Properties listed on the Local Register of Historic Places shall be exempt from this provision, provided redevelopment of the historic structure does not cause it to lose its historic designation.

B. Special Provisions for Specific Nonconformities.

1. Nonconformity with Stormwater Management Requirements. In addition to the activities listed in Section 10.03.03.A, an existing development that does not comply with the stormwater management requirements of this Code must be brought into full compliance when the use of the development is intensified, resulting in an increase in stormwater runoff or added concentration of pollution in the runoff.

2. Nonconformity with Parking and Loading Requirements. In addition to the activities listed in Section 10.03.03.A, full compliance with the requirements of this Code shall be required where the seating capacity, area, or other factor controlling the number of parking or loading spaces required by this Code is increased by twenty percent (20%) or more.

3. Nonconforming Signs.

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a. Defined. A nonconforming sign is any legal sign within the City which after October 18, 2016 is prohibited by or does not conform to the requirements of this Code; except that signs that are within ten percent (10%) of the height and size limitations of this Code and that in all other respects conform to the requirements of this Code shall not be deemed nonconforming signs.

b. Amortization. Except for outdoor advertising signs as provided in section 8.05.10 of this Chapter, nonconforming signs shall be removed or altered to be in conformance with this Code as follows:

i. Notwithstanding any other provision of this subsection, all unlawful and nonconforming temporary signs within public rights-of-ways shall not be amortized and shall be subject to immediate removal by the City;

ii. Notwithstanding any other provision of this subsection, all parcels with signs that together constitute more than one hundred fifty percent (150%) of the permitted sign area for that parcel shall be required to reduce the total sign area to no more than one hundred fifty percent (150%) of the allowed sign area within ninety (90) days from October 18, 2016. Any remaining nonconforming signs shall be amortized as described below.

iii. All nonconforming signs with a cost of less than one hundred dollars (\$100) shall be removed or made to conform by December 31, 2016.

iv. All nonconforming signs with a cost of between \$100.00 and \$1,000.00 shall be removed or made to conform within two (2) years from October 18, 2016.

v. All nonconforming signs with a cost of more than \$1,000.00 shall be removed or made to conform within five (5) years from October 18, 2016.

vi. Any owner of a nonconforming sign requesting an amortization period shall by December 31, 2016 file with the Administrator a sworn statement setting forth the cost of the sign together with any proof available of said cost. Upon acceptance by the Administrator of the claimed cost, the owner shall be required to execute a written amortization agreement acknowledging the owner's obligation to remove the nonconforming sign no later than the expiration date of the amortization period determined applicable to the sign.

c. Continuation of Nonconforming Signs.

i. Prohibition against increases in nonconformity. Nonconforming signs shall not be: structurally changed or altered in any manner that increases the degree of nonconformity, but may be altered to decrease its nonconformity.

ii. Ordinary repair and maintenance. Ordinary repair and maintenance of nonconforming signs covered by an amortization agreement or legal nonconforming outdoor advertising signs is permitted as follows: (a) work necessary to keep the sign in a good state of repair; or (b) painting or otherwise altering the copy of the sign face.

d. Substantial Destruction

i. Amortized Signs. Should a nonconforming sign covered by an amortization agreement be destroyed or damaged by any means to an extent of more than fifty-percent (50%) of its cost established when entering the amortization agreement, it may only be reconstructed in compliance with Article 8 of this Code

ii. Outdoor Advertising Signs. Should a legal nonconforming outdoor advertising sign be destroyed or damaged by any means to an extent of more than fifty-percent (50%) of its replacement cost; it shall not be reconstructed except in compliance with Article 8 of this

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Code, Provided however, that if the location of the substantially destroyed sign does not conform with Article 8 of this Code, the City Commission may utilize the procedures of section 70.20, Florida Statutes for reconstruction and relocation of a sign, or for provision of just compensation for the removal of a sign, or may permit the reconstruction of the sign at the same location of the substantially destroyed sign, whichever the Commission determines is in the best interest of the City.

e. Prolonged Vacancy. After a vacancy of six (6) months, all nonconforming signs governed by an amortization agreement shall be removed or brought into compliance.

4. Nonconforming Vehicle Use Areas

a. A vehicle area is any portion of a development site used for parking, circulation, and/or display of motorized vehicles, except junk or automobile salvage yards.

b. In addition to the activities listed in Section 10.03.03.A, an existing vehicle use area that does not comply with the requirements of this Code must be brought into full compliance when twenty-five percent (25%) or more of the paving or surface of the vehicle use area is replaced or resurfaced.

c. When the square footage of a vehicle use area is increased, compliance with this Code is required as follows:

i. Expansion by ten percent (10%) or less: When the vehicle area or underlying use is expanded by less than 10%, only the expansion area must be brought into compliance with this Code.

ii. Expansion by more than ten percent (10%): When a vehicle area or underlying use is expanded by more than ten percent (10%), the entire vehicle use area requirement of this Code shall be brought into compliance.

iii. Repeated Expansions: Repeated expansions of the underlying use, or resurfacing or replacement of paving of a vehicle use area over a period of time commencing with the effective date of this Code shall be combined in determining whether the above threshold has been reached.

5. Nonconformity with Base Flood Elevation

a. Elevation or replacement of existing structures on a site developed before adoption of this Code or City Ordinance #221 or #242 may be permitted by a variance solely for the purpose of meeting the Base Flood Elevation (BFE) requirements of Ordinance #221, "FEMA".

b. Any variance granted under this part shall not, on average, increase or intensify other nonconformities with this Code or any City Ordinance and shall otherwise be consistent with this Code or the City's Comprehensive Plan.

c. In granting a variance under this part, the City Commission or Land Development Regulation Commission shall encourage the resiting of existing development to reduce or eliminate any other nonconformities.

d. Nothing in this part shall be interpreted as disallowing activities permitted under Section 10.03.03.01A and B (Ordinance 260).

(History: Ord. No. 250)

10.03.04. Reconfiguration of Nonconforming Lots

A. Generally. Any number of adjacent lots, some or all of which are nonconforming, may be realigned if the standards in this subsection are met.

B. Definition. "Reconfigured" shall mean that the direction of the long axis of the lot is changed ninety (90) degrees. See Figure 10.03.04-A below.

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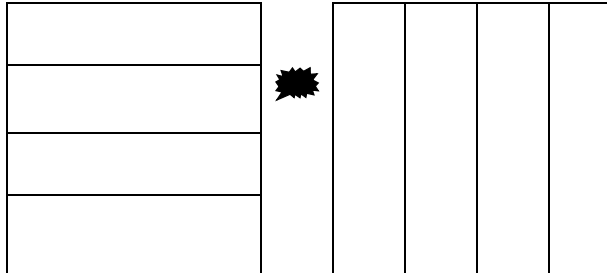


Figure 10.03.04-A: Reconfiguration of Four (4) Adjacent Lots

C. Standards. The City Commission may approve an application for such reconfiguration if each of the following is found:

1. The resulting alignment is compatible with surrounding development.
2. The resulting alignment creates lots that can be built upon meeting required setbacks or other site design requirements.
3. Each re-aligned lot fronts on a public or private street.
4. The reconfiguration maintains the same number of lots, or results in fewer lots.
5. No reconfigured lot is smaller than the smallest of the original lots.
6. No reconfigured lots may have any improvements on them.
7. The reconfigured lots may not be developed at a higher density after the reconfiguration than was allowed before the reconfiguration.

D. Procedure.

1. If the total number of lots, as realigned, is three (3) or more, the replat requirements in Chapter 177, Florida Statutes, shall be met.

2. If the total number of lots, as realigned, is less than three (3), the Minor Replat procedure in this Code may be used.

(History: Ord. Nos. 359, 369)

10.04.00. BULKHEADS AND SEAWALLS

10.04.01. Generally

A. When Allowed. The City of Cedar Key, Comprehensive Plan prohibits construction of bulkheads and seawall except where demonstrated necessary to protect an existing structure. Bulkheads and seawalls shall only be allowed in compliance with this Section. No variances may be granted.

B. Factors to be Considered in Reviewing Proposed Bulkhead or Seawall. The City Commission shall consider the following factors in its review of an application for a bulkhead or seawall:

1. Whether the proposed bulkhead or seawall has been demonstrated by a qualified Florida Registered Engineer to be necessary to protect an existing structure from loss due to coastal subsidence.
2. Whether the bulkhead or seawall is the minimum size necessary to protect the threatened structure.
3. Whether the applicant has demonstrated that practical alternative means of protecting the structure were considered and determined ineffective.

10.04.02. Submittals

A. Application. A bulkhead or seawall permit application shall be applied for on a form provided by the Building Official. At a minimum, the following information shall be provided:

1. Name, address, and telephone number of the owner.

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2. If an agent is making the application on behalf of the owner, the name, address, and telephone number of the agent, and a signed authorization by the owner that the agent is acting on the owner's behalf.

3. The address of the property, or other description of its location.

4. A description of the proposed bulkhead or seawall. Detailed information shall be provided relating to each of the factors listed in 10.04.01 B above.

5. Certification by a Florida Registered Engineer that the proposed bulkhead or seawall is needed for the preservation of an existing structure.

B. Site Plan.

In addition to the written application, the applicant shall submit a site plan prepared by a registered engineer, architect, or landscape architect. The Building Official may waive the requirement that the site plan be prepared by a registered engineer, architect, or landscape architect if the Building Official finds that, due to the simplicity of the project, the necessary site design information may be adequately presented on plans prepared by a non-professional. The site plan shall show the following, where relevant to the project:

1. The location of the site and all surrounding uses, public facilities, and environmental resources within 200 feet of the boundaries of the site;

2. The location of all existing uses, public facilities and environmental resources on the site, including all setbacks, environmental buffers, and other non-developable areas as set forth in this Code;

3. The location of the proposed bulkhead or seawall and facilities including the following:

4. Buildings, including accessory buildings and any other man-made structures.

5. Stormwater management facilities.

6. Utilities, including dumpsters and air conditioning units.

10.04.03. Procedures

A. Review by Building Official.

1. The Building Official shall review the application and site plan for completeness. If incomplete, the Building Official shall return the submittals to the applicant with a description of what additional information is needed.

2. Upon receipt of a complete application and site plan, the Building Official shall review the submittals and, within 20 days of receipt of the complete submittals, prepare a report addressing the following:

a. Whether the proposal is consistent with the Cedar Key Comprehensive Plan and complies with all applicable provisions of this code;

b. Any failure by the proposal to adequately address any of the factors listed in 10.04.01 B above.

B. Notice. Upon receipt of complete submittals, the Building Official shall place the application on the agenda of the next City Commission meeting allowing for the 20-day review period set forth in 10.04.03(A)(2) above. The Building Official shall then immediately post a sign on the property giving notice of the nature of the proposed use and the date, time, and location of the City Commission meeting at which the application will be considered.

C. Review by City Commission.

The City Commission shall hold a quasi-judicial hearing, in accordance with the procedures established in Section 12.02.04 of this Code, on

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the application for a development order authorizing the construction of the bulkhead or seawall. The Commission's decision to grant or deny the requested development order shall be set forth in a written order which shall contain findings and conclusions on each of the factors listed in B above.

The City Commission may approve an application with conditions so long as each

condition is reasonable, clearly described, and supported by a finding or conclusion of the Commission on one or more of the factors listed in 10.04.01(B) above.

(History: Ord. No. 374)

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ARTICLE XI: BOARDS AND AGENCIES

11.00.00. GENERALLY

11.00.01. Boards Established

The following boards and agencies are created to administer the provisions of this Code under the authority prescribed by this Code and Florida Law.

11.01.00. PLANNING BOARD

11.01.01. Creation and Authority

Pursuant to and in accordance with the "Local Government Comprehensive Planning and Land Development Regulation Act," Chapter 163, Part II, Florida Statutes, the City of Cedar Key, Planning Board is hereby established. The Planning Board shall have all powers and duties enumerated by this Code and the laws of the State of Florida, as set forth below.

11.01.02. General Functions, Powers and Duties

The Planning Board shall have the following general functions, powers and duties:

- A. To serve as the Local Planning Agency pursuant to Section 163.3174, Florida Statutes.
- B. To serve as the Land Development Regulation Commission as defined at Section 163.3164(22), Florida Statutes.
- C. To consider, at least semiannually in June and November of each year, requests and proposals for amendments to the Comprehensive Plan in accordance with the provisions of §163.3184 and §163.3187 F.S.
- D. To annually review, modify and update the Capital Improvements Element of the Comprehensive Plan as provided in §163.3177(3)(a)3(b) and to incorporate the costs and revenue sources established therein in the Annual City Budget.

E. To conduct an appraisal and evaluation of the Comprehensive Plan in accordance with §163.3191 F.S.

F. To oversee the operation, effectiveness and status of this Code and to consider amendments that are consistent with, implement and further the intent of the adopted Comprehensive Plan.

G. To conduct public hearings to gather information necessary for the drafting, establishment, amendment, and maintenance of the various elements of the Comprehensive Plan and provisions of this Code.

H. To keep the general public informed and advised on the land use plan and policies of the City.

I. To obtain and maintain information on population, property values, the local economy, land use, resource impacts, growth, development and other information necessary to assess the amount, type, direction and impact of development to be expected in the City.

J. To perform other lawfully assigned duties.

11.01.03. Membership

A. The Planning Board shall have five (5) members, representing a cross section of the City, appointed by the City Commission. Members of the Planning Board shall be and remain bona fide residents of the city. If at any time any member of the Planning Board fails to be a resident of the City the person shall be automatically disqualified and removed from the Planning Board.

B. Each member shall be appointed to a three year term commencing on November 1 of the year appointed, except that for the initial appointments following the adoption of this

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ordinance, two members shall be appointed for terms through October 31, 2015, two members shall be appointed for terms through October 31, 2016, and one (1) member shall be appointed for a term through October 31, 2017. Appointments shall be made at a City Commission meeting in October. No person may serve more than two consecutive three year terms. Persons disqualified by this provision may be reappointed after one (1) year elapses after the expiration of the second term of service.

C. When a position becomes vacant before the end of the term, the City Commission shall appoint a substitute member to fill the vacancy for the duration of the vacated term. A member whose term expires shall continue to serve until a successor is appointed and qualified.

D. Pursuant to Section 163.3174(1), Fla. Stat., when acting as the Local Planning Agency, the Planning Board shall include one additional nonvoting member appointed by the Levy County School Board.

(History: Ord. Nos. 363, 439, 492)

11.02.00. TECHNICAL REVIEW COMMITTEE

11.02.01. Creation and Membership

There is hereby created a Technical Review Committee which shall be composed of the Planning and Development Administrator who shall serve as chair, the engineer or supervisor of the Cedar Key Water and Sewer District, and one representative of the building or construction industry who shall serve as a volunteer and shall be appointed by the City Commission.

11.02.02. General Functions, Powers and Duties

The committee shall meet at the call of the chair to perform such functions as are given to the Committee elsewhere in this Code.

(History: Ord. No. 327)

11.03.00. HISTORIC PRESERVATION ARCHITECTURAL REVIEW BOARD

11.03.01. Creation and Membership

A. There is hereby created an Historic Preservation/ Architectural Review Board. The City Commission, whenever possible, shall appoint citizen volunteer members representing two (2) or more of the following areas of expertise:

Architecture, Engineering or Building Industry;
Urban Planning, Law, History or Real Estate.

B. The Board shall consist of not less than three (3), nor more than five (5) members and shall meet at the call of the chair. The Board shall elect one of its appointed members to act as chair. The length of terms of office shall be as provided for in Section 11.04.01 of this Chapter, except that there shall be no limit to the number of consecutive terms a citizen member may serve.

(History: Ord. Nos. 384, 420, 454)

11.03.02. General Functions, Powers and Duties

The Historic Preservation Board shall review development proposals for visual compatibility, advise the City Commission on the regulation of historic buildings in Cedar Key, make recommendations to the City Commission regarding additions or deletions to the Local Register of Historic Places, and shall conduct hearings and issue final orders on applications for certificates of appropriateness.

A. The Historic Preservation Board of Cedar Key must conduct a minimum of four (4) meetings per year.

B. Minutes from each meeting must be recorded and maintained in accordance to City

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Regulations. These minutes will be held as public record.

C. It is encouraged for Historic Preservation Board members attend pertinent informational or educational meetings, workshops, or conferences. Board members are also encouraged to participate in survey and planning activities.

D. The Historic Preservation Board should review proposed National Register nominations within the City of Cedar Key jurisdiction.

E. The Historic Preservation Board should seek expertise on proposals or matters requiring evaluation by a profession not represented on the Historic Preservation Board.

F. A City of Cedar Key staff member will undertake the requirements for certification and carry out delegated responsibilities

G. Commission responsibilities complementary to those of the State Historic Preservation Office. The State Historic Preservation Officer will be provided with thirty (30) calendar day notice prior to all meetings and meeting minutes will be submitted within thirty (30) calendar days along with a record of attendance.

H. Membership changes to the Historic Preservation Board will be submitted within thirty (30) calendar days of action. New Historic Designations or alterations to existing designations will be notified to the State Historic Preservation Officer immediately. Amendments to ordinance to the State Historic Preservation Officer for review and comment will be provided with at least thirty (30) calendar days prior to adoption.

I. The Historic Preservation Board will initiate and continue to identify Historic Properties within the City of Cedar Key and inventory with the Florida Site File database.

J. The Contributing Site List will be maintained and updated periodically within the City of Cedar Key and held as public record. Duplications of all inventory materials will be provided to the State Historic Preservation Office.

K. Any National Register nominations will provide local officials, owners of record, and applicants a minimum of thirty (30) calendar days and not more than seventy-five (75) calendar days' notice to Historic Preservation Board meetings. All object ions by property owners must be notarized to prevent nomination to t he National Register.

L. An annual report will be submitted by November 1 covering all activities of previous fiscal year of October 1 through September 30. The annual report must include; (i) a copy of the Rules of Procedure; (ii) a copy of historic preservation ordinance; (iii) resume of Commission members; (iv) changes to the Board; (v) new Local designations; (vi) new National Register listings; (vii) review of survey and inventory activity with a description of the system used; (viii) program report on each grant-assisted activity; (iv) number of projects reviewed.

11.04.00. COMMITTEE, BOARD AND AGENCY RULES

11.04.01. Terms of Office

Except as may otherwise be provided under the Section of this Code applicable to a board or committee, each citizen member of a board or committee shall be appointed to a three (3) year term, except that, initially, one-third of the appointed members shall serve a two (2) year term and one-third shall serve a one (1) year term. No person may serve more than two (2) consecutive three (3) year terms. Persons disqualified by this provision may be re-appointed after one year elapses after the expiration of the second full term of service.

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Elected officials and staff members from governmental agencies shall be exempt from the term of office provisions required herein so long as they continue to hold the elected or staff office.

(History: Ord. No. 420)

11.04.02. Code of Ethics

Members of committees, boards and agencies shall be governed by Florida Statute 112, Part III, Code of Ethics for Public Officers and Employees.

11.04.03. Removal and Replacement

Members may be removed without notice and without assignment of cause by a majority vote of the City Commission. The City Commission shall appoint a substitute member when a position becomes vacant.

11.04.04. Procedures

Each board shall adopt rules of procedure to carry out its purposes. All rules must conform to this Code, the City Charter, other City ordinances and State Law, including F.S. 286.011, Public Meeting and record. Each board shall keep minutes and written findings on each proposal, indicating the attendance of each member, and the decision on each question. Each decision must be approved by a majority vote of the members present at a duly called meeting in which a quorum is in attendance and voting. A quorum shall consist of a majority of the members of the board or committee.

11.05.00. PLANNING AND DEVELOPMENT DEPARTMENT

11.05.01. Creation

There is hereby created a Planning and Development Department which shall succeed and incorporate the functions of the Building and Zoning Department under the direction and control of the City Commission. The

Department shall perform all functions relating to administration of this Code.

11.05.02. Planning and Development Administrator

There is hereby established the position of Planning and Development Administrator to be appointed by and serve at the pleasure of the City Commission. The Administrator shall perform the duties and responsibilities prescribed by this Code, including, but not limited to, the following:

A. Planning. The Administrator shall be responsible for Comprehensive Planning and, in cooperation with the Office of the City Clerk, shall assist in the programming and preparation of the Annual Capital Improvements Plan. The Administrator shall schedule all applications before the Planning Board, the Land Development regulation Commission and/or City Commission.

B. Development. The Administrator shall be responsible for the implementation of this Land Development Code including, but not limited to, the following:

1. Receive all applications for development approval.
2. Determine the completeness of development applications.
3. Conduct all pre-application conferences.
4. Serve as chairman of the Technical Review Committee and schedule all applications before the committee. Upon a majority vote of the committee, the Administrator may approve any application for development which does not otherwise require the approval of any other board or agency.
5. Serve as staff to the Historic Preservation/Architectural Review Board and schedule all applications before the board.

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6. Ensure that proper notice is given prior to all hearings on development applications.

7. Ensure that all time limits prescribed by this Code are met.

8. Monitor the progress of all development applications through the review process and be available to respond to the queries of interested persons.

9. Perform all other duties prescribed by this Code.

C. Building Official. The Administrator shall perform the duties and exercise the powers of the Building Official as described in the Standard Building Code.

D. Code Enforcement. The Administrator shall perform the duties of Code Enforcement Officer.

(History Ord. No. 454)

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ARTICLE XII: ADMINISTRATION AND ENFORCEMENT

12.00.00. GENERALLY

12.00.01. Purpose

This Article sets forth the application and review procedures required for obtaining development orders and permits. This Article also specifies the procedures for appealing decisions and seeking legislative action.

12.00.02. Withdrawal of Applications

An application for development review may be withdrawn at any time so long as no public notice has been given that the application will be reviewed at a public hearing.

12.00.03. Definitions

Adversely Affected Person

Any person who is suffering or will suffer an adverse effect to an interest protected or furthered by the adopted Comprehensive Plan, including but not limited to: interests related to health and safety; police and fire protection services; densities or intensities of development; transportation facilities; recreational facilities; educational facilities; health care facilities, equipment, or services; and environmental or natural resources. The alleged adverse effect may be shared in common with other members of the community at large, but must exceed in degree the general interest in community good shared by all persons.

Density or Gross Density

The total number of dwelling units divided by the total upland site area, less any dedications, easements or public right-of way.

Development or Development Activity

Any of the following activities:

A. Construction, clearing, filling, excavating, grading, paving, dredging, drilling or otherwise significantly disturbing the soil of a site;

B. Building, installing, enlarging, replacing or substantially restoring a structure, impervious surface, or water management system, and including the long-term storage of materials;

C. Subdividing land into two (2) or more parcels;

D. A tree removal for which authorization is required under this Code;

E. Erection of a permanent sign unless expressly exempted by Article VIII of this Code;

F. Alteration of an historic property for which authorization is required under this Code;

G. Changing the use of a site so that the need for parking is increased;

H. Construction, elimination or alteration of a driveway onto a public street;

I. Any activity which has an impact on level of service or infrastructure capacity.

Development Order

An order granting, denying, or granting with conditions an application for approval of a development plan pursuant to the procedures in 12.02.00 below.

Development Permit

The development permit is that official city document which authorizes the start of construction or land alteration without need for further application and approval. Development permits include: all types of construction permits

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(plumbing, electrical, and so forth, in addition to the building permit itself), clearing and grading permits, sign permits, septic tank permits, tree removal permits, or any activity which requires a permit.

Dwelling Unit

A single housing unit providing complete, independent living facilities for one (1) housekeeping unit, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Floor Area/Gross Floor Area

The sum of the gross horizontal area of several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two (2) buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six (6) feet. Floor area does not include the non-habitable, limited storage space without utilities below base flood elevation.

Impervious Surface

A surface that has been covered by a structure or compacted with a layer of material so that it is highly resistant to infiltration by water, it includes, but is not limited to semi-impervious surfaces such as compacted clay or lime rock as well as most conventionally surfaced streets, roofs, sidewalks, parking lots swimming pools, patios and other similar structures. Impervious surface of structures is measured from eave overhang, from drip line to drip line.

Improvement

Any man-made, immovable item which becomes part of, is placed upon, or is affixed to real estate.

Minor Replat

The subdivision of a single lot or parcel of land into two (2) lots or parcels, or the reconfiguration of two (2) or more lots or parcels to create no more than two (2) lots or parcels.

Owner

A person who, or entity which, alone, jointly or severally with others, or in a representative capacity (including without limitation, an authorized agent, attorney, executor, personal representative or trustee) has legal or equitable title to any property in question, or a tenant, if the tenancy is chargeable under his lease for the maintenance of the property.

Parcel

A unit of land within legally established property lines. If, however, the property lines are such as to defeat the purposes of this Code or lead to absurd results, a "parcel" may be as designated for a particular site by the Building Official.

Vehicle Use Area

An area used for parking, circulation, and/or display of motorized vehicles, except junk or automobile salvage yards.

(History: Ord. No. 333)

12.01.00. DEVELOPMENT PERMIT REQUIRED BEFORE ANY DEVELOPMENT ACTIVITY

12.01.01. Generally

No development activity may be undertaken unless the activity is authorized by a development permit.

12.01.02. Prerequisites to Issuance of Development Permits

Except as provided in Section 12.01.03 below, a development permit may not be issued unless the proposed development activity:

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- A. Is authorized by a Final Development Order issued pursuant to this Code; and
- B. Conforms to the Technical Construction Standards Manual adopted by reference in Article I of this Code; and
- C. Conforms, where applicable, to FEMA Regulations - City Ordinance 221.
- D. Before any development permit is issued, the site plan shall be approved by the City. The City is authorized to and shall retain all necessary consultants, firms or experts to conduct said review who shall make a recommendation as to whether a site plan is to be approved. This process and review shall be at the expense of the developer, who shall place with the City a monetary deposit, at the time of submission of his site plan. All single family dwellings (and accessory structures associated therewith) and commercial developments of less than 2,000 square feet shall be exempt from this requirement.

(History: Ord. No. 288)

12.01.03. Exceptions to Requirement of a Final Development Order

A development permit may be issued for the following development activities in the absence of a final development order issued pursuant to this Code. Unless otherwise specifically provided, the development activity shall conform to this Code and the Technical Construction Standards Manual.

- A. Development activity necessary to implement a valid Site Plan/Development Plan approved prior to the adoption of this Code and which is still in effect or on which the start of construction took place prior to the adoption of this Code and has continued in good faith. Compliance with the development standards in this Code is not required if in conflict with the previously approved plan.

- B. The construction or alteration of a single family dwelling unit on a platted lot of record in a valid recorded subdivision approved prior to the adoption of this Code which meets the density standards of this Code, except that a variance may be granted for a substandard lot of record where no alternative use is possible.

- C. The alteration of an existing building or structure so long as no change is made to its gross floor area, its use, or the amount of impervious surface on the site.

- D. The erection of a sign or the removal of protected trees or vegetation on a previously approved and developed site and independent of any other development activity on the site.

- E. The re-surfacing of a vehicle use area that conforms to all requirements of this Code.

- F. A Minor Replat granted pursuant to the procedures in Part 12.03.00 of this Article.

12.01.04. Post-Permit Changes

After a permit has been issued, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of the permit without first obtaining a modification of the permit. A modification may be applied for in the same manner as the original permit. A written record of the modification shall be entered upon the original permit and maintained in the files of the Building Official .

12.02.00. PROCEDURE FOR REVIEW OF DEVELOPMENT PLANS

12.02.01. Pre-Application Conference

Prior to filing for development plan review, the developer shall meet with the Building Official to discuss the development review process. No person may rely upon any comment concerning a proposed development plan, or any expression of any nature about the proposed development made by any participant at the pre-application

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conference as a representation or implication that the proposed development will be ultimately approved or rejected in any form. The User's Guide in Article I of this Code may be used as a guide to the discussion of the proposed development in the Pre-Application Conference.

12.02.02. Administrative Review of Development Plans

A. The developer shall submit a an Application and Development Plan meeting the requirements of Section 12.02.05 below.

B. Within five (5) working days the Building Official shall determine that the Plan is complete or incomplete. If incomplete, the developer may submit an amended Plan within thirty (30) days without payment of a reapplication fee, but, if more than thirty (30) days have elapsed, must thereafter re-initiate the review procedure and pay an additional fee.

C. A copy of the plan shall be sent to each member of the Technical Review Committee. Each member shall review the proposal and submit written comments to the Building Official within ten (10) days of completed application distribution to members.

D. The Building Official shall review the Plan and comments of the Technical Review Committee and, within twenty (20) working days of the submission of the proposed development plan, prepare a report on whether the proposal complies with this Code and other applicable regulations of the City of Cedar Key.

E. After the compliance report is completed, the Building Official shall set the matter for hearing before the City Commission at the next available meeting allowing for notice as required by Section 12.02.03 below.

12.02.03. Notice of Hearing Before City Commission

At least fifteen (15) days prior to the hearing before the City Commission, the Building Official shall post a sign on the site of the development and mail written notice to the developer and to all property owners with property abutting the development site. The posted and written notice shall state the date, time and place of the hearing; shall summarize the proposed development; and shall state how additional information about the proposal and hearing procedures may be obtained.

12.02.04. Hearing Before City Commission

The hearing procedures set forth in Section 12.05.00 shall be followed.

(History: Ord. No. 408)

12.02.05. Submittals

A. Application. Applications for development plan review shall be available from the Building Official. A completed application shall be signed by all owners, or their agent, of the property subject to the proposal, and notarized. Signatures by other parties will be accepted only with notarized proof of authorization by the owners. In a case of a corporate ownership, the authorized signature shall be accompanied by a notation of the signer's office in the corporation, and embossed with the corporate seal.

B. General Development Plan Requirements. All Development Plans submitted pursuant to this Code shall conform to the following standards:

All plans shall be drawn to a scale of one (1) inch equals twenty (20) feet, unless the Building Official determines that a different scale is sufficient or necessary for proper review of the development proposal.

If multiple sheets are used, the sheet number and total number of sheets must be clearly indicated on each.

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The front cover sheet of each plan shall include:

1. A general vicinity or location map drawn to scale (both stated and graphic) showing the position of the proposed development in the Section, Township and Range, together with the principal roads, city limits, and/or other pertinent orientation information;
2. A complete legal description of the property;
3. The name, address and telephone number of the owner(s) of the property. Where a corporation or company is the owner of the property, the name and address of the president and secretary of the entity shall be shown;
4. The name, address, and telephone number of those individuals responsible for the preparation of the drawing(s);
5. Each sheet shall contain a title block with the name of the development, a stated and graphic scale, a north arrow, and date;
6. The plan shall show the boundaries of the property with a metes and bounds description reference to Section, Township and Range, tied to a subdivision name and block and lot number(s);
7. The area of the property shown in square feet and acres.

Six (6) copies of the submittal shall be required.

Unless a format is specifically called for below, the information required may be presented textually, graphically, or on a map, plan, aerial photograph, or by other means, whichever most clearly conveys the required information. It is the responsibility of the developer to submit the information in a form that allows ready determination of whether the requirements of this Code have been met.

C. Required Development Plan Information. Development Plans shall include the following information:

1. Existing Conditions
 - a. The location of existing property or right-of-way lines both for private and public property, streets, railroads, buildings, transmission lines, sewers, bridges, culverts, drain pipes, water mains, fire hydrants, and any public or private easements.
 - b. Existing Land Use/Zoning District of the parcel.
 - c. A depiction of the abutting property within four hundred (400) feet of the proposal, not including public right-of-way in the measurement, showing: (a) land uses and locations of principal structures and major landscape features; (b) densities of residential use; (c) traffic circulation systems.
 - d. Any land rendered unusable for development purposes by deed restrictions or other legally enforceable limitations.
 - e. A soils map of the site (existing U.S. Soil Conservation Service Maps or Tables in The Florida Development Manual (DER) are acceptable) or a description of existing soils and soil conditions.
 - f. A map of vegetative cover including the location and identity by common name of all protected trees and vegetation. Groups of protected trees or areas of protected vegetation may be designated by "clusters" with an estimate of the number or area noted. This information shall be summarized tabular form on the plan.
 - g. A topographic map of the site with contour lines at two (2) foot intervals clearly showing the location, identification, and elevation of bench marks, including at least one bench mark for each major water control structure.

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- h. A detailed overall project area map showing existing hydrograph and runoff patterns, and the size, location, topography, and land use of any off-site areas that drain onto, through, or from the project area.
- i. Existing surface water bodies, wetlands, streams and canals within the proposed development site, including mean high water lines, state and Army Corps of Engineers jurisdictional lines, and attendant drainage areas for each.
- j. A map showing the locations of any soil borings or percolation tests as may be required by this Code or County or State agencies.
- k. A depiction of the site, and all lands within four hundred (400) feet of any property line of the site, showing the locations of Environmentally Sensitive and Conservation Areas (Section 5.01.00 of this Code) indicating Wetland and Shoreline Protection Zones and Restricted Development Zones.
- l. The 100-year flood elevation, minimum required floor elevation and boundaries of the 100-year floodplain (Coastal High Hazard Area) for all parts of the proposed development.
- m. Drainage basins or watershed boundaries identifying locations of the routes of off-site waters onto, through, or around the project.
- 2. Proposed Development Activities and Design
 - a. Area and percentage of the total available land area (Section 2.03.01) to be covered by an impervious surface.
 - b. Grading plans specifically including perimeter grading.
 - c. Construction phase lines.
 - d. Building plan showing the location, dimensions, gross floor area, and proposed use of buildings.
 - e. Front, rear and side architectural elevations including building height.
 - f. Building setback distances from property lines, mean high water line, abutting right-of-way center lines, and all adjacent buildings and structures.
 - g. Minimum floor elevations of buildings within any 100-year flood plain.
 - h. The location, dimensions, type, composition, and intended use of all other structures.
 - i. Proposed location and sizing of potable water and wastewater facilities to serve the proposed development, including required improvements or extensions of existing off-site facilities.
 - j. The boundaries of proposed utility easements.
 - k. Location of the nearest available public water supply and wastewater disposal system and the proposed tie-in points, or an explanation of any alternative systems to be used.
 - l. Exact locations of onsite and nearby existing and proposed fire hydrants.
 - m. The layout of all streets and driveways with paving and drainage plans and profiles showing existing and proposed elevations and grades of all public and private paved areas.
 - n. A parking and loading plan showing the total number and dimensions of proposed parking spaces, spaces reserved for handicapped parking, loading areas, proposed ingress and egress including proposed modifications to public streets - and projected on site traffic flow.
 - o. The location of all exterior lighting.

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- p. The location and specifications for proposed garbage containers.
- q. Cross sections and specifications of all proposed pavement.
- r. Typical and special roadway and drainage sections and summary of quantities.
- s. All protected trees and vegetation to be removed and a statement of why they are to be removed and any mitigation plans required by this Code.
- t. Proposed changes in the natural grade and any other development activities directly affecting trees and vegetation to be retained.
- u. A statement of the measures to be taken to protect trees and vegetation and of any relocation and replacements proposed.
- v. Location and dimensions of proposed buffer zones and landscaped areas.
- w. Description of existing and proposed plant materials.
- x. An erosion and sedimentation control plan that describes the type and location of control measures, the stage of development at which they will be put into place or used, and maintenance provisions.
- y. A description of the proposed stormwater management system, including:
 - i. Channel, direction, flow rate, and volume of stormwater that will be conveyed from the site, with a comparison to natural or existing conditions.
 - ii. Detention and retention areas, including plans for the discharge of contained waters, maintenance plans, and predictions of surface water quality changes.
 - iii. Areas of the site to be used or reserved for percolation including an assessment of the impact on groundwater quality.
 - iv. Location of all water bodies to be included in the surface water management system (natural and artificial) with details of hydrography, side slopes, depths, and water-surface elevations or hydrographs.
 - v. Linkages with existing or planned stormwater management systems.
 - vi. On and off-site right-of-ways and easements for the system including locations and a statement of the nature of the reservation of all areas to be reserved as part of the Stormwater Management System.
 - vii. The entity or agency responsible for the operation and maintenance of the Stormwater Management System.
 - viii. The location of off-site water resource facilities such as works, surface water management systems, wells, or well fields, that will be incorporated into or used by the proposed project, showing the names and addresses of the owners of the facilities.
 - ix. Runoff calculations in accordance with The Florida Development Manual (DER).
 - x. The exact sites and specifications for all proposed drainage, filling, grading, dredging, and vegetation removal activities including estimated quantities of excavation or fill materials computed from cross sections, proposed within a Wetland and Shoreline Protection Zone or Restricted Development Zone.
 - z. Detailed statement or other materials showing the following:
 - i. The percentage of the land surface of the site that is covered with natural vegetation that will be removed by development.
 - ii. The distances between development activities and the boundaries of the Wetland and

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Shoreline Protection Zones and Environmentally Sensitive Areas.

iii. The manner in which habitats of endangered and threatened species are protected.

iv. Two blueprints or ink drawings of the plans and specifications of regulated signs, and method of their construction and attachment to the building or ground. The plans shall show all pertinent structural details, wind pressure requirements, and display materials in accordance with the requirements of this Code and the building and electrical codes adopted by the City. The plans shall clearly illustrate the type of sign or sign structure as defined in this Code; the design of the sign, including dimensions, colors and materials; the aggregate sign area; the dollar value of the sign; maximum and minimum heights of the sign; and sources of illumination.

aa. For regulated ground signs, a plan, sketch, blueprint, print or similar presentation drawn to scale which indicates clearly:

i. The location of the sign relative to property lines, rights of way, streets, alleys, sidewalks, vehicular access and parking areas and other existing ground signs on the parcel.

ii. All regulated trees that will be damaged or removed for the construction and display of the sign.

iii. The speed limit on adjacent streets.

iv. For regulated building signs, a plan, sketch, blueprint, or similar presentation drawn to scale which indicates clearly:

v. The location of the sign relative to property lines, rights of way, streets, alleys, sidewalks, vehicular access and parking areas, buildings and structures on the parcel.

vi. The number, size, type, and location of all existing signs on the same parcel, except a

single business unit in a multiple occupancy complex shall not be required to delineate the signs of other business units.

bb. Building elevation or the building dimensions.

cc. When any subdivision of land is proposed, the minimum available land area and location of lots.

ee. When a new replatted subdivision is proposed, the following:

i. Location of all land to be dedicated or reserved for all public and private uses including rights-of-way, easements, special reservations, and the like.

ii. Amount of area devoted to all existing and proposed land uses, including schools, open space, churches, residential and commercial, as well as the location thereof.

iii. Location of proposed development in relation to any established urban service area.

ff. The total number of residential units categorized according to number of bedrooms. The total number of residential units per acre (gross density) shall be given.

ggi. Location of onsite wells, and wells within 1,000 feet of any property line, exceeding 100,000 gallons per day.

hh. The manner in which historic and archaeological sites on the site, or within five hundred (500) feet of any boundary of the site, will be protected.

ii. For historic buildings and structures, sufficient information or detail to make a determination of compatibility with surrounding areas and any available archival reference material.

jj. If the development includes the subdividing of land, a plat that conforms with

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the requirements of Chapter 177, Florida Statutes.

12.02.06. Guarantees and Sureties

A. Applicability.

The provisions of this section apply to all proposed developments in the city, including private road subdivisions.

Nothing in this section shall be construed as relieving a developer of any requirement relating to concurrency in Article IV of this Code.

This section does not modify existing agreements between a developer and the city for subdivisions platted and a final development order granted prior to the effective date of this Code, providing such agreements are current as to all conditions and terms thereof.

B. Improvement Agreements Required.

The approval of any development plan shall be subject to the developer providing assurances that all required improvements, including, but not limited to storm drainage facilities, streets, water and sewer lines, shall be satisfactorily constructed according to the approved development plan. The following information shall be provided:

1. Agreement that all improvements in the plan shall be constructed in accordance with the standards and provisions of this Code.
2. A term not to exceed five (5) years or thirty percent (30%) occupancy of the development, during which all required improvements will be constructed.
3. The projected total cost of the improvements prepared by the applicant's engineer or provided through a copy of a construction contract.
4. Specification of the improvements to be made and dedicated and a timetable for making the improvements.

5. Agreement that upon failure of the applicant to make required improvements according to the term or timetable the city shall utilize the security provided in connection with the agreement.

6. Provisions of the amount and type of security provided to ensure performance, including a provision to reduce the security periodically, subsequent to the completion, inspection and acceptance of improvements by the city.

C. Amount and Type of Security. The amount of the security shall be one hundred and ten percent (110%) of the total construction costs for the required developer-installed improvements and may be met by, but is not limited to, one of the following:

1. Cashiers check or Certified Check
2. Surety Bond
3. Interest Bearing Certificate of Deposit
4. Irrevocable Letters of Credit
5. Developer/Lender/City Agreement

D. Completion of Improvements. When improvements are completed and certified by an appropriate state or local agency the developer may apply for release of the security bond required by this section.

E. Maintenance of Improvements. The developer shall provide a maintenance agreement and security in the amount of fifteen percent (15%) of the construction cost of the improvement to assure that all required improvements shall be maintained by the developer, a condominium association under the provisions of Chapter 718.F.S., an owner's association, or an organization established for the purpose of owning and maintaining the improvements created by covenants running with the land.

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12.03.00. PROCEDURE FOR OBTAINING A MINOR REPLAT

12.03.01. Standards and Restrictions

- A. All Minor replats shall conform to the following standards and restrictions:
- B. Each proposed lot must conform to the requirements of this Code.
- C. Each lot shall abut a public street.
- D. If the street ROW does not conform to the design specifications of this Code, the owner may be required to dedicate one-half the ROW width necessary to meet the minimum design requirements.
- E. Each proposed lot must have available public water and/or sanitary sewer service.

12.03.02. Review and Recordation

If the proposed minor replat meets the conditions of this section and otherwise complies with all applicable laws and ordinances, the City Commission shall approve the application by signing the approved replat. Upon approval of the minor replat, the applicant shall procure two copies of a boundary survey, which conforms conforming to the approval and is prepared by a licensed surveyor. The applicant shall have one copy of the boundary survey recorded in the official records of Levy County. The applicant shall provide the second boundary to the City of Cedar Key shall be provided to the City to be recorded by the City in a record of approved Minor Replats.

(History: Ord. No. 401)

12.03.03. Limitation

No further division of an approved Minor Replat is permitted under this section, unless a development plan meeting the requirement of this Code is prepared and submitted.

(History: Ord. No. 333)

12.04.00. PROCEDURE FOR OBTAINING DEVELOPMENT PERMITS

12.04.01. Application

Application for a Development Permit shall be made to the Building Official on forms provided and may be acted upon by the Building Official without public notice or hearing.

12.04.02. Submittals

Applicants shall submit the following information or items:

- A. An approved development order or a statement from the Building Official that a development order is not required.
- B. Three copies of plans or sketches of the proposed work, drawn to scale and indicating the location, sizes, dimensions, elevation, and other information deemed necessary by the Building Official to determine conformance with, and to provide for the enforcement of, this Code.
- C. Notarized proof of ownership or authorization by the owner(s) of the property.
- D. Proof that any variance or approval required by this Code has been obtained.

12.04.03. Processing

Within fourteen (14) days after receiving a complete application for a building permit, the Building Official shall either approve or reject the application. If the proposed work, as described and depicted by the applicant, is in compliance with all requirements of this Code the Building Official shall approve the application and issue a permit in writing. If the proposal is not in compliance with all of the requirements of this Code, the application shall be rejected and a written rejection, providing the reason(s) therefore, shall be provided to the applicant. Submittals required shall become part of the official records of the city.

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12.04.04. Expiration and Revocation

If the work authorized by the permit has not begun within six (6) months of the effective date of the permit or is not substantially completed within two (2) years of such date, the Building Official shall declare the permit to be expired, after which no further work under the permit shall be lawful. The Building Official may, for good cause, extend the effective date of the permit for up to six (6) months. Upon finding that any work under a permit is not in compliance with any Code, the Building Official shall revoke the permit, shall notify the holder of the permit why it is being revoked and shall allow the holder seven days in which to cure any violation or noncompliance to the satisfaction of the Building Official to have the permit reinstated.

12.05.00. CONDITIONAL USE

12.05.01. Generally

A. Uses Allowed by Conditional Use. Certain uses are set forth in Article 2 as being allowed as a conditional uses. No other use is allowed by conditional use except those specifically set forth in Article 2. The following procedures shall be followed in the review and approval or denial of applications for conditional use.

B. Factors to be Considered in Reviewing Proposed Conditional Uses. The City Commission shall consider the following factors in its review of an application for a conditional use:

1. Whether the proposed use is generally compatible with surrounding uses, public facilities, and environmental resources.
2. Whether the proposed use will have a significant adverse impact on surrounding uses, public facilities, or environmental resources due to any of the following:

- a. Parking.
- b. Noise.
- c. Lighting.
- d. Signage.
- e. The provision and location of utilities, including garbage dumpsters.

12.05.02. Submittals

A. Application. A conditional use shall be applied for on a form provided by the Building Official. At a minimum, the following information shall be provided:

1. Name, address, and telephone number of the owner.
2. If an agent is making the application on behalf of the owner, the name, address, and telephone number of the agent, and a signed authorization by the owner that the agent is acting on the owner's behalf.
3. The address of the property, or other description of its location.
4. A description of the proposed use. Detailed information shall be provided relating to each of the factors listed in 12.05.01 B above.

B. Site Plan. In addition to the written application, the applicant shall submit a site plan prepared by a registered engineer, architect, or landscape architect. The Building Official may waive the requirement that the site plan be prepared by a registered engineer, architect, or landscape architect if the Building Official finds that, due to the simplicity of the project, the necessary site design information may be adequately presented on plans prepared by a non-professional. The site plan shall show the following, where relevant to the project:

1. The location of the site and all surrounding uses, public facilities, and

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environmental resources within two hundred (200) feet of the boundaries of the site;

2. The location of all existing uses, public facilities and environmental resources on the site, including all setbacks, environmental buffers, and other non-developable areas as set forth in this Code;

3. The location of all proposed structures and facilities including the following:

4. Buildings, including accessory buildings and any other man-made structures. The number of stories and square-footage of buildings shall be shown;

5. Parking facilities, including proposed landscaping and ingress and egress;

6. Stormwater management facilities;

7. Signs;

8. Utilities, including dumpsters and air conditioning units.

12.05.03. Procedures

A. Review by Building Official.

1. The Building Official shall review the application and site plan for completeness. If incomplete, the Building Official shall return the submittals to the applicant with a description of what additional information is needed.

2. Upon receipt of a complete application and site plan, the Building Official shall review the submittals and, within twenty (20) days of receipt of the complete submittals, prepare a report addressing the following:

a. Whether the proposal is consistent with the Cedar Key Comprehensive Plan and complies with all applicable provisions of this Code.

b. Any failure by the proposal to adequately address any of the factors listed in 12.05.01 B above.

B. Notice. Upon receipt of complete submittals, the Building Official shall place the application on the agenda of the next City Commission meeting allowing for the twenty (20) day review period set forth in 12.05.03A2 above. The Building Official shall then immediately post a sign on the property giving notice of the nature of the proposed use and the date, time, and location of the City Commission meeting at which the application will be considered.

C. Review by City Commission.

1. The City Commission shall hold a quasi-judicial hearing on the application for the conditional use. The Commission's decision to grant or deny the conditional use shall be set forth in a written order which shall contain findings and conclusions on each of the factors listed in B above.

2. The City Commission may approve an application with conditions so long as each condition is reasonable, clearly described, and supported by a finding or conclusion of the Commission on one or more of the factors listed in 12.05.01 B above. The type of conditions the Commission may impose include, but are not limited to, the following:

a. Limitations on the hours of operation, and/or other limitations on the activities taking place on the site;

b. Use of buffers beyond that otherwise required by this Code;

c. The relocation, reconfiguration or other change to any proposed structure or facility on the site, including buildings, accessory structures, dumpsters, air conditioning units, parking facilities, signs, and ingress and egress.

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12.06.00. FEES

12.06.01. Adoption by Resolution

The City Commission shall by resolution adopt a schedule of fees for permits, development review, and inspections. This Code shall not be construed to repeal, modify or otherwise change any fee schedule in effect at the time of adoption of this Code unless specifically changed by resolution of the City Commission.

12.06.02. Incorporated by Reference

The most recently adopted fee schedule shall be and is hereby incorporated by reference in this Code. A copy of the fee schedule shall be maintained in Chapter 5, Laws of Cedar Key.

(History: Ord. No. 314)

12.07.00. AMENDING THIS CODE

12.07.01. State Law Controlling

Chapter 166 and Section 163.3194(2), Florida Statutes, shall govern amendment of this Code.

(History: Ord. Nos. 314 and 436)

12.07.02. Application

Any person, board or agency may apply to the Planning and Development Department to amend this Code in compliance with procedures which conform to state law. All applications shall be in writing.

(History: Ord. No. 436)

12.07.03. Consideration of Application by Land Development Regulation Commission

The Planning and Development Administrator, or the Administrator's designee, shall refer applications to amend this Code to the City Commission. Prior to approving any amendment to this Code, the City Commission shall refer proposed amendments to the Local Planning Agency. The Local Planning Agency, sitting in

its capacity as the Land Development Regulation Commission, shall within two months of the date of the referral hold an informal public meeting on the proposed amendment. At that meeting, the Land Development Regulation Commission shall make a recommendation on the consistency of the proposed amendment with the Comprehensive Plan. If the Land development Regulation Commission fails to make a recommendation within the time provided, the City Commission may act on the adoption as provided for in Section 12.07.04.

(History: Ord. No. 436)

12.07.04. Hearings by City Commission

A. Readings. Except as provided for in Section 166.041(3)(c), Florida Statutes, after receipt of a recommendation from the Land Development Regulation Commission, the City Commission shall hold at least two hearings on the proposed amendment, the last of which shall be the adoption hearing. At the hearings, the ordinance shall be ready by title or in full.

B. Adoption Hearing. The adoption hearing shall be noticed in accord with Section 166.041(3)(a), Florida Statutes and at that hearing the Commission may enact or reject the proposal, or enact a modified proposal that is within the scope of matters considered in the hearing. Amendments to this Code shall be consistent with the Comprehensive Plan. The public hearing shall

1. Present the Planning and Development Department's analysis of the proposed change;
2. Present a summary of reports by other applicable agencies;
3. Permit any person to submit written recommendations and comments before or during the hearing;

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4. Permit a reasonable opportunity for interested persons to make oral statements.

(History: Ord. No. 436)

12.08.00. Comprehensive Plan Amendments

12.08.01. Generally

The provisions of this Section shall govern all amendments to the Cedar Key Comprehensive Plan.

(History: Ord. No. 436)

12.08.02. Types of Comprehensive Plan Amendments.

There are two types of Comprehensive Plan amendments: small scale development amendments and large scale plan amendments.

A. **Small-Scale Development Amendment Defined.** A small-scale development amendment is an amendment to the land use map portion of the City of Cedar Key Comprehensive Plan involving less than ten (10) acres and as such amendments are defined and provided for in Section 163.3187(1)(c), Florida Statutes (2006).

B. **Large Scale Plan Amendment Defined.** A large scale plan amendment is any amendment to the Comprehensive Plan that does not fit the definition of a small scale development amendment. A large scale plan amendment may be a map or text amendment.

(History: Ord. No. 436)

12.08.03. Initiation of Proposals for Plan Amendments

A. **Small Scale Development Amendments.** An application for a small-scale development amendment to the land use plan map may be proposed only by the City of Cedar Key City Commission, or any member thereof, or the owner of the subject property, or any duly authorized agent thereof. All such proposals shall be submitted on the appropriate form

available from the Planning and Development Department. A completed application shall be notarized and signed by all owners, or their agent. Signatures by other parties will be accepted only with notarized proof of authorization by the owners. In case of a corporate ownership, the authorized signature shall be accompanied by a notation of the signer's office. The application shall be accompanied by all pertinent information which may be required by the City of Cedar Key Planning and Development Department for proper consideration of the matter.

B. **Large Scale Plan Amendments.** Any person, board or agency may apply to the Planning and Development Department for a large scale plan amendment. All such proposals shall be submitted on the appropriate form available from the Planning and Development Department and must comply with the submittal requirements of Chapter 163, Florida Statutes.

(History: Ord. No. 436)

12.08.04. Administrative Review of Small Scale Development Amendment Applications

A. **Review for Completeness.** Within ten (10) working days of receiving an application for a small-scale development amendment, the Planning and Development Administrator or the Administrator's designee shall determine that the application is complete or incomplete. If incomplete, the applicant may submit an amended application within thirty (30) days without payment of a re-application fee, but if more than thirty (30) days have elapsed, the applicant must re-initiate the review procedure and pay an additional fee.

B. **Review for Compliance.** The Planning and Development Administrator or the Administrator's designee shall review the application and, within twenty (20) working days of receipt of a complete application, prepare a report on whether the proposal

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complies with state law, including whether the change would be consistent with the goals, policies and objectives of the Cedar Key Comprehensive Plan.

C. Setting Matter for Hearing. After the report is completed, the Planning and Development Administrator shall set the matter for hearing before the Local Planning Agency at the next available meeting allowing for required notice.

(History: Ord. No. 436)

12.08.05. Review of Plan Amendment Applications by Local Planning Agency

A. Local Planning Agency Review. The Local Planning Agency shall conduct a noticed hearing to review and consider all applications for amendments to the Comprehensive Plan. The hearing shall be noticed in accordance with Section 166.041(3)(a), Florida Statutes.

B. Local Planning Agency Recommendation. At the hearing, the Local Planning Agency shall adopt a recommendation for the City Commission regarding each application. The local Planning Agency may recommend that an application be approved, approved subject to modifications, or denied.

(History: Ord. Nos. 408, 436)

12.08.06. Review of Plan Amendment-Applications by City Commission

All hearings by the City Commission relating to Comprehensive Plan Amendments shall be noticed and conducted in accordance with Fla. Stat. Sections 163.3184 and 166.041, as applicable.

A. Adoption Hearing for Small Scale Development Amendments. A noticed legislative hearing for all small scale development amendments shall be held following receipt of the recommendation from

the Local Planning Agency. Notice shall meet the requirements of Fla. Stat. 166.041(3)(c). At the hearing, the City Commission may adopt the amendment, adopt the amendment with modifications, or deny the amendment.

B. Hearings for Large Scale Plan Amendments. Unless otherwise provided by State law, the City Commission shall hold two public hearings, as provided below, to consider all large scale plan amendments.

1. Transmittal Public Hearing. A noticed legislative hearing shall be held after receipt of the recommendation from the Local Planning Agency and before transmittal of all proposed large scale plan amendments to the Department of Community Affairs for review. Notice shall be made in accordance with Section 163.3184(15)(e), Florida Statutes. The hearing shall be conducted in accordance with Section 163.3184(15), Florida Statutes. At the hearing, the City Commission may approve an application for transmittal, approve an application for transmittal subject to modifications, or deny transmittal of an application. In accordance with Chapter 163, Florida Statutes, any proposed large scale plan amendments that the City Commission approves for transmittal with or without modifications, must be transmitted to the State Department of Community Affairs for review.

2. Adoption Hearing. After receipt from the Department of Community Affairs of an objection, recommendations and comments report on each proposed large scale plan amendment, a noticed legislative hearing shall be held. Notice shall be made in accord with Section 163.3184(15)(e), Florida Statutes. Except for amendments proposed as part of the Evaluation and Appraisal Report process, the hearing shall be held within sixty (60) days after receipt of the report form the Department of Community Affairs, or after notification that no report will be issued. For amendments proposed

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as part of the Evaluation and Appraisal Report, the hearing shall be held within 120 days after receipt of the report, or notice that no report will be issued. The hearing must follow the requirements of Fla. Stat. 163.3184(15). At the hearing, the City Commission may adopt the amendment, adopt the amendment with modifications, or deny the amendment.

(History: Ord. No. 436)

12.08.07. Limitations on Small Scale Development Amendments

A. Re-Application After Approval of Small Scale Development Use Amendments. Whenever the City Commission has approved a small scale development amendment, no application shall be filed for a small scale development amendment relating to any part or all of the same land for a period of one year from the effective date of such amendment.

B. Re-Application After Denial of a Small Scale Development Amendment. Whenever the City Commission has denied an application for a small scale development amendment, no further application shall be filed for the same land use category relating to all, or any part, of the same land for a period of one year from the date of the denial.

C. Waiver of Time Limits. The time limits in A and B above may be waived by the affirmative vote of a majority of the entire City Commission when such action is deemed necessary to prevent injustice or to facilitate proper development of the City.

(History: Ord. Nos. 314 and 436)

12.09.00. Appeal OF BUILDING OFFICIAL DECISIONS

A developer or any adversely affected person may request an appeal to the City Commission of a final decision of the building official on an application for a development permit, or on an

interpretation or application of this Code, or any other final decision of the building official. The appeal shall be in accordance with part 12.12.00 of this Chapter.

(History: Ord. Nos. 334, 460)

12.10.00. [Reserved]

12.11.00. ENFORCEMENT OF CODE PROVISIONS

12.11.01. On-Going Inspections

The Building Official shall implement a procedure for periodic inspection of development work in progress to insure compliance with the Development Permit and this Code.

12.11.02. Incorporation by Reference

The Standard Building Code "Powers and Duties of the Building Official" are hereby specifically incorporated by reference as the method of Code Enforcement, except that references to the Board of Adjustment shall be interpreted to mean City Commission.

12.11.03. Certificate of Occupancy

Upon completion of work authorized by a development permit or development order, and before the development is occupied the developer shall apply to the Building Official for a certificate of occupancy. The Building Official shall inspect the work and issue the certificate if found to be in conformity with all applicable Codes.

12.11.04. Penalties and Remedies

If the Building Official determines that the code enforcement process incorporated by reference above would be an inadequate response to a given violation, the Building Official may pursue the following penalties and remedies as provided by law:

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A. Civil Remedies. If any building or structure is erected, constructed, reconstructed, altered, repaired, or maintained or any building, structure, land or water is used in violation of this Code, the Building Official, through the City Attorney, may institute any appropriate civil action or proceedings in any court to prevent, correct, or abate the violation.

B. Criminal Penalties. Any person who violates any provision of this Code shall be deemed guilty of a misdemeanor and shall be subject to fine and imprisonment as provided by law.

C. Fine. A fine of three hundred dollars (\$300.00) per tree may be charged for violation of Article V, Section 5.03.03.02.

(History: Ord. Nos. 264, 297)

12.12.00. QUASI-JUDICIAL HEARINGS

Quasi-judicial hearings before hearing bodies in the City of Cedar Key shall be either formal or informal hearings. A formal quasi-judicial hearing is a hearing where petitioners and affected parties have the rights and responsibilities of a party as set forth in section 12.12.02, of this Chapter. An informal hearing is a hearing where the petitioner and public may present testimony for or against a proposal before the decision-making body without the procedures of a formal hearing.

(History: Ord. No. 460)

12.12.01. Definitions

Conflict of Interest

Conflict of interest means a situation in which regard for a private interest tends to lead to

disregard of a public duty or interest and includes those situations set forth in section 12.12.06.B.2 of this Chapter, and as set forth in Chapter 112, Florida Statutes.

Ex Parte Communication

Ex parte communication means an oral or written communication made to a member of a decision-making body by, or on behalf of, a petitioner, affected party, or otherwise, about the merits of an action before the decision-making body, or foreseeably anticipated to come before the decision-making body, outside of a public meeting of the decision-making body and without notice to the petitioner or affected parties.

Petition

Petition means both an application for an action listed in Table 12.12.02, and a request for appeal of a decision of a decision-making body.

Petitioner

Petitioner means both the applicant when an application is being heard for the first time and the party appealing a decision of a decision-making body.

(History: Ord. No. 460)

12.12.02. Actions Requiring A Quasi-Judicial Hearing

The following actions are quasi-judicial in nature and require a quasi-judicial hearing before the decision-making body indicated herein:

Table 12.12.02			
Action	Code Section	Decision-Making Body	Type of Quasi-Judicial Hearing

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Conditional Use Permits	§ 12.05.01, ch. 4	City Commission	Formal
Minor Replats	§ 12.03.01, ch. 4	City Commission	Formal
Review of Development Plans	Part 12.02.00, ch. 4	City Commission	Formal
Subdivision	§ 6.00.04, ch. 4	City Commission	Formal
Variances	Part 10.01.00, ch. 4	City Commission	Formal
Certificates of Appropriateness	§ 3.01.04, ch. 4	Historic Preservation Board	Informal
Appeals of Historic Preservation Board Decisions Regarding Certificates of Appropriateness	§ 3.01.09, ch. 4	City Commission	Formal
Appeals from Final Decisions of the Building Official	§ 12.09.00, ch. 4	City Commission	Formal
Review of Application Decision for Dog Friendly Dining Permit	§ 6.08.05	City Commission	Formal

12.12.02. Formal Quasi-Judicial Proceedings.

- A. The order of presentation, with corresponding time limits for each presentation, shall be as follows:

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ORDER	ITEM	TIME LIMIT (Minutes)
1	Introduction of the Petition	3
2	Petitioner Presentation	20
3	Staff Presentation	10
4	Affected Party (if any) For	10 (per person)
5	Affected Party (if any) Against	10 (per person)
6	Rebuttal (Petitioner/Staff)	5
7	Close of Quasi-Judicial Proceeding	
8	Public Hearing	3 (per person)
9	Vote of Decision-Making Body	

continue the hearing and request further information from any party.

E. Affected Party Defined; Determination.

1. An affected party is any person who is entitled to actual written notice of a petition before the decision-making body, pursuant to section 12.02.03 of this Chapter, if applicable.

2. An affected party who is not entitled to actual written notice but who believes that he has a special interest or would suffer an injury distinct in kind and degree from that shared by the public at large by the petition, may request affected-party status by filing an application with the city clerk in writing no less than seven (7) days prior to the meeting when the petition is scheduled to be heard. The decision-making body shall consider the application for affected party status prior to the commencement of the quasi-judicial hearing. The decision on affected party status of the decision-making body shall be final.

B. Cross examination is limited to ten (10) minutes per witness.

C. The time limits set forth above may be modified by the decision-making body upon request of a party to the proceedings. Said request shall detail the additional time desired and the subjects to be discussed during the requested additional time. A request for an extension of time should be considered by the decision-making body to assure all parties have a full fair opportunity to participate without undue repetition and delay.

D. The decision-making body may, in its discretion and at any time during the hearing,

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F. Representation. Any petitioner or affected party may be represented by an attorney.

G. Registration of Affected Parties. In order to participate in the formal quasi-judicial proceeding, all affected parties shall complete a registration card in the form prescribed by the decision-making body, stating their name and address and other pertinent information, and whether they support or oppose the petition before the decision-making body. The registration card shall be delivered to the decision-making body at the proceeding after determination of affected party status. If an attorney represents an affected party or several affected parties, the attorney shall complete the registration card and identify the person or persons they represent and whether their client supports or opposes the petition before the decision-making body.

H. Commencement of the Hearing.

1. The appropriate City staff shall introduce the case and shall provide a brief description of the petition. This introduction shall not be considered evidence in the proceeding, and the member(s) of the City staff presenting the introduction shall not be subject to cross-examination by any party to the proceedings.

2. Ex parte communications and conflicts of interest.

a. Ex parte communications. In accordance with section 12.12.06 of this Chapter, the members of the decision-making body shall disclose any ex parte communications that may have occurred concerning the petition. The petitioner and any affected party may examine, through the chair, each decision maker about these communications.

b. Conflicts of interest. The petitioner and any affected party may challenge the impartiality of any decision-maker in accordance with section 12.12.06 of this chapter.

3. In the interest of saving time, the Petitioner, City staff, affected parties, and all witnesses shall

be collectively sworn in by the appropriate City staff.

I. Evidence.

1. Testimony or other evidence that is irrelevant or immaterial to the issue to be decided by the decision-making body is inadmissible. The decision-making body shall make rulings on objections to the relevance and materiality of the examination. A decision-making body member, party, or City staff member may raise an objection to the possibly irrelevant and immaterial testimony or evidence.

2. The examination of witnesses shall be conducted under oath by direct examination on matters which are relevant and material to the issues before the decision-making body. After the conclusion of direct examination, the witness may be cross examined by another party, decision-making body member, or City staff. The inquiry under cross examination shall be limited to matters raised in the direct examination of the witness being examined. No re-direct shall be allowed unless requested by a party stating the desired area of inquiry and that request is approved by the decision-making body. If re-direct is allowed, it shall be limited to questions of the witness on issues raised on the cross-examination. This provision shall not limit a decision-making body member from questioning any person on matters relevant to the petition before the decision-making body.

3. During the presentation by the opponents or proponents of an issue before the decision-making body, no one may present testimony or evidence which is unduly cumulative or repetitious of previously presented testimony or evidence by a fellow opponent or proponent.

J. Public Hearing. After the quasi-judicial hearing is completed, those members of the public who were not a party to the quasi-judicial hearing may be permitted to speak up to three (3) minutes and present testimony to the decision-making body.

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No party, petitioner, City staff or witness shall speak during the public hearing portion of the proceedings.

K. Decision and Final Order.

1. After the public hearing, the decision-making body shall vote to approve, deny, or approve with conditions the petition. In reaching its decision, the decision-making body shall only consider evidence presented at the hearing and shall base its decision on the competent, substantial evidence of record.

2. After voting, the chair of the decision-making body shall orally issue an order consistent with the vote of the decision-making body.

3. The order shall be reduced to writing and shall include findings of fact and conclusions of law and state whether the petition is approved,

denied, or approved with conditions. The order shall also specify any conditions, requirements or limitations on the approval of the petition. The written order shall be presented to the decision-making body for approval at a special meeting, or at the next regular meeting of the decision-making body. The chair of the decision-making body and the city clerk shall execute the order as it is approved. Executed copies of the order shall be sent by certified mail to the petitioner and any affected party.

4. If applicable, the final executed order is a Final Development Order under 12.01.02 and 12.01.03 above. Notice of all Final Development Orders must be recorded in the Official Records of Levy County at the petitioner's expense using a form provided by the City in substantially the following form:

NOTICE OF FINAL ORDER AFFECTING USE OF PROPERTY

This document is recorded in the Official Records of Levy County as notice that the property described below is the subject of a final order issued by the City Commission of the City of Cedar Key. Please consult the Final Order referenced below for potential limitations on the use of the subject property. Public record of all Final Orders of the City of Cedar Key are maintained at City Hall, 490 Second Street, Cedar Key, Florida 32625.

Subject Property:

Address: _____

Levy County Parcel ID: _____

Owner/Applicant: _____

Legal Description: _____

Final Order:

Number: _____

Type: ☐ Minor Replat (attach boundary survey not larger than 8.5" by 17")

☐ Certificate of Appropriateness

☐ Conditional Use Permit

☐ Development Plan

☐ Subdivision

☐ Certificate of Appropriateness for Demolition

☐ Variance

☐ Other: _____

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I certify that the information stated herein is true and accurate.

Signed: _____ Date: _____

Title: _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ who is personally known to me or who has produced _____ as identification and who did take an oath.

Signed: _____ Date: _____

Notary Public

(History: Ord. Nos. 408, 460)

12.12.03. Informal Quasi-Judicial Hearings.

A. An informal hearing shall be presented to the decision-making body in the following order:

1. City staff presentation.
2. Disclosure of ex parte communications and decisions regarding potential conflicts of interest in accordance with section 12.12.06 of this Chapter.
3. Petitioner presentation.
4. Public Hearing.
5. Vote of the decision-making body.

B. Cross examination of witnesses is not permitted. This provision does not prohibit a decision-maker from questioning any person on matters relevant to the petition.

C. Evidence. The appropriate City staff shall present any staff or other report on the petition. Evidence before the decision-making body shall include, but not be limited to, an analysis which includes the consistency of the petition with the City's adopted codes, rules, policies or plans, as applicable, and how the petition does or does not meet the requirements of such codes, rules, policies, plans and other applicable laws. Written reports and any other documentary evidence shall become a part of the record. Evidence may be

presented through oral testimony of witnesses or documentary evidence or both.

D. Registration. Any person may speak for or against the matter if they complete a registration card at the meeting as provided by the decision-making body. The decision-making body chair may limit the time of any portion of an informal hearing to avoid unnecessary repetition and delay.

E. Decision. After the public hearing portion, the decision-making body shall vote to approve, approve with conditions or deny the petition. In reaching its decision, the decision-making body shall only consider evidence presented at the hearing and shall base its decision on the competent, substantial evidence of record. The chair of the decision-making body shall orally issue an order consistent with the vote of the decision-making body.

F. Final Orders. The order shall be reduced to writing and must state whether the petition is approved, denied, or approved with conditions. The order must also specify any conditions, requirements or limitations on the approval of the petition. The City shall prescribe the format of the order. The chair of the decision-making body shall execute the Final Order within three days of the hearing and provide to the petitioner within one business day of the execution. The order is a final order of the decision-making body. Appeals from final orders may be filed in accordance with section 12.12.05 of this Chapter. If no appeal is requested

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within the period provided for in section 12.12.05, the order shall constitute a Final Development Order, if applicable, and shall be recorded in accordance with paragraph 12.12.03.K.4, of this Chapter.

(History: Ord. No. 460)

12.12.04 Appeals.

A. Appeals to the City Commission.

1. Whenever an appeal to the City Commission is provided for in Chapter 4, Laws of Cedar Key, any person aggrieved by a decision of the applicable decision-making body may file an appeal.

2. Written notice of appeal. The appeal shall be made by filing a written notice of appeal with the Clerk of the City Commission within fourteen (14) days from the date the final order is executed, or in the case of a final decision not requiring a final order, within fourteen (14) days from the date the decision is reduced to writing. The notice of appeal shall contain:

a. A statement of the decision to be appealed, and the date of the decision.

b. A statement of the interest of the person filing the appeal.

c. The specific comprehensive plan or Cedar Key Code provisions alleged to have been applied in error.

3. City Commission Hearing. The City Commission shall hear the appeal at its next regular meeting, provided at least fourteen (14) days have intervened between the time of the filing of the notice of appeal and the date of such meeting. The City Commission shall conduct the hearing in accordance with section 12.12.03 of this Chapter and the City Commission's decision shall constitute final administrative review.

B. Appeals of City Commission decisions. Appeals from decisions of the City Commission may be made to the courts as provided by law.

(History: Ord. No. 460)

12.12.05. Ex Parte Communications and Conflicts of Interest

A. Ex parte communications.

1. If a member of a decision-making body receives a written ex parte communication relating to a matter coming before the decision-making body, the decision-maker shall transmit the item to the Clerk of the City Commission for inclusion in the official records. The communications shall be made available to the parties as soon as practicable before the hearing.

2. As soon as it becomes apparent that an inadvertent oral communication pertains to a matter coming before the decision-making body, the member of the decision making body shall explain to the person that the communication is improper, and that he or she is required to end the communication on that subject. At the time the item comes up for discussion at the decision-making body meeting, the decision-maker shall report any attempted ex parte communication.

B. Conflicts of interest.

1. A party to a quasi-judicial hearing may challenge the impartiality of any member of the decision-making body. The challenge shall state by affidavit facts relating to a bias, prejudgment, personal interest, or other facts from which the challenger has concluded that the decision-maker cannot participate in an impartial manner. Except for good cause shown, the challenge shall be delivered by personal service to the City Clerk's office no less than forty-eight (48) hours preceding the time set for the hearing. The City Clerk shall attempt to notify the person whose qualifications are challenged prior to the hearing. The challenge shall be incorporated into the record of the hearing.

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2. No member of a decision-making body shall hear or rule upon a proposal if:

a. Any of the following have a direct or substantial financial interest in the proposal: the decision-maker's or the decision-maker's spouse, brother, sister, child, parent, father-in-law, mother-in-law; any business in which the decision-maker is then serving or has served within the previous two (2) years; or any business with which the decision-maker is negotiating for or has an arrangement or understanding concerning prospective partnership or employment; or

b. The decision-maker owns property within the area entitled to receive notice of the hearing; or

c. The decision-maker has a direct private interest in the proposal; or

d. For any other valid reason, the decision-maker has determined that he or she cannot impartially participate in the hearing and decision.

3. No officer or employee of the City who has a financial or other private interest in a proposal shall participate in discussions with or give an official opinion to the decision-making body on the

proposal without first declaring for the record the nature and extent of the interest.

4. A majority of the members of the decision-making body present and voting may, for reasons prescribed by the Code or other applicable law, vote to disqualify a decision-making body member who has refused to disqualify him or herself.

(History Ord. No. 460)

12.13.00. ADMINISTRATIVE SPECIAL USE PERMIT The Land Development Code Administrator is authorized to issue an administrative special use permit for aquaculture use on lands classified as commercial including the area designated within Overlay Map Exhibit 1-10 of the Future Land Use Element of the Comprehensive Plan. Said administrative special use permit shall ensure compliance with federal flood regulations contained in Chapter 6.07.00 of the Land Development Code. Requests for such administrative special use permits shall be made by completing an application and providing supporting documentation that the applicant is engaging in aquaculture on the subject parcel.

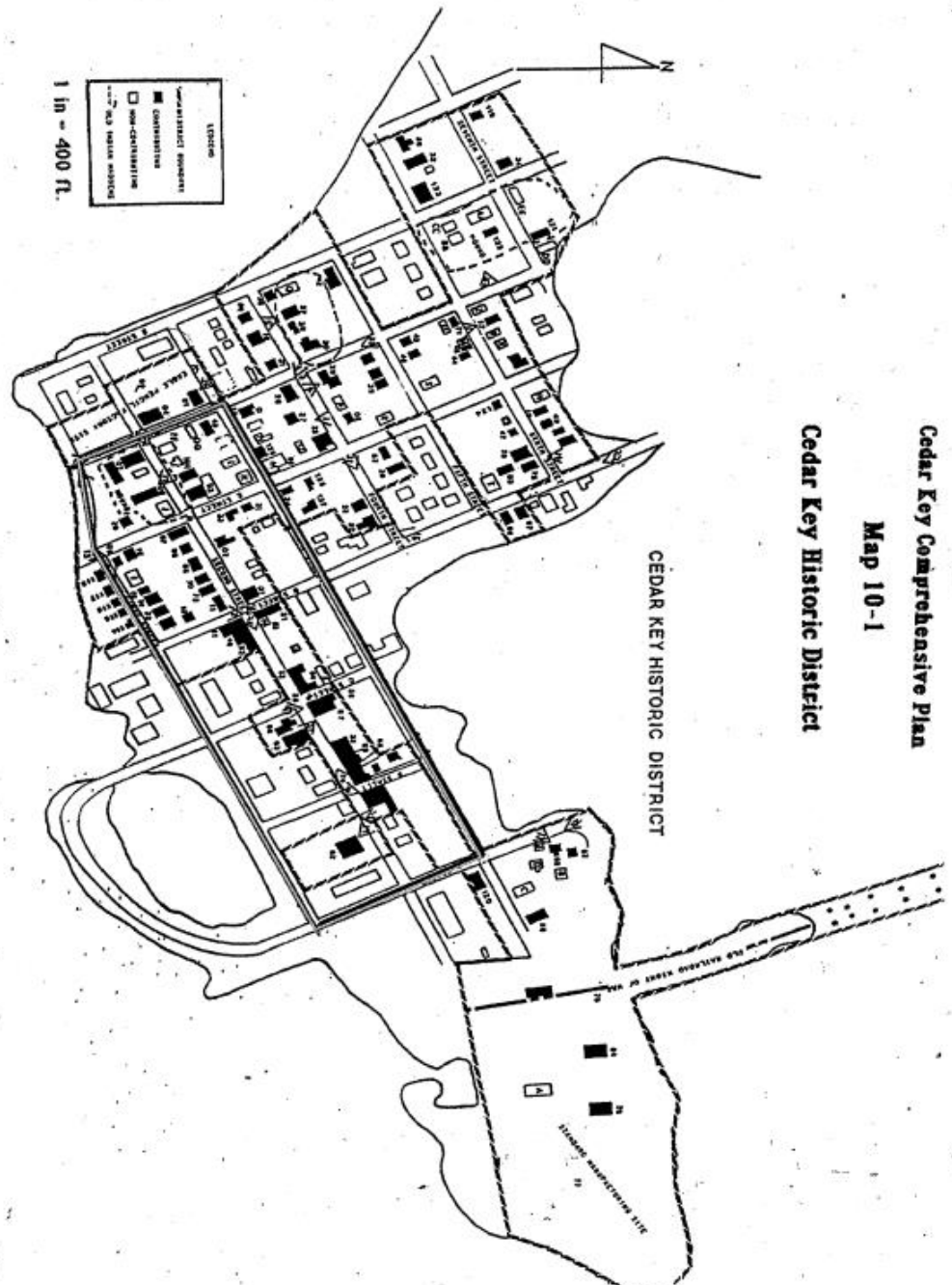
(History Ord. No. 523)

**LAWS OF CEDAR KEY-CHAPTER FOUR
LAND DEVELOPMENT REGULATIONS**

APPENDIX A

LAWS OF CEDAR KEY-CHAPTER FOUR LAND DEVELOPMENT REGULATIONS

**Cedar Key Comprehensive Plan
Map 10-1
Cedar Key Historic District**



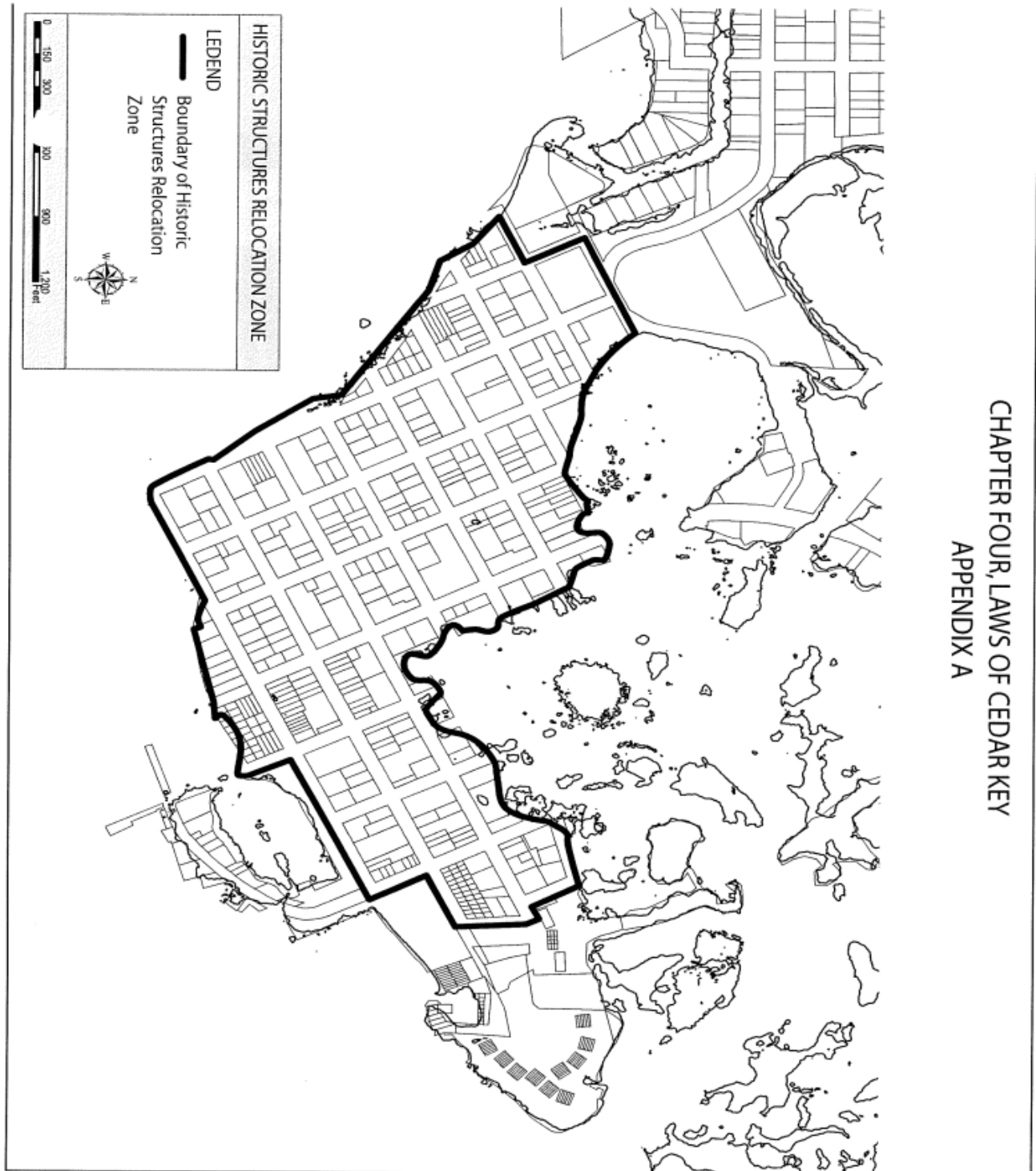
Source: Florida Preservation Services
& Cedar Key Historical Society,
1987.

The city has designated the area shown in red
as the Cedar Key Historical District.

10-14

LAWS OF CEDAR KEY-CHAPTER FOUR LAND DEVELOPMENT REGULATIONS

CHAPTER FOUR, LAWS OF CEDAR KEY APPENDIX A



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CEDAR KEY COMPREHENSIVE PLAN

1/28/90

Exhibit 10-2
Cedar Key Historic District
Contributing Site List

Site No.	Number	Address	Site Name	Date	Original Use	Category
CK025	39	4th Street	Old First Baptist Church	1891 C	Church	Building
CK026	26	4th Street	Claywell, R.S., House	1884 PRE	Private Residence	Building
CK027	A38	4th Street	Parsons Rental	1890-1909	Private Residence	Building
CK028	36	4th Street	Tebb House	1882	Private Residence	Building
CK029	325	F Street	Hale/Johnson House	1880	Private Residence	Building
CK030	215	F Street	Watson/Hodges House	1919-1920	Private Residence	Building
CK031	214	F Street	Wilson, J.J., House	1902	Private Residence	Building
CK032	203	6th Street	203 6th Street	1920 C	Private Residence	Building
CK033	320	E Street	Gardner House	1906	Private Residence	Building
CK034	109	G Street	Crevasse, Henry, Winter House	1882 C	Private Residence	Building
CK035	218	2nd Street	Ellis Building	1920's	Commercial/Residential	Building
CK036	N Cor	4th Street	Old Block House	1870's PRE	UKN/Residential	Building
CK037	613	4th Street	Hodges Rental	1927-1928	Private Residence	Building
CK038	16	4th Street	Hodges Rental	1927-1928	Private Residence	Building
CK039	206	5th Street	Hodges Rental	1907	Private Residence	Building
CK040	224	F Street	First Christian Church	1910 PRE	Church	Building
CK041	S Cor	2nd Street (D Street)	Masonic Lodge	1910	Lodge, Commercial/Residential	Building
CK042	E Cor	5th Street (G Street)	Delaino, W.P., House	1920-1933	Private Residence	Building
CK043	312	F Street	Walker, Wilson, House	1919 C	Private Residence	Building
CK044	243	6th Street	243 6th Street	UKN	Private Residence	Building
CK045	241	6th Street	241 6th Street	UKN	Private Residence	Building
CK046	211	5th Street	Kirby/Bense House	1920 PRE	Private Residence	Building
CK047	250	6th Street	Jenkins, Frank, House	1920's	Private Residence	Building
CK048	233	2nd Street	Wadley's Grocery	1914	Store/Residence	Building
CK049	221	6th Street	Dancy, J.D., House	1916	Private Residence	Building
CK050	E	SR 24	Zeigler's Bait House	1920's	Commercial	Building
CK051	N Cor	D Street (2nd Street)	Andrews, I.O./Hale Building	1880	Commercial/Residential	Building
CK052	3rd	2nd Street (from Corner of D Street)	Ice Cream parlor	1910's	Commercial	Building
CK053	2nd IN	2nd Street (from Corner of D Street)	Bickell's Photo Gallery	1884 PRE	Commercial/Residential	Building
CK054	211	2nd Street	Kapote Building	1920	Commercial	Building
CK055	212	2nd Street	Cedar Key State Bank	1912	Commercial	Building
CK056	NE Cor	2nd Street (at C Street)	Luttrell Building	1875	Commercial/Residential	Building
CK057	215	2nd Street	Schlemmer Bakery & Groceries	1880	Commercial/Residential	Building
CK058	202	6th Street	Whitman, St. Claire, House	1884 C	Private Residence	Building
CK059	220	2nd Street	Ellis Building	1912	Commercial/Residential	Building

CEDAR KEY COMPREHENSIVE PLAN

Exhibit 10-2
Cedar Key Historic District
Contributing Site List

Site No.	Number	Address	Site Name	Dates	Original Use	Category
CK060	222	2nd Street	Zadowski General Merchandise	1881	Commercial	Building
CK061	223	2nd Street	Bodiford Drug Store	1878	Private Residence	Building
CK062	253	2nd Street	Hodges, W.R. House	1910	Private Residence	Building
CK063	245	2nd Street	Schlemmer House	1908	Private Residence	Building
CK064	A	SR 24	A SR 24	1920's	Commercial	Building
CK065	221	2nd Street	Bodiford Building	1890-1909	Private Residence	Building
CK066	120	2nd Street	Kirchaine/Yulee House	1884-1890	Private Residence	Building
CK067	C	SR 24	Noegel House	1920's	Private Residence	Building
CK068	107	3rd Street	107 3rd Street	1910's	Private Residence	Building
CK069	B	SR 24	Holman House	1920's	Private Residence	Building
CK070		SR 24	Fayle Rental	1920's	Private Residence	Building
CK071	239	6th Street	239 6th Street	1920 PRE	Private Residence	Building
CK072	131	2nd Street	131 2nd Street	1920-1930	Private Residence	Building
CK073	115	1st Street	Hodges Rental	1927-1928	Private Residence	Building
CK074		SR 24	Turner, Dr. J.W., House	1927	Private Residence	Building
CK075	COR	D Street at 6th Street	Episcopal rectory	1920's	Private Residence	Building
CK076	127	5th Street	McLeod's Store	UKN	Commercial/Residential	Building
CK077	NE End	3rd Street	United States Fibre Company	1909-1940	Fibre Factory	Site
CK078	2nd on Lt	Mill Street (SE of Railroad Ave)	Andrews, Dan, House	1910-1917	Office & Private Residence	Building
CK079		Railroad Avenue	Site of Florida Railroad	1860-1935	Railroad	Site
CK080	45	4th Street	Cedar Key First Me Church	1889	Church	Building
CK081	210	F Street	Eagle Cedar Mill House	1880's	Private Residence	Building
CK082	003	A Street	003 A Street	UKN	Private Residence	Building
CK083	414	D Street	Episcopal Parish Hall		Private Residence	Building
CK084	1st on Lt	3rd Street	Tooke House	1922	Private Residence	Building
CK085	001	A Street	001 A Street	UKN	Private Residence	Building
CK086	244	2nd Street	Schlemmer Out-Building	1920 PRE	Service Building	Building
CK087	328	E Street	328 E Street	1907	Private Residence	Building
CK088	129	2nd Street	Richburg/Berry House	1906	Private Residence	Building
CK089	E COR	4 Street (at G Street)	Wadley, Frank, House	1873-1896	Private Residence	Building
CK090		Atsena Otie Key	Eberhard Faber Mill Site	1873-1896	Sawmill	Site
CK091		Atsena Otie Key	Suwannee Mill Site	1873-1896	Sawmill	Site
CK092		Atsena Otie Key	Town of Atsena Otie	1839-1896	Town	Site
CK093		Atsena Otie Key	Atsena Otie Cemetery	1870 s-1896	Cemetery	Site
CK094		Gulf Boulevard	Cedar Key Cemetery	1870 s-1896	Cemetery	Site
CK095		Gulf Boulevard	Gulf Boulevard Bungalow	1920's	Private Residence	Building

LAWS OF CEDAR KEY-CHAPTER FOUR

LAND DEVELOPMENT REGULATIONS

LAWS OF CEDAR KEY-CHAPTER FOUR

LAND DEVELOPMENT REGULATIONS

CEDAR KEY COMPREHENSIVE PLAN

1/28/90

Exhibit 10-2 Cedar Key Historic District Contributing Site List

Site No.	Number	Address	Site Name	Dates	Original Use	Category
CK096		D Street	Old First Presbyterian Church	1880's	Church	Building
CK097		D Street	Building			
House	1870's	Private Residence	Luttrell House Site	1870's	Private Residence	Site
CK098		3rd Street & E Street	Eagle Cedar Mill Site	1880's-1896	Sawmill	Site
CK099		3rd Street at F Street	Coons House and Boatyard	1870-1893	Boatyard	Site
CK100		Pinney Point, Way Key	Johnson's Homestead	1851	Homestead	Site
CK101		Rye Key	Corrigan Homestead & Hotel	1859-1910	Homestead	Site
CK102		Scale Key	Wreck Site #1	1871 PRE	Wreck	Site
CK103		S of Cedar Key Pier, Way Key	Wreck Site #2	1871 PRE	Wreck	Site
CK104		N of Aisena Otle Key Beach	Aisena Otle Key Wharfs	1839-1896	Wharfs	Site
CK105		NW of Aisena Otle Key Beach	Hale Key Site			
CK106		Hale Key North of Way Key on SR 24	Hale Key Site			
CK107		W of Seahorse Lighthouse,	1842			
		Seahorse Key	Johnson, Sam, House Site	UKN	Midden	Site
CK108	W End	2nd Street	Philbrick's Mill	1842	Homestead	Site
CK109		Snake Key	Quarantine Station	1870-1896	Sawmill	Site
CK110		2nd Street	Cedar Key Midden	1877-1910	Hospital	Site
CK111		5th Street	5th Street Site	UKN	Midden	Site
CK112		7th Street	7th Street Site	UKN	Midden	Site
CK113		Beach S of Lighthouse, Seahorse Key	Seahorse Dump	1840 SC	Dump	Site
CK114	122	1st Street	Hodges Rental	1927+	Private Residence	Building
CK115	121	1st Street	Hodges Rental	1927+	Private Residence	Building
CK116	120	1st Street	Hodges Rental	1927+	Private Residence	Building
CK117	119	1st Street	Hodges Rental	1927+	Private Residence	Building
CK118	118	1st Street	Hodges Rental	1927+	Private Residence	Building
CK119	15	7th Street	15 7th Street	1927+	Private Residence	Building
CK120	111	3rd Street	111 3rd Street	1927+	Private Residence	Building
CK121	28	7th Street	28 7th Street	1927+	Private Residence	Building
CK122	45	7th Street	45 7th Street	1927+	Private Residence	Building
CK123	205	6th Street	205 6th Street	1927+	Private Residence	Building
CK124	248	6th Street	248 6th Street	1927+	Private Residence	Building
CK125	324	E Street	324 E Street	1927+	Private Residence	Building
CK126	23	3rd Street	23 3rd Street	1927+	Private Residence	Building
CK127	27	2nd Street	27 2nd Street	1927+	Private Residence	Building
CK128		Airport Road	Fowler House	1920's	Private Residence	Building

Source: Cedar Key Historical Society, April 1989.

LAWS OF CEDAR KEY-CHAPTER FIVE SCHEDULE OF FEES RATES AND CHARGES

CHAPTER FIVE: SCHEDULE OF FEES, RATES & CHARGES

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SCHEDULE OF FEES RATES AND CHARGES

SCHEDULE OF FEES, RATES & CHARGES

1.00. BUILDINGS AND BUILDING REGULATIONS

1.01. Generally

A. There shall be a double fee for all work for which a permit is required and work has commenced before a permit is issued. This shall not apply to work performed on an emergency basis so long as permit is obtained within forty-eight (48) hours of the next working day.

B. There shall be a one-hundred and ten dollars (\$110.00) reinspection fee for each reinspection necessary to obtain code compliance.

C. For determining permit fees, the value shall be based upon the International Code Council evaluation tables.

(History: Res. No. 271)

1.02. Building Permit Fees

A. Except as may otherwise be specifically provided below, new construction, additions, renovations, repairs or other work requiring a permit:

Residential	
Less Than Or Equal To \$7,000.00	\$110.00
Greater Than \$7,000.00	1.65% of Value
Commercial	
Less Than Or Equal To \$5,000.00	\$110.00
Greater Than \$5,000.00	2.0% of Value

B. Site work only, including paving
\$75.00

C. Fences and/or walls (where permit required) \$110.00

D. Mobile home sites and/or tie downs fees, for each location \$150.00

E. Demolitions:

1. Historic Building (Cert. Of Appropriateness) \$150.00
2. Other buildings (25% or more of structure) \$100.00

F. Greenhouse and structures used exclusively for aquaculture or agriculture Exempt

(History: Res. Nos. 83, 271,379)

2.00. LAND DEVELOPMENT

2.01. Land Development Code and Planning

A. Petition for an amendment to the land use element of the comprehensive plan:

1. Small scale amendment under Chapter 163, F.S. \$1,450.00
2. All other amendments \$2,000.00

B. Petitions for Land Development Code text amendments \$950.00

2.02. Development Plans

A. Concept Review \$80.00
1 hour minimum

B. Petitions for Development Plan Review \$1,100.00

C. Minor Replat \$600.00

D. Petitions for Amendment to Development Plan \$800.00

E. Petitions seeking a variance or conditional use, or other hardship relief under Article X, Chapter Four \$1,100.00.

LAWS OF CEDAR KEY-CHAPTER FIVE

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F. Petitions seeking an appeal \$250.00
(to be refunded if decision appealed is found to have been made in error)

G. Petitions for any other development permit not otherwise specifically addressed herein
\$250.00

(History: Res. No.355)

2.03. Sign Permits

A. Outdoor Advertising Signs (off-site)
Application Fee \$30.00

B. Temporary and Exempt Signs Exempt

(History: Res. No. 83)

2.04. Other

A. Fee in Lieu of Parking Requirements: The current cost per square foot at fair market value of land and paving costs multiplied by 275 for each parking space required by regulation which is not provided by the average selling price of the three most recently sold vacant parcels of land or lots within one-half mile of the development site.

B. Copying of LDRs or other material
\$0.15 per page

C. Development Permit Extensions \$125.00

D. Replacement permit card \$35.00

E. Certification of Additional Plans \$115.00

F. Business Inspection – Change of Type of Occupancy \$100.00

G. Change of Contractor \$75.00

H. Certificate of occupancy \$100.00

(History: Res. No. 83,379)

2.05. Dog Friendly Dining

Permit Fee pursuant to section 6.08.05.D, Chapter 4, Laws of Cedar Key: \$50.00

(History: Res. No. 319)

2.06. Electrical Inspections

A. Initial Inspection Fee per 2.19.04 Chapter 2, Laws of Cedar Key: \$110.00

B. Reinspection Fee pursuant to section 2.19.04: \$110.00

(History: Res. No. 325)

2.07. Fire Inspections

A. Initial Inspection Fee pursuant to section 2.20.07 Chapter 2, Laws of Cedar Key: \$225.00

B. First Reinspection if conducted within 90 days of initial inspection: \$0.00.

C. Additional Reinspections: \$110.00 per additional inspection.

(History: Res. No. 326)

3.00. MARINA

3.01. Overnight Parking Fee

A. There is created the Cedar Key Marina overnight parking fee.

B. The Cedar Key Marina overnight parking fee is in effect for the Cedar Key Sidewalk Art Festivals and Cedar Key Seafood Festivals.

C. This fee shall apply to all overnight parking in any occupied vehicle on public property or streets.

D. An exception is made for all art and seafood festival exhibitors.

E. The fee shall be \$50.00 per night and shall be collected by the Cedar Key Police Department or its designee(s).

LAWS OF CEDAR KEY-CHAPTER FIVE

SCHEDULE OF FEES RATES AND CHARGES

(History: Res. Nos. 145, 159, 346, 353)

3.02. Fees for Use of Marina

- A. Slip Lease, \$60.00 per month, (plus tax).
- B. Launch Fee, each time, \$14.02 plus \$0.98 sales tax for cash payment and additional \$1.00 surcharge for credit card payment.
- C. Frequent User Pass \$180.00 (plus tax) per boat, with the pass affixed to the driver side of the wench post on the trailer, for unlimited use of ramps by the holder for the fiscal year October 1 through September 30 of the City. Annual Pass may be issued and renewed by the City Clerk's Office in October of each year.
- D. City Taxpayer Annual Pass, 30.00 (plus tax) per boat, with the pass affixed to the driver side of the wench post on the trailer, for unlimited use of ramps by the holder for the fiscal year October 1 through September 30 of the City. Annual Pass may be issued and renewed by the City Clerk's Office in October of each year.
- E. Annual Frequent User Pass, \$500.00 (plus tax), for unlimited use of ramps by a commercial dry storage boat business, issued and renewed by the City Clerk's Office in October of each year upon application by the business.
- F. The reissuance of a lost or stolen pass is \$30.00 (plus tax).

(History: Res. Nos. 94, 134, 148, 157, 224, 251, 346, 354, 366,377,378,382)

4.00. MUNICIPAL REFUSE COLLECTION

Table 4.01.A Residential Rates			
Cart Size	Inside City Limits per month	Outside City Limits per month	
35 Gallon	\$19.50	\$26.00	
64 Gallon	\$22.50	\$29.00	
96 Gallon	\$23.50	\$30.00	
Table 4.01.B. Commercial Dumpster Rates per Month			
Dumpster Size	1 x per week Collection	2 x per Week Collection	3 x per Week Collection
2 Yard	\$76.89	\$136.84	\$195.90
4 Yard	\$109.94	\$200.19	\$288.44
6 Yard	\$146.09	\$266.29	\$376.19
8 Yard	\$180.04	\$340.34	\$490.24
Table 4.01.C Commercial Cart Collection Rates per Month			
Number of Carts	1 x per Week Collection	2 x per Week Collection	3 x per Week Collection

LAWS OF CEDAR KEY-CHAPTER FIVE

SCHEDULE OF FEES RATES AND CHARGES

	(64 g. cart)	(96 g. cart)	(96 g. cart)
1	\$31.69	\$36.69	\$56.69
2	Not available	\$68.69	\$101.69
3	Not available	\$98.69	\$146.69
4	Not available	\$128.69	\$191.69
5	Not available	\$158.69	\$236.69
6	Not available	\$188.69	\$281.69
7	Not available	\$218.69	\$326.69
8	Not available	\$248.69	\$371.69

- A. Surcharge for Commercial Establishments outside city limits: \$22.50 per month.
- B. Low income households qualifying for reduced rate: \$5.00 per month.
- C. Commercial recycling rate per month:
- Once a week collection: \$12.50 per cart per month
 - Twice a week collection: \$25.00 per cart per month.
- D. Change of service requests (i.e. frequency, number of carts): \$10.00 per request

E. Cart exchange fee for existing customers: \$10.00 per exchange.

F. Lost or stolen cart fee:

- 96 gallon cart: \$77.00 per cart
- 64 gallon cart: \$71.00 per cart
- 35 gallon cart: \$65.00 per cart

G. Lost, stolen or extra recycling bin fee: \$15.00 per bin

H. Official City Bag Fee: \$2.00 per bag
(History: Res. Nos. 261, 286, 292, 414)

4.02. Past Due Accounts

A. Late Fee. Any garbage account that is delinquent as set forth in Chapter 2, §2.01.09(D) shall have the following penalty per month added to the balance due:

- Residential \$10.00
- Commercial \$10.00 per can
- Dumpsters

2 yard	\$20.00
4 yard	\$40.00
6 yard	\$60.00
8 yard	\$80.00

B. Fee to reestablish service following suspension for delinquency (§2.01.09(D)):

- | | | | | | | | | | |
|-------------|---|--------|---------|--------|---------|--------|---------|--------|---------|
| Residential | \$10.00 | | | | | | | | |
| Commercial | \$10.00 per can | | | | | | | | |
| Dumpsters | <table style="margin-left: 20px;"> <tr> <td>2 yard</td> <td>\$20.00</td> </tr> <tr> <td>4 yard</td> <td>\$40.00</td> </tr> <tr> <td>6 yard</td> <td>\$60.00</td> </tr> <tr> <td>8 yard</td> <td>\$80.00</td> </tr> </table> | 2 yard | \$20.00 | 4 yard | \$40.00 | 6 yard | \$60.00 | 8 yard | \$80.00 |
| 2 yard | \$20.00 | | | | | | | | |
| 4 yard | \$40.00 | | | | | | | | |
| 6 yard | \$60.00 | | | | | | | | |
| 8 yard | \$80.00 | | | | | | | | |

(History: Res. No. 181, repealing Res. Nos. 158, 136, 122, and any other resolution that may have been adopted pursuant to Ordinance No. 261; Res. No. 261, Res. No. 414)

LAWS OF CEDAR KEY-CHAPTER FIVE

SCHEDULE OF FEES RATES AND CHARGES

5.00 City Facilities Use

5.01 Deposits and Rates

Location	Deposit	Community Based	Half Day	Full Day
Library	125.00	See 5.01 (a)	50.00 (plus tax)	100.00 (plus tax)
Community Center	150.00	50.00 (plus tax)	Not Available	200.00 (plus tax)
City Parks	125.00	50.00 (plus tax)	Not Available	125.00 (plus tax)
Marina	125.00	50.00 (plus tax)	Not Available	125.00 (plus tax)

A. The Library will be free of charge for half day use for community based non-profit, non-fundraising events.

C. Community based status: (non-fundraising event) for a non-profit within the City of Cedar Key.

B. Community based events will be tax free with appropriate tax exemption documents presented by the requesting non-profit organization.

D. Community Center use for funerals will be charged at the hourly rate of \$25.00 plus tax.

5.02 Cancellation Policy

Notice	Fees	Deposit Returned
More than 3 weeks	100%	75%
2 to 3 weeks	100%	50%
1 to 2 weeks	100%	25%
Less than 1 week	100%	0%

A. Cancellation must be in writing by the person who originally signed the rental contract. Written notice of cancellation may be mailed to P.O. Box 339 Cedar Key, Florida 32625 or E-Mailed to cityhall@cedarkeyfl.us. Cancellation date will be based on postmark date for mailed request and date received for E-Mail request.

B. Cancellation of an event due to an officially declared state of emergency will receive a full refund of fees and deposit.

**LAWS OF CEDAR KEY-CHAPTER SIX
CITY ATTORNEY OPINIONS**

**CHAPTER SIX: CITY
ATTORNEY OPINIONS**

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**LAWS OF CEDAR KEY-CHAPTER SIX
CITY ATTORNEY OPINIONS**

CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

January 4, 1999

TOPIC: CONDITIONAL USE PERMITS

ISSUE

What effect does the granting of a conditional use permit have on the future reconstruction or expansion of the permitted use?

SHORT ANSWER

As the name “conditional use” suggests, it is the “use” that is being permitted. The granting of a conditional use does not forever grandfather the site plan or density/intensity of the use. Thus, as long as the conditional use is in effect, the use may be expanded or reconstructed, but only in conformity with then-existing site design and density/intensity requirements.

COMPLETE ANSWER

The purpose of the recently enacted conditional use regulations was to provide a procedure by which certain uses in the residential and commercial areas could be established in those districts. If the use already existed, the conditional use process is a way to convert the use from nonconforming status to conforming status. In the residential district the uses affected are bed and breakfasts, and certain hotels, motels, and aquacultural uses. In the commercial district the uses affected are certain hotels and motels. It was felt that these uses could be compatible within these districts if reviewed on a case by case basis by the City Commission.

In the case of existing uses, the change from nonconforming to conforming status has advantages. First, the use can be improved free of the restrictions on improving nonconforming uses. Second, the use may be rebuilt if it is destroyed.

This does not mean, however, that the use may be rebuilt exactly as it existed when the conditional use was granted. In addition to the City’s policy of having uses come into conformity with current site design and intensity/density requirements, the flood regulations would not allow a use to be expanded or rebuilt

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

in a manner that does not comply with those regulations. All expansions or reconstructions of uses in Cedar Key must be in compliance with the flood damage regulations, including those uses permitted by conditional use permit.

Thus the necessary interpretation of the effect of a conditional use permit on the right to expand or reconstruct a use is that such expansion or reconstruction of the use is allowed, but must be carried out in conformity with site design and density/intensity regulations in effect at the time of the expansion or reconstruction. This would include all flood damage prevention regulations in effect at the time.

Opinion prepared by:

C. David Coffey, Esq.

City Attorney

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

January 5, 1999

TOPIC: COMPREHENSIVE PLANNING

ISSUE

What new comprehensive planning requirements were imposed on Cedar Key by amendments to Chapter 163, Florida Statutes, enacted by the 1998 Florida Legislature?

SHORT ANSWER

The only change affecting Cedar Key is a new deadline for updating the land use element to include more information about schools. The deadline is October 1, 1999.

COMPLETE ANSWER

While there were substantial changes to Chapter 163 enacted by the 1998 Legislature, virtually all of them have no effect on Cedar Key. The major areas of change are as follows:

- ▶ Local governments have always had the option of including schools as one of the public facilities covered by concurrency requirements. The Legislature added substantial new language prescribing the contents of a concurrency management system for schools if a local government chooses to adopt one. Cedar Key is under no obligation to do so.
- ▶ The amendments prescribe the contents of a new kind of plan called an “optional sector plan.” These are detailed plans for areas of land of 5000 acres or greater. Unless Levy County were to adopt a sector plan including Cedar Key, this change has no effect on Cedar Key.
- ▶ The amendments revise the requirements for local submission of evaluation and appraisal reports. Cedar Key’s report is not due until 2006.
- ▶ The amendments make changes to the state comprehensive planning process.

The single change that affects Cedar Key is the amendment to the date for submission of an amended land use element which includes additional information about the siting of schools. The

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previous deadline was October 1, 1996, which apparently passed without local government compliance. The new date is October 1, 1999. By that date, the Cedar Key Land Use element should be amended to show the following:

The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use.

Making these changes to the Cedar Key Land Use Element should not be difficult given that the siting of new schools is not a big issue in Cedar Key. The City should plan on having these modifications made to the land use element and sent to DCA by the October 1 deadline. A sanction for failing to do so was added by the 1998 amendments and reads as follows:

The failure by a local government to comply with this requirement will result in the prohibition of the local government's ability to amend the local comprehensive plan as provided by s.163.3187(6).

Opinion prepared by:

C. David Coffey, Esq.

City Attorney

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

March 11, 1999

TOPIC: COMPREHENSIVE PLANNING

ISSUE

What state-mandated Comprehensive Planning Issues are facing Cedar Key in the near future?

SHORT ANSWER

The Evaluation and Appraisal Report is not due until sometime in 2006. In the meantime, updating of certain elements of the plan may be required due to the expiration of the Plan's planning horizon. Other minor plan amendments may be required due to changes to the requirements in Chapter 163, Florida Statutes. A review of the Cedar Key Comprehensive Plan should be undertaken in 1999 to evaluate the need for updating and amending.

COMPLETE ANSWER

The deadline for Cedar Key's Evaluation and Appraisal Report is sometime in the year 2006. These dates have recently been pushed back by the Legislature.

This means that the planning horizon for Cedar Key's Comprehensive Plan will probably expire prior to the EAR due date. Cedar Key adopted its plan in 1990. If it was a ten-year plan it will need to be updated prior to 2000 even though the EAR is not due. There is this language in §163.3191, Fla. Stat., dealing with the EAR process:

(e) Notwithstanding any provision of this subsection to the contrary, all local governments shall update their future land use element, intergovernmental coordination element, conservation element, and capital improvements element. Each local government in the coastal area shall update its coastal management element unless the local government can show that its coastal lands are publicly owned or managed, there is no public access to coastal lands, and there is no existing or planned development in coastal lands.

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Thus, if the planning horizon for the Cedar Key Comprehensive Plan does not extend beyond the year 2006, then the future land use element, intergovernmental coordination element, conservation element, and capital improvements element should be updated prior to the EAR process.

In addition, there have been changes to Chapter 163, Fla. Stat., relating to the requirements of the land use element relating to schools, and to the requirements for the intergovernmental coordination element. Attached is an excerpt from Chapter 163 showing the changes.

With regard to the new requirement relating to schools, there is nothing in the Goals and Policies of the Cedar Key Land Use Element that mentions schools. The school issue is probably not significant in Cedar Key, but some mention of the situation should probably be made in the land use element to keep the plan in strict conformity with Chapter 163.

With regard to the new requirements relating to the intergovernmental coordination element, Cedar Key's element seems to already have most of what was required by the amendments. Although the Cedar Key Intergovernmental Coordination Element does not explicitly contain "procedures to identify and implement joint planning areas, especially for the purpose of annexation, municipal incorporation, and joint infrastructure service areas," it would seem that these issues could be addressed in the interlocal agreements (with Levy County, Cedar Key Water and Sewer District, and the Suwannee River Water Management District) required by the existing element. Moreover, annexation is addressed in Policy 8-2.2. There is no mention of how coordination with the Levy County School Board will take place, but again schools are not a significant planning issue in Cedar Key. There is obviously no need to address "campus master plans." Thus, the Intergovernmental Coordination element is close to complying, but probably does not fully comply in certain technical respects. The deadline for bringing the element into compliance is 1999.

Although I have not yet seen this change in the statute, a representative of the Department of Community affairs stated that the Legislature just passed enforcement mechanisms whereby failure to make the required changes regarding schools and intergovernmental coordination will disqualify a local government from getting other plan amendments approved by the DCA.

The person designated as Cedar Key's planning manager within the Department of Community Affairs is Scott Rodgers. (Phone # 850-922-1487)

Recommendation

During the year 1999, the City of Cedar Key should undertake a review of its comprehensive plan to determine which elements will have to be updated prior to the EAR process, and to determine if changes to the land use and intergovernmental coordination elements will be necessary to comply with amendments to Chapter 163.

**LAWS OF CEDAR KEY-CHAPTER SIX
CITY ATTORNEY OPINIONS**

Opinion prepared by:

C. David Coffey, Esq.

City Attorney

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

EXCERPT FROM CHAPTER 163, FLORIDA STATUTES

163.3177 Required and optional elements of comprehensive plan; studies and surveys.--

(1) The comprehensive plan shall consist of 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 the area.

(2) Coordination of the several elements of the local comprehensive plan shall be a major objective of the planning process. The several elements of the comprehensive plan shall be consistent, and the comprehensive plan shall be economically feasible.

(3)

(a) The comprehensive plan shall contain a capital improvements element designed to consider the need for and the location of public facilities in order to encourage the efficient utilization of such facilities and set forth:

1. A component which outlines principles for construction, extension, or increase in capacity of public facilities, as well as a component which outlines principles for correcting existing public facility deficiencies, which are necessary to implement the comprehensive plan. The components shall cover at least a 5-year period.

2. Estimated public facility costs, including a delineation of when facilities will be needed, the general location of the facilities, and projected revenue sources to fund the facilities.

3. Standards to ensure the availability of public facilities and the adequacy of those facilities including acceptable levels of service.

(b) The capital improvements element shall be reviewed on an annual basis and modified as necessary in accordance with s. 163.3187 or s. 163.3189, except that corrections, updates, and modifications concerning costs; revenue sources; acceptance of facilities pursuant to dedications which are consistent with the plan; or the date of construction of any facility enumerated in the capital improvements element

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may be accomplished by ordinance and shall not be deemed to be amendments to the local comprehensive plan. All public facilities shall be consistent with the capital improvements element.

(4)

(a) Coordination of the local comprehensive plan with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region; with adopted rules pertaining to designated areas of critical state concern; and with the state comprehensive plan shall be a major objective of the local comprehensive planning process. To that end, in the preparation of a comprehensive plan or element thereof, and in the comprehensive plan or element as adopted, the governing body shall include a specific policy statement indicating the relationship of the proposed development of the area to the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region and to the state comprehensive plan, as the case may require and as such adopted plans or plans in preparation may exist.

(b) When all or a portion of the land in a local government jurisdiction is or becomes part of a designated area of critical state concern, the local government shall clearly identify those portions of the local comprehensive plan that shall be applicable to the critical area and shall indicate the relationship of the proposed development of the area to the rules for the area of critical state concern.

(5) The comprehensive plan and its elements shall contain policy recommendations for the implementation of the plan and its elements.

(6) In addition to the requirements of subsections (1)-(5), the comprehensive plan shall include the following elements:

(a) A future land use plan element designating 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. The future land use plan shall include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives. 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. The future land use plan shall be based upon surveys, studies, and data regarding the area, including the amount of land required to accommodate anticipated growth; the projected population of the area; the character of undeveloped land; the availability of public services; and the need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community. The future land use plan may designate areas for future planned

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development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this act. The future land use plan of a county may also designate areas for possible future municipal incorporation. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use. All comprehensive plans must comply with this paragraph no later than October 1, 1996. An amendment proposed by a local government for purposes of identifying the land use categories in which public schools are an allowable use is exempt from the limitation on the frequency of plan amendments contained in s. 163.3187.

[Underlined language was added in 1994]

* * * * *

(h)

1. An intergovernmental coordination element showing relationships and stating principles and guidelines to be used in the accomplishment of coordination of the adopted comprehensive plan with the plans of school boards and other units of local government providing services but not having regulatory authority over the use of land, with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region, and with the state comprehensive plan, as the case may require and as such adopted plans or plans in preparation may exist. This element of the local comprehensive plan shall demonstrate consideration of the particular effects of the local plan, when adopted, upon the development of adjacent municipalities, the county, adjacent counties, or the region, or upon the state comprehensive plan, as the case may require.

a. The intergovernmental coordination element shall provide for procedures to identify and implement joint planning areas, especially for the purpose of annexation, municipal incorporation, and joint infrastructure service areas.

b. The intergovernmental coordination element shall provide for recognition of campus master plans prepared pursuant to s. 240.155.

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c. The intergovernmental coordination element may provide for a voluntary dispute resolution process as established pursuant to s. 186.509 for bringing to closure in a timely manner intergovernmental disputes. A local government may develop and use an alternative local dispute resolution process for this purpose.

2. The intergovernmental coordination element shall further state principles and guidelines to be used in the accomplishment of coordination of the adopted comprehensive plan with the plans of school boards and other units of local government providing facilities and services but not having regulatory authority over the use of land. In addition, the intergovernmental coordination element shall describe joint processes for collaborative planning and decisionmaking on population projections and public school siting, the location and extension of public facilities subject to concurrency, and siting facilities with countywide significance, including locally unwanted land uses whose nature and identity are established in an agreement. Within 1 year of adopting their intergovernmental coordination elements, each county, all the municipalities within that county, the district school board, and any unit of local government service providers in that county shall establish by interlocal or other formal agreement executed by all affected entities, the joint processes described in this subparagraph consistent with their adopted intergovernmental coordination elements.

3. To foster coordination between special districts and local general-purpose governments as local general-purpose governments implement local comprehensive plans, each independent special district must submit a public facilities report to the appropriate local government as required by s. 189.415.

4. The state land planning agency shall establish a schedule for phased completion and transmittal of plan amendments to implement subparagraphs 1., 2., and 3. from all jurisdictions so as to accomplish their adoption by December 31, 1999. A local government may complete and transmit its plan amendments to carry out these provisions prior to the scheduled date established by the state land planning agency. The plan amendments are exempt from the provisions of s. 163.3187(1).

[Underline language added in 1992]

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

March 31, 1999

TOPIC: COMMUNITY REDEVELOPMENT

ISSUE

What is the procedure for creating a community redevelopment district for cedar key?

SHORT ANSWER

There is a three-step process: (1) Determination of need; (2) Establishment of Community Redevelopment Agency; (3) Preparation and approval of redevelopment plan.

COMPLETE ANSWER

The Community Redevelopment Act of 1969, Florida Statutes, Chapter 163, Part III, establishes the framework for local urban redevelopment in Florida. Upon a finding of slum, blight and/or inadequate housing in a specific area of a community, and the creation of a community redevelopment agency and redevelopment plan, the Act grants local governments additional powers to deal with the adverse conditions. Additional powers are granted in the areas of taxing, bonding and eminent domain.

The first step is a finding by the local government that a specific area of the community qualifies as a "community redevelopment area." A "community redevelopment area" under the statute is "a slum area, a blighted area, or an area in which there is a shortage of housing that is affordable to residents of low or moderate income, including the elderly, or a combination thereof which the governing body designates as appropriate for community redevelopment"

The statutory definitions of "slum area" and "blighted area" are as follows:

"Slum area" means an area in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age, or obsolescence; inadequate provision for ventilation, light, air, sanitation, or open spaces; high density of population and overcrowding; the existence of conditions which endanger life or property by fire or other causes; or any combination of such factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime and is detrimental to the public health, safety, morals, or welfare.

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"Blighted area" means either:

(a) An area in which there are a substantial number of slum, deteriorated, or deteriorating structures and conditions which endanger life or property by fire or other causes or one or more of the following factors which substantially impairs or arrests the sound growth of a county or municipality and is a menace to the public health, safety, morals, or welfare in its present condition and use:

1. Predominance of defective or inadequate street layout;
2. Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
3. Unsanitary or unsafe conditions;
4. Deterioration of site or other improvements;
5. Tax or special assessment delinquency exceeding the fair value of the land; and
6. Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area; or

(b) An area in which there exists faulty or inadequate street layout; inadequate parking facilities; or roadways, bridges, or public transportation facilities incapable of handling the volume of traffic flow into or through the area, either at present or following proposed construction.

The finding by the local government that an area qualifies as a community redevelopment area must be supported by a study of the area showing that the conditions actually exist. This study is important because the entire redevelopment program can be invalidated if the local government's findings are not supported by evidence of slum, blight, or inadequate housing conditions. Moreover, the study establishes what redevelopment projects the local government will have the authority to undertake under the Act. This is because there must be a rational connection between the findings and the chosen projects. For example, if the basis for a finding of blight is the danger of flooding and inadequate infrastructure to deal with it, then the redevelopment projects must relate to the alleviation of flood hazards. It is thus

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important to carefully identify and document all the conditions giving rise to the creation of the redevelopment area.

Once the study is complete and the local government makes the prerequisite findings, the next step is to create the community redevelopment agency. The agency may be the city commission or a separate board. If it is to be the city commission, the Act allows for the appointment of two additional citizens to serve on the agency along with the city commissioners. The city commission must designate a chair and vice chair, and may appropriate funds for the operation of the agency.

After adopting the resolution and creating the agency, the next step is to prepare and adopt a redevelopment plan for the area. As stated above, the redevelopment plan must be based on and address the blight, slum or inadequate housing conditions that formed the basis for the creation of the community redevelopment area. The minimum requirements for the plan as set forth in the Act are as follows:

The community redevelopment plan shall:

- (a) Conform to the comprehensive plan for the county or municipality as prepared by the local planning agency under the Local Government Comprehensive Planning and Land Development Regulation Act.
- (b) Be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the community redevelopment area; zoning and planning changes, if any; land uses; maximum densities; and building requirements.
- (c) Provide for the development of affordable housing in the area, or state the reasons for not addressing in the plan the development of affordable housing in the area. The county, municipality, or community redevelopment agency shall coordinate with each housing authority or other affordable housing entities functioning within the geographic boundaries of the redevelopment area, concerning the development of affordable housing in the area.

The procedure for plan adoption is basically as follows:

1. Preparation of a draft plan by the community redevelopment agency, usually with the participation of local interests and the assistance of professional consultants.

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2. Referral of the plan to the local planning agency to determine if the plan conforms to the local comprehensive plan.
3. After a finding by the local planning agency that the plan is in conformity with the comprehensive plan, the plan is submitted by the community redevelopment agency to the local governing body for final approval. A public hearing must be held and there are special notice requirements. Approval of the plan may be by ordinance or by resolution. This approval is another action that must be supported by a carefully document evidentiary record showing that the plan complies with all statutory requirements.

In the case of Cedar Key, the foregoing steps might all be performed by the city commissioners. It will be important, however, for the commissioners to carefully follow this process by changing hats when necessary.

The redevelopment plan should prescribe the manner in which the community redevelopment agency will exercise its powers under the Act to accomplish the redevelopment objectives. Upon adoption of the plan, the agency will embark upon implementation of the plan through the prescribed exercise of these powers. There are numerous legal issues that arise in the exercise of these powers by a community redevelopment agency, but these should be addressed as they arise.

Opinion prepared by:

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City Attorney

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

March 31, 1999

TOPIC: ANNEXATION

ISSUE

What change to the state annexation law was enacted during the 1998 Florida Legislature?

SHORT ANSWER

Section 171.044 was amended to require that notice of proposed voluntary annexations be provided to the County by certified mail.

COMPLETE ANSWER

Section 171.044 provides for voluntary annexation of property that is contiguous to the municipality. Such annexations are initiated by the owners of the property to be annexed. All owners of the property to be annexed must sign the petition.

When a municipality receives a proper petition it may annex the property at a regular meeting by nonemergency ordinance. Prior to the meeting, however, the municipality must publish notice in a local newspaper at least once each week for two weeks.

The 1998 change requires the municipality to provide a copy of the published notice to the county by certified mail. Failure to do so, however, cannot be the basis for a cause of action challenging the annexation. §171.044(6).

Opinion prepared by:

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City Attorney

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

May 11, 1999

TOPIC: MUNICIPAL ELECTIONS

ISSUE

Whether the city may forego proclaiming and holding an election where a single candidate is running unopposed.

SHORT ANSWER

State and local law would appear to allow this, but local law could be amended to remove any ambiguity.

COMPLETE ANSWER

The Florida Election Code applies to municipalities in the absence of an applicable local special act, charter or ordinance provision. A local government may not, however, adopt election procedures that conflict with the Election Code. §100.3605, Fla. Stat. (1997). Similarly, Cedar Key has adopted an ordinance provision adopting the Election Code to the extent it does not conflict with local ordinances. Cedar Key Code, §1.00.17.

Under the Florida Election Code, an election need not be held if a single candidate is running unopposed. In such cases, “the name of the candidate shall not be printed on the primary election ballot, and such candidate shall be declared nominated for the office.” §101.252, Fla. Stat. (1997). Pursuant to this provision, local governments routinely cancel elections where a single candidate runs unopposed.

The City of Cedar Key charter provides that election procedures shall be established by ordinance. Cedar Key Charter, §2.05.00. There is nothing else in the Charter that would prevent an election from being canceled where a single candidate runs unopposed.

The ordinances of the City provide as follows:

1.00.01 Regular Election of City Commissioners. Regular elections **shall** be held on the first (1st) Tuesday after the first (1st) Monday in May of each year for the election of the City Commissioners whose terms of office expire or to fill vacancies that may occur.

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1.00.04 Mayor to issue proclamation; contents; publication. Thirty (30) days prior to any and all elections the Mayor **shall** issue a proclamation calling the election. The proclamation **shall** specify what officers are to be elected, the length of time the officers are to serve, the time and place of holding the election and the names of inspectors and clerks to serve at the election. During the thirty (30) days prior to the election, the proclamation **shall** be published twice in a newspaper of general circulation published in the County.

1.00.10 Ballots. The names of all qualified candidates for election to the City Commission **shall** be placed upon the ballot in alphabetical order according to surnames; provided, no person's name shall be printed on the ballot if that person notifies the City Commission not less than twenty (20) days prior to the election that he will not accept the nomination.

[Emphasis added.]

The language of these provisions is mandatory in that "shall" is used repeatedly throughout. There is no explicit language relating to races where a single candidate runs unopposed.

In this situation, the state law allowing for the cancellation of elections where a single candidate runs unopposed would probably be held to apply to Cedar Key elections for one or two reasons. First, it could be said that the mandatory Cedar Key language that apparently requires elections to be held, even if there is a single unopposed candidate, is in conflict with the state provision requiring that the names of such candidates not be put on the ballot. Second, since elections with single unopposed candidates is not explicitly addressed by the Cedar Key charter or ordinances, it could be said that there is an absence of local law on the subject so that the state provision allowing the canceling of elections would apply.

Thus, it is reasonably clear that the City of Cedar Key could rely on the state election law and cancel elections where there is a single unopposed candidate. If the City wanted to remove all ambiguity on this, it could add the following provision to the Cedar Key election regulations:

1.00.18 Unopposed Candidates. When there is only one candidate qualified for a city commission seat, the name of the candidate shall not be printed on the election ballot, and such candidate shall be declared elected for the office. If, as the result of this provision, there are no names to be placed on a ballot, the Mayor shall not issue a proclamation calling the election, and the election shall be canceled.

Opinion prepared by:

LAWS OF CEDAR KEY-CHAPTER SIX
CITY ATTORNEY OPINIONS

C. David Coffey, Esq.

City Attorney

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

May 24, 1999

TOPIC: PUBLIC PROPERTY

ISSUE

Whether the Cedar Key Volunteer Fire Department may auction off a lot that it owns to the highest bidder and, if so, what notice should be given for the auction.

SHORT ANSWER

The Cedar Key Volunteer Fire Department may auction off a lot that it owns to the highest bidder so long as it ensures that the sale price of the lot approximates the lot's fair market value. There is no set law regulating the publicizing of the auction.

COMPLETE ANSWER

The general rule is that a local government may not give away public property to private entities unless there is a clear public purpose and benefit from doing so. The rule against giving public assets to private parties would apply to the sale of assets for less than fair market value. In this case there would be no public benefit derived from the transfer of the lot to a private entity and so an amount approximating fair market value should be obtained in the sale.

Research does not reveal any case or statute suggesting that a city may not dispose of property by way of an auction, nor any case or statute addressing what notice should be given or how long the notice should be publicized. The City Charter and ordinances do not address this issue. In the absence of specific law on the subject, a standard of reasonableness should be followed with regard to the notice given. Thus the notice of the auction should clearly define the terms of the auction and clearly describe the property to be auctioned. It should be published for an amount of time deemed necessary to attract a reasonable number of bidders. This will help ensure the receipt of fair market value.

The draft notice provided for the proposed auction sufficiently defines the rules of the auction and the property to be auctioned. The minimum bid of \$12,000 is adequate if it approximates the estimated fair market value of the lot. If the estimated fair market value of the lot is substantially more than \$12,000, then the minimum bid should be raised to come closer to the estimated fair market value. This notice should be published in a way and for an amount of time deemed necessary to attract a reasonable number of bidders.

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

Opinion prepared by:

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City Attorney

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

September 27, 1999

TOPIC: POST OFFICE RELOCATION

ISSUE

What are the U.S. Postal Service procedures for relocating a post office?

SHORT ANSWER

The Postal Service has adopted rules requiring it to notify and receive input from local officials and the community of any plans to expand or relocate an existing post office. The Postal Service is to take this input into account, and is to comply with local planning and zoning to the extent feasible, but is not bound by public input or local zoning.

COMPLETE ANSWER

It is known that the U.S. Postal Service has embarked on the process of expanding or re-locating the existing Cedar Key Post Office. The Postal Service has sent out a request for proposals to provide additional space on the island of Cedar Key. The Postal Service has requested proposals to provide space in an existing building or to provide land on which to build a new postal facility. In light of this, the City Commission has requested information on the procedures that the Postal Service should follow in making its decisions on this matter.

The procedures to be followed by the Postal Service when expanding, relocating or constructing a post office are codified at 39 C.F.R. (Code of Federal Regulations) 241.4. These state that the purpose of the procedures is to ensure increased opportunities for members of the communities who may be affected by certain Postal Service projects, along with local officials, to convey their views concerning the contemplated project and have them considered prior to any final decision to expand, relocate to another existing location, or construct a new building.

There is a six-step process that the USPS is required to follow leading up to sending out Requests for Proposals. Since the Request of Proposals with regard to the Cedar Key facility has been sent out, the following should have already taken place.

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The Postal Service is to:

1. Meet with one or more of the highest ranking elective public officials at least 45 days before any public advertising. At this meeting, the postal representative is to:
 - a. Describe the project and the procedures that will be followed.
 - b. Emphasize that in meeting the need for increase space, the first priority is to expand the existing facility, the second priority is to find an existing building in the same area as the current facility, and the third option is to build on a new site.
 - c. Ask that a postal representative be placed on the agenda of a regular City Commission meeting to be held within the next 60 days.
 - d. Provide a letter describing the intended project.
2. Notify the lessor of the affected facility in writing.
3. Send a press release to the local media.
4. Attend or conduct one or more public hearings to describe the project to the community, invite questions, solicit written comment, and describe the process by which community input will be considered. If such a meeting cannot be scheduled within a reasonable time, then the Postal Service is to distribute notification cards seeking written public input.
5. Review comments and notify local officials of the Postal Service's decision in writing. The decision is to take into account public input and is to be "consistent with prudent business practices and postal objectives." The Postal Service is not to take any action until fifteen days after local officials are notified.
6. Advertise for sites and existing buildings, in accordance with the decision.

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In addition to these procedural matters, the rule sets forth certain substantive requirements as follows:

1. In choosing an existing building, the Postal Service is to comply with historic preservation guidelines found in the National Historic Preservation Act, Executive Order 1306, and Executive Order 12072. If it appears that historic buildings may be affected by the Postal Service decision in Cedar Key, further research on these federal laws will need to be done to ensure Postal Service compliance.
2. It is the stated policy of the Postal Service “to comply with local planning and zoning requirements and building codes to the maximum extent feasible consistent with postal needs and objectives.” Plans for new postal facilities are to be sent to the local building official for review. The Postal Service is to provide written notice of any local rules or comments that it does not intend to comply with.
3. During the construction, the Postal Service is to keep local officials and the community informed via letters and news releases, and is to plan, conduct and invite the community and local officials to a “grand opening.”

In summary, there are clear procedures that the Postal Service should be following in making its decision to expand or relocate the Cedar Key Post Office. There is not, however, any requirement that the Postal Service actually abide by local input or zoning. The Postal Service is apparently endowed with the powers of the federal government to override local planning and zoning if the Postal Service finds that to do so is necessary to carry out its mission.

Opinion prepared by:

C. David Coffey, Esq.

City Attorney

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

January 19, 2000

TOPIC: CODE ENFORCEMENT

ISSUE

Whether the Cedar Key City Commission may serve as the code enforcement board for the City of Cedar Key.

SHORT ANSWER

City Commissioners may not serve on both the City Commission and the Code Enforcement Board because that would violate the prohibition in the Florida Constitution on dual office holding.

COMPLETE ANSWER

The City Attorney for the City of Wauchula recently requested an opinion of the Florida Attorney General as to whether the City Commission for that city could serve as the Code Enforcement Board. In an opinion dated June 24, 1997, the Florida Attorney General opined:

Article II, section 5(a), Florida Constitution, states in part that "[n]o person shall hold at the same time more than one office under the government of the state and the counties and municipalities therein[.]" City council members are clearly officers of a municipality and this office has determined that a code enforcement board member is also an officer. Thus, simultaneous service in both capacities would violate the constitutional prohibition unless such service resulted from legislative designation of the city council members as ex officio code enforcement board members.

There is no reason to conclude that the Attorney General is incorrect in this opinion, so the Cedar Key City Commission should not appoint itself as the Code Enforcement Board.

Opinion prepared by:

C. David Coffey, Esq.

City Attorney

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

May 10, 2007

TOPIC: HISTORIC REGISTER

ISSUE

What is the process for amending the Cedar Key Historic Register?

SHORT ANSWER

An amendment to the Cedar Key Local Register of Historic Places is an amendment to the Cedar Key Land Development Code and must be done as an ordinance. The Land Planning Agency, sitting as the Land Development Regulation Commission must first make a recommendation to the City Commission. Then the City Commission holds a first and second reading of the ordinance. The second reading is noticed and the City Commission may vote on the ordinance at that time. The process outlined in the Cedar Key Land Development Code for amending the Register appears to be incomplete or incorrect and requires modification.

COMPLETE ANSWER

An amendment to the Cedar Key Local Register of Historic Places is an amendment to the Cedar Key Land Development Code.¹ Land development regulations are ordinances² and must be processed pursuant to state law.

First, the Land Development Regulation Commission must review the proposed amendment.³ In Cedar Key, the Land Development Regulation Commission is the Land Planning Agency.⁴ The Land Development Regulation Commission forwards a recommendation to the City Commission as to the proposed ordinance's "relationship" to the City's Comprehensive Plan,⁵ meaning that the Commission should consider whether it is consistent with the comprehensive plan, compatible with the intent of the plan, and other such issues. The LPA, sitting as the Land Development Regulation Commission, must

¹ Cedar Key, Fla., Land Dev. Code § 3.1.03.B.5.

² § 163.3164(23), Fla. Stat. (2006).

³ §§ 163.3194(2); 163.3174(4)(c).

⁴ Land Dev. Code § 11.01.02.B.

⁵ § 163.3194(2).

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make the recommendation no more than two months after receiving the proposed amendment for review.⁶ If more than two months goes by with no recommendation, the City Commission may act on the proposed amendment without the recommendation.⁷

Second the City Commission holds at least two meetings on the proposed ordinance at which the proposed ordinance is read by title or in full.⁸ The City Commission may vote to adopt or reject the ordinance at the second reading.⁹ The meeting at which the City Commission votes to adopt or reject the ordinance must be publicly noticed in a newspaper of general circulation.¹⁰

The Cedar Key Land Development Code states an incorrect or incomplete method for approving amendments to the Local Register of Historic Places.¹¹ The Code appears to only require one hearing before the City Commission and does not require it to go before the Land Development Regulation Commission. I recommend amending the Code to comply with state law.

Opinion prepared by:

C. David Coffey, Esq.

City Attorney

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *See* Cedar Key, Fla., Land Dev. Code § 3.01.03.B.

LAWS OF CEDAR KEY-CHAPTER SIX

CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

May 10, 2007

TOPIC: ENVIRONMENTAL PROTECTION

ISSUE

Whether the City of Cedar Key is preempted by state law from regulating the trimming or removal of mangroves.

SHORT ANSWER

The State of Florida has preempted local governments from regulating the trimming or removal of mangroves unless the local government applies for and receives authorization from the Florida Department of Environmental protection. The City's Code of Ordinances contains obsolete provisions that should be removed.

COMPLETE ANSWER

The existing Cedar Key Comprehensive Plan contains several policies that are preempted by the State of Florida's Mangrove Trimming and Preservation Act (the Act). In particular, the Comprehensive Plan states:

Policy 1-4.8 *Conservation areas (saltwater marshes, tidal creeks, mangroves, beaches, bays, pine scrub, needlebrush, and temperate hammock) will be preserved in their natural state. To accomplish this, the city will adopt an amendment to the zoning ordinance for a conservation areas classification and will apply it generally to those areas designated in this plan as conservation areas*

Objective 7-1: *Upon plan adoption and land development regulations to be adopted in 1990, the city shall ensure that there is no net loss of mangroves, wetlands and seagrasses as a result of development.*

Policy 7-1B.1 *Regulations shall require a permit before removal of any native vegetation and shall prohibit the removal of mangroves.*

Policy 7-1.8 *Alteration of mangrove and wetland areas by chemical defoliants shall not be permitted. Any mangrove or wetland area which serves as an active nesting site or as a feeding or breeding area for a colony of birds shall not be altered.*¹²

¹² (emphasis added).

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Under the Act, the City of Cedar Key may not regulate mangrove “trimming” or “alteration” without receiving delegated authority from the Florida Department of Environmental Protection (DEP).¹³ Trimming is defined as removing branches, and alteration is defined as anything that is not trimming.¹⁴ The Act also includes provisions for mitigation, restoration and payment of fines for violations of the law.¹⁵ Except for those local governments that have received delegated authority, DEP is the sole regulator of trimming or altering mangroves on both public and private lands.¹⁶ Unless the City receives delegated authority to regulate mangrove trimming and alteration, the policies should be altered or removed from the Comprehensive Plan as part of the current update. Even if the City received authority, some of the policies would need to be altered in order to conform with state mandated exemptions (see below).

In certain instances, the Act exempts the trimming of mangroves from needing a permit.¹⁷ Generally speaking, property owners may trim mangrove stands that do not exceed 50 feet in depth, “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.”¹⁸ There are additional restrictions relating to the height of the trees before and after trimming, the length of the shoreline on which mangroves may be trimmed, whether a professional mangrove trimmer is needed, maintenance trimming, and the like.¹⁹ Any trimming that does not meet the exemption requirements, or any alteration of mangroves requires a permit from DEP.²⁰

A local government with authority to regulate mangrove trimming or alteration may create stricter rules with some exceptions. Except with regard to publicly owned conservation land (as defined in the statute²¹), they may neither limit the state exemptions,²² nor prohibit all mangrove trimming.²³ However, the substantive standards for issuing permits to trim mangroves may be stricter than state law.²⁴ Also, I could not find anything preventing a delegated local government from prohibiting all “alteration” of mangroves. A local government with delegated authority may also set standards for professional mangrove trimmers within its jurisdiction; otherwise trimmers must meet state requirements.²⁵

¹³ § 403.9324(1), Fla. Stat (2006).

¹⁴ § 403.9325(1), (8).

¹⁵ § 403.9332.

¹⁶ *See* § 403.9324(1).

¹⁷ § 403.9326.

¹⁸ *Id.*; § 403.9325(7).

¹⁹ § 403.9326.

²⁰ §§ 403.9327, 403.9328.

²¹ § 403.9325(6) (defining “public lands set aside for conservation or preservation”).

²² § 403.9326(2).

²³ §§ 403.9327(7), 403.9328(4).

²⁴ *Id.*

²⁵ § 403.9329(7)(a).

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Even if the local government has authority to regulate mangrove trimming and alteration, there are still activities which they would not be able to regulate. Activities that require environmental resource permits (issued by the water management districts and generally speaking related to the moving or filling in of land), as well as certain activities that are exempted from needing environmental resource permits are controlled by the laws regulating environmental resource permits, and as such are exempt from the Act.²⁶

If the City wants to regulate mangrove trimming and alteration, it must apply in writing to DEP.²⁷ The City would need to demonstrate that it has sufficient resources and procedures to administer and enforce the program.²⁸ By law, DEP may monitor a local government's performance once it has delegated to that local government the authority to regulate mangrove trimming and alteration.²⁹ The Department of Environmental Protection may revoke the authority if the local government fails to adequately administer the program.³⁰

Since Cedar Key does not currently have delegated authority to regulate mangroves, the Cedar Key Comprehensive Plan and Land Development Code include regulations that conflict with state law. I have attached a table with a list of city regulations dealing with mangroves. Please note that I only looked to see if the listed regulations were in conflict with the Mangrove Trimming and Preservation Act, thus there is no guarantee that they do not conflict with other state laws. Unless the City receives delegated authority to regulate mangroves from DEP, the conflicting policies should be removed from the Comprehensive Plan as part of the current update. Additionally, the regulations should be removed from the Land Development Code. Even if the City received delegated authority, the regulations and policies would need to be revised to conform with state mandates.

²⁶ § 403.9328(5).

²⁷ § 403.9324(2).

²⁸ *Id.*

²⁹ § 403.9324(5).

³⁰ *Id.*

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Table. Provisions in Cedar Key Comprehensive Plan and Land Development Code regulating Mangroves

Cite	Purpose	Comment
Comprehensive Plan		
Policy 1-4.8	The future land use map shall designate mangroves as conservation areas and the mangroves shall be preserved in their natural state.	The City has no authority to regulate mangrove trimming or alteration so it cannot require that mangroves be preserved in their natural state. Even if the City had delegated authority, a local government may not entirely prohibit the trimming of mangroves on private property and must include the exemptions to permit requirements that are allowed by state law.
Policy 4-3.3	The City shall enact ordinances to protect native vegetation and expressly including mangroves.	OK as long as City recognizes its limits.
Objective 7-1	The City shall ensure no net loss of mangroves as a result of development.	City cannot regulate removal of mangroves on private property since state permit required. However, City can pursue other methods such as purchasing property or limiting development.
Policies 7-1.3, 7-1.3(a)	Protection of mangroves as habitats.	OK as long as everyone is clear on the boundaries of regulation.
Policies 7-1.4a, b, c.	Requiring delineation of mangroves and protection from incompatible development.	OK.
Policy 7-1.4d	Prohibiting development within mangrove areas unless no alternative.	I don't think there is a problem prohibiting development in mangrove areas, but for instances when the City would allow it, the developer or property owner would need a permit from the State and would need to follow state mitigation requirements.

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Cite	Purpose	Comment
Policies 7-1.5, 7-1.5b	Restricts types of structures allowed in mangrove areas and requires docks on pilings.	I think this is permissible but the City needs to update state law references.
Policy 7-1.6	Restricts dredging and filling in mangroves.	OK under Mangrove Trimming and Preservation Act.
Policy 7-1.7	Prohibits septic tanks and the like in mangroves.	OK under Mangrove Trimming and Preservation Act.
Policy 7-1.8	Prohibits chemical defoliation of mangroves and prohibits alteration of mangroves that serve as nesting or breeding areas.	Preempted by Mangrove Trimming and Preservation Act.
Policy 7-1B-1	Prohibits removal of mangroves and requires permit from City before removal of native vegetation.	City preempted by Mangrove Trimming and Preservation Act from either permitting or prohibiting removal of mangroves.
Land Development Code		
Section 5.01.05.B.5	Sets forth requirements for mitigation of mangrove losses.	Preempted by Mangrove Trimming and Preservation Act since state regulates the mitigation of mangrove losses.
Section 5.02.03	Prohibits alteration of mangroves that serve as nesting or breeding habitats for bird colonies.	Preempted by Mangrove Trimming and Preservation Act.
Section 5.03.03	Requires permit for removal of native trees (including mangroves) and mitigation.	As far as mangroves, preempted by Mangrove Trimming and Preservation Act from requiring permits or regulating mitigation.

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Cite	Purpose	Comment
Section 5.03.05	Requires permit from DEP or City to remove or alter mangroves.	Preempted by Mangrove Trimming and Preservation Act from requiring City permit even if activity exempt under the Act.

Opinion prepared by:

C. David Coffey, Esq.

City Attorney

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

May 10, 2007

TOPIC: LIVE-ABOARDS AND HOUSEBOATS

ISSUE

What federal, state and local laws regulate the use of houseboats and live-aboards as residences?

SHORT ANSWER

Cedar Key has existing ordinances that regulate the use of houseboats or live-aboards as residences and the discharge of sewage from them. The laws are dispersed and unclear so they should be rewritten and reorganized. The State allows local governments to regulate the location of houseboats and live-aboards, or prohibit them all together. The State of Florida regulates discharge of sewage in state waters and regulates the type of marine sanitation device that houseboats must use. The federal government sets standards for marine sanitation devices.

COMPLETE ANSWER

I. Introduction:

Federal, State and City laws regulate houseboats and live-aboards. The laws of Cedar Key regulate the ability of people to use houseboats as residences within City limits, the locations where houseboats can dock, and the discharge of sewage from houseboats and live-aboards. State laws also regulate the discharge of sewage from houseboats and live-aboards. Federal laws set standards for sewage treatment devices on boats. This memo will first summarize the existing Cedar Key ordinances regulating houseboats and live-aboards. Next the memo will discuss the ability of the City to regulate the location of houseboats and live-aboards. Third, it will discuss federal standards related to sewage treatment devices, and fourth, it will discuss state regulation of sewage discharge.

II. Existing City Regulations:

Cedar Key has several existing ordinances regulating houseboats and live-aboards. They are haphazard and unclear. Some of them are in Chapter Two of the Laws of Cedar Key, and some are in Chapter 4 (hereinafter, the Land Development Code). I recommend that the City rewrite them to make them clearer and easier to find.

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The first thing to note is that the ordinances refer at different times to either houseboats or live-aboards. Houseboats are not defined in the Laws. A live-aboard is defined as any boat with persons living aboard it for 10 days in any 30-day period.³¹

The City prohibits tying a houseboat at any point on the Beach or Water Line within the City limits without the City Commission's approval.³² I could not find a definition for either "Beach" or Water Line." The City may not grant permission unless the houseboat can connect to the City Sewer Line and has sufficient water supply for all sanitary and health conditions of the occupants.³³ The Laws of Cedar Key do not provide for any additional procedures.

The Land Development Code limits where houseboats and live-aboards may be docked. A houseboat or live-aboard vessel may be connected to a property owned or occupied by the owners of the vessel.³⁴ The vessel must be for the exclusive use of the property owner or occupant.³⁵ Additionally, a houseboat or live-aboard vessel owned by a guest of the property owner or occupant may temporarily connect to the property for a maximum of 14 days in any consecutive 30 day period.³⁶ Finally, live-aboards, as defined above, are not allowed in the Cedar Key Marina.³⁷

The Land Development Code also states that a houseboat or live-aboard vessel may be permitted under the conditions cited in section 5.01.06.³⁸ Section 5.01.06 regulates marinas and multi-slip docking facilities so it is not entirely clear to what the ordinance is referring. However, the most reasonable interpretation is that the property to which the houseboat or live-aboard is attached must meet the requirement to have a pump-out, holding or treatment facility for sewage and other wastes.³⁹

III. Regulating the Location of Live-Aboards and Houseboats

A. State Law

³¹ Cedar Key, Fla., Laws of Cedar Key, ch. 4, § 4.00.03.

³² *Id.* ch. 2, § 2.11.03.

³³ *Id.*

³⁴ *Id.* ch. 4, § 7.02.06.A.

³⁵ *Id.*

³⁶ *Id.* § 7.02.06.B.

³⁷ *Id.* ch 2., § 4.00.03.

³⁸ *Id.* ch. 4, § 7.02.06.

³⁹ *Id.* § 5.01.06.D.

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State law provides that municipalities may “prohibit or restrict the mooring or anchoring of . . . live-aboard vessels within their jurisdictions”⁴⁰ State law defines a live aboard as “[a]ny vessel used solely as a residence” or [a]ny vessel represented as a place of business, a professional or other commercial enterprise, or a legal residence.”⁴¹ The definition expressly excludes commercial fishing boats,⁴² but encompasses houseboats. A houseboat is defined as “any vessel which is used primarily as a residence for a minimum of 21 days during any 30-day period, in a county of this state, and this residential use of the vessel is to the preclusion of the use of the vessel as a means of transportation.”⁴³

The Third District Court of Appeals upheld a Miami ordinance prohibiting live-aboards in the city’s jurisdiction.⁴⁴ The court held that the city’s stated purpose of preventing water pollution, navigational hazards, and visual pollution was a legitimate public purpose.⁴⁵ On the other hand, the same court overturned a Key West law that restricted live aboards to two named marinas and private property.⁴⁶ The court held that there was no relationship between the restriction and the protection of the public health, safety and welfare.⁴⁷ The ordinance, as presented in the case, did not explain why live-aboards were allowed in the two marinas and restricted in other areas.⁴⁸

Thus, as long as the prohibition or restriction is reasonably related to the protection of the public health, safety and welfare, the City may prohibit or restrict the docking or mooring of live-aboards. I did not find any federal law that would affect the City’s ability to restrict or prohibit the docking or mooring of live-aboards.

B. Examples of Other Municipalities’ Regulations

Municipalities in Florida do not appear to consistently regulate live-aboards. Some had no regulations and others totally prohibited them. Some communities allowed them as long as they were moored or anchored at a marina with direct sewage hookup or to a pumpout station connected to a municipal sewer system. Others allowed them only on private property or prohibited them in specific areas.

Madeira Beach provides an example of a community that uses a combination of zoning and permits to regulate live-aboards. They define a live-aboard as a vessel used as a residence, for habitation, living

⁴⁰ § 327.60(2), Fla. Stat. (2006).

⁴¹ § 327.02(17).

⁴² *Id.*

⁴³ § 327.02(13).

⁴⁴ *Dozier v. City of Miami*, 639 So. 2d 167, 168-69 (Fla. 3d DCA 1994).

⁴⁵ *Id.* at 169 & fn.3.

⁴⁶ *Dennis v. Key West*, 381 So. 2d 312, 314, 315 (Fla. 3d DCA 1980).

⁴⁷ *Id.* at 315.

⁴⁸ *See Id.* at 314.

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quarters or for dwelling purposes.⁴⁹ They require all live-aboards to obtain a city permit. A free temporary permit has to be obtained within 72 hours of arrival in the city for transient visits (10 days or less).⁵⁰ I did not find any restrictions on where temporary permit holders could dock their boats.⁵¹ A temporary permit is only valid for 10 days in any consecutive 3 month period.⁵² To stay longer you need to obtain an annual permit and pay a vessel inspection fee.⁵³ An annual permit allows you to stay at a licensed marina zoned for live-aboards.⁵⁴ The marina has to provide direct sewage hookups for live-aboards with annual permits and no live-aboards may occupy more than 15% of the authorized berths.⁵⁵

III. Marine Sanitation

A. Federal Regulations

The United States Coast Guard sets the standards for marine sanitation devices. These are devices designed to retain or treat sewage on vessels. Type I and II devices treat sewage before it is discharged,⁵⁶ and Type III devices retain the sewage so that it can be pumped out or otherwise removed.⁵⁷

The U.S. Coast Guard does not require vessels to have marine sanitation devices unless they have installed toilets.⁵⁸ Vessels more than 65 feet in length with installed toilets must have a Type II or Type III marine sanitation device.⁵⁹ Smaller vessels with installed toilets may have a Type I marine sanitation device.⁶⁰ The devices must be certified or labeled by the U.S. Coast Guard.⁶¹ Most vessels with toilets will probably meet the requirement since manufacturers are prohibited from selling boats with toilets without U.S. Coast Guard approved sanitation devices.⁶²

B. State Regulations

The State regulates the discharge of sewage more strictly than does the federal government. First, the State prohibits any vessel from discharging raw sewage into Florida waters.⁶³ Florida waters are defined

⁴⁹ Maderia Beach, Fl., Code of Ordinances § 78-32.

⁵⁰ *Id.* § 78-62(a).

⁵¹ *Id.* § 78-61.

⁵² *Id.* § 78-62(a).

⁵³ *Id.* § 78-62(b).

⁵⁴ *Id.*

⁵⁵ *Id.* § 78-63.

⁵⁶ 33 C.F.R. § 159.3.

⁵⁷ *Id.*

⁵⁸ *See Id.* § 159.7(a).

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.* §§ 159.5, 159.7.

⁶² *Id.* § 159.5.

⁶³ § 327.53(4)(a), Fla. Stat. (2006).

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as “any navigable waters of the United States within the territorial limits of this state, and the marginal sea adjacent to this state and the high seas when navigated as a part of a journey or ride to or from the shore of this state, and all the inland lakes, rivers, and canals under the jurisdiction of the state.”⁶⁴ While a vessel is in Florida waters, the operator of a vessel that is plumbed to allow for direct discharge of sewage without treatment must set the valve or other mechanism to prevent the direct discharge of raw sewage.⁶⁵ The vessel operator must lock or otherwise secure the valve or other mechanism to prevent resetting.⁶⁶ State law also requires that all waste from Type III devices be disposed of in an approved sewage pumpout facility and that waste from portable toilets be disposed of in an approved waste reception facility.⁶⁷

Second, State law requires that a vessel 26 feet or more in length that has an enclosed cabin with berthing facilities be equipped with a portable or permanently installed toilet.⁶⁸ If the vessel has a permanently installed toilet, then the toilet must be connected to the appropriate U.S. Coast Guard certified or labeled marine sanitation device.⁶⁹ This would mean that if it were 65 feet or less, it could have a Type I, II or III device, where as if it were longer than 65 feet, it would need a Type II or Type III device.

Third, State law requires a houseboat (a vessel used as a residence for 21 days in any 30 day period and thus not used for transportation) to have a permanently installed toilet.⁷⁰ The houseboat toilet must be “properly connected” to a U.S. Coast Guard certified or labeled Type III marine sanitation device.⁷¹ If the houseboat is simultaneously connected to another type of marine sanitation device, then the mechanism that selects between the devices must be set to direct all sewage to the Type III device while in Florida waters.⁷² The houseboat operator must lock or otherwise secure the selection mechanism so that it cannot be reset.⁷³

Violations of Section 327.53(1), (2), and (3) (relating to the installation of a toilet and the type of marine sanitation device required) are noncriminal violations subject to a \$50 fine.⁷⁴ Violations of Section 327.53(4) & (7) (relating to discharge of raw sewage and failure to correct a violation) are also noncriminal violations but the fine is \$250.⁷⁵ If the violator is required to appear in court, or chooses to do so, then the penalty may be increased to up to \$500.⁷⁶ If a violator fails to correct the problem within

⁶⁴ § 327.02(40).

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ § 327.53(4)(b), (c).

⁶⁸ § 327.53(1).

⁶⁹ *Id.*

⁷⁰ § 327.53(2).

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ § 327.73(1).

⁷⁵ *Id.*

⁷⁶ *Id.*

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30 days of receiving a citation, then law enforcement officers may have the vessel removed by order of the county court.⁷⁷

I did not find anything in the statute that would expressly preempt the City from enacting stricter sanitation rules—for example requiring all live-aboards (instead of just houseboats) to connect to the central sewer system.

Opinion prepared by:

C. David Coffey, Esq.

City Attorney

⁷⁷ § 327.53(7).

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

May 10, 2007

TOPIC: ARCHAEOLOGICAL RESOURCE PROTECTION

ISSUE

Whether there are state or federal laws affecting what the City can do with property that may contain a Native American mound.

SHORT ANSWER

Since the property is owned by the municipality, it would only be protected if it contained human remains. If the mound contained human remains, before the mound could be disturbed the State would require the City to either protect the site or to have an archaeological excavation done. Additionally, if the mound is on the National Register of Historic Places, any federal agency involved in an activity that would affect the mound would have to consider the affects of the activity on the mound before taking action.

COMPLETE ANSWER

You asked me to look at the whether there are laws affecting what the City can do with property that may contain a Native American mound. Whether the site is protected depends on if it contains human remains or is listed on the National Register of Historic Places. This Opinion first discusses State law then federal law.

I. Florida Law

Florida law makes it a felony to knowingly disturb a burial mound, tomb, grave monument, and the like.⁷⁸ Unmarked human burials are expressly protected.⁷⁹ If an unmarked burial is discovered, any work that might disturb the site of the burial must immediately cease and the district medical examiner must be notified.⁸⁰ The activity may not resume until authorized by the district medical examiner or the state

⁷⁸ § 872.02, Fla. Stat. (2006).

⁷⁹ § 872.05.

⁸⁰ § 872.05(4).

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archaeologist.⁸¹ If the remains are over 75 years old and not related to a legal investigation, then the state archaeologist may assume jurisdiction over the burial.⁸² If the burial site can be protected, then the remains may be reintured; otherwise, the State may order an archaeological excavation of the site.⁸³ The cost of an excavation would be the City's responsibility.⁸⁴

Additionally, if someone was concerned about the site, they could request that the State of Florida purchase the property under a law allowing for emergency acquisition of properties with statewide archaeological significance.⁸⁵ The Governor and cabinet would have to approve the purchase and the City would have to be a willing seller.⁸⁶

I did not find any other State laws that would protect archaeology sites. I also did not find anything precluding the City from regulating archaeological sites (other than those containing human remains) on non state or federal property.

II. Federal Law

When federal funds are involved, the National Historic Preservation Act protects property eligible for inclusion on the National Register of Historic Properties.⁸⁷ Archaeological sites are eligible for inclusion.⁸⁸ However, the law only requires that the federal agency involved take into account the affects of the action on the historic property; it does not prohibit development of the property.⁸⁹ I did not find any other federal laws that would regulate archeological sites on municipal property, or prevent a municipality from regulating archaeological sites on non federal property.

III. Conclusion

⁸¹ § 872.05(4).

⁸² § 872.05(4)(b), (6).

⁸³ § 872.05(9).

⁸⁴ R. 1A-44.005(6), Fla. Admin. Code.

⁸⁵ § 253.027(1),(6), Fla. Stat. (2006).

⁸⁶ Id.

⁸⁷ 16 U.S.C. § 470(f) (2000).

⁸⁸ Id. § 470a(a)(1)(A).

⁸⁹ Id. § 470f.

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If it the mound does not contain a human burial, and is not listed on the National Register, I do not think there is any protection for the mound since it is not on state or federal property.⁹⁰ However, I did not find anything that would preclude the City from passing ordinances protecting archaeological sites.

Opinion prepared by:

C. David Coffey, Esq.

City Attorney

⁹⁰ See Patty Gerstenblith, *Protection of Cultural Heritage Found on Private Land: The Paradigm of the **Miami Circle** and Regulatory Takings Doctrine After Lucas*, 13 St. Thomas L. Rev. 65 (2000) (discussing the dearth of laws protecting archaeological resources).

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

May 14, 2007

TOPIC: COMPREHENSIVE PLANNING

ISSUE

What is the state procedure for adopting large scale comprehensive plan amendments?

SHORT ANSWER

Large scale amendments must be transmitted to the Department of Community Affairs for review before they can be adopted by a local government. Both the transmittal and adoption hearings are public and require notice.

COMPLETE ANSWER

This is an outline of the procedure for submitting large scale comprehensive plan amendments. There are two required stages when adopting a large scale comprehensive plan amendment: transmittal and adoption. If the Florida Department of Community Affairs issues a finding that an adopted amendment is not in compliance with state law, or there is a challenge to a finding of compliance, then a third stage occurs—the administrative hearing process.

Part I. Transmittal Stage

- 1. Local Planning Agency Hearing and Recommendation:** After a large scale comprehensive plan amendment is submitted to the local government (whether initiated by the local government or by someone else), the Local Planning Agency holds a noticed public hearing.⁹¹ At that hearing, the Local Planning Agency makes a recommendation to the local government on whether to adopt the proposed amendments.⁹² See Attachment “A” for notice requirements.
- 2. Local Government Transmittal Hearing.**
 - a. Once the Local Planning Agency makes a recommendation, the local government must hold an advertised public hearing on whether to transmit the proposed amendments to the Florida Department of Community Affairs (hereinafter Department). The transmittal hearing must be on

⁹¹ § 163.3174(1), Fla. Stat. (2006).

⁹² *Id.*

LAWS OF CEDAR KEY-CHAPTER SIX

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a weekday at least 7 days after the notice is published. § 163.3184(15). See Attachment A for a description of the notice requirements.

- b. At the transmittal hearing, the local government must provide a sign-in sheet for members of the public to provide their names and addresses.⁹³ If the local government later adopts the amendment, the Department will send those who signed the sheet a courtesy notice when it issues its Notice of Intent (discussed in Part II.3.b.).⁹⁴ The local government must also add to the list the names of people who submit written comments on the proposed amendments to the Department during the comment period referenced in Part I.4.a. See Attachment B for the Department's sample form.⁹⁵

3. Transmittal Package.

- a. If the local government votes to transmit the amendments, then it submits them to the Department with copies to other appropriate review agencies⁹⁶. Attachment C lists the agencies that the local government must send copies to and also lists what must be in the transmittal package.
- b. Within 5 days of receipt, the Department notifies the local government whether the package is complete.⁹⁷

4. Comment and Review Period.

- a. Review agencies send comments to the Department within 30 days of receiving the complete transmittal package.⁹⁸ The Department also accepts written public comments during this time period.⁹⁹
- b. If an "affected person" (defined in Part III.1.b.), a regional planning council, or the submitting local government requests a review of the transmitted amendments then the Department reviews the amendments.¹⁰⁰ The Department may initiate a review on its own by notifying the local government of its intention to do so within 35 days of receiving the complete transmittal package.¹⁰¹
- c. If the Department reviews the transmitted amendments, then it sends the local government an Objections, Recommendations and Comments Report within 60 days of receiving the completed transmittal package.¹⁰² The Report must "identify" all comments that the Department received relating to the transmitted amendments.¹⁰³
- d. If the Department does not review the proposed amendments, it must give the local government a list of all the comments and documents it received regarding the amendments during the official comment period.¹⁰⁴

⁹³ § 163.3184(15)(c).

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ § 163.3184(3)(a).

⁹⁷ R. 9J-11.009(1)(a), Fla. Admin. Code.

⁹⁸ § 163.3184(4), Fla. Stat.

⁹⁹ *Id.*

¹⁰⁰ § 163.3184(6)(a).

¹⁰¹ § 163.3184(6)(b).

¹⁰² § 163.3184(6)(c).

¹⁰³ § 163.3184(6)(d).

¹⁰⁴ § 163.3184(6)(d).

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Part II. Adoption Stage

1. **Adoption Hearing.** After the review and comment stage, the local government holds a public hearing to decide whether to adopt the proposed amendments, adopt them with changes or not adopt them.¹⁰⁵ The hearing must be noticed and on a weekday at least 5 days after the ad is published.¹⁰⁶ See Attachment A for a description of the notice requirements. If the proposed amendments are the result of an Evaluation and Appraisal Report, then the local government has 120 days after the receipt of the written comments from the Department to make a decision on the proposed amendments.¹⁰⁷ For all other amendments, the local government has 60 days.¹⁰⁸
2. **Submission of adopted amendments to the Department of Community Affairs.** Within 10 working days after adoption of the amendments, the local government submits the adopted amendments to the Department and appropriate reviewing agencies.¹⁰⁹ Attachment D lists the agencies the local government must send copies to and also lists what must be in the adopted amendment package.
3. **Review and Notice of Intent**
 - a. If the adopted amendment is unchanged from the transmittal stage and neither an affected person (defined in Part III.1.b.) nor the Department raised objections to the transmitted amendments, then the local government may request expedited review of the adopted amendments.¹¹⁰ For an expedited review, the Department has 20 days from the receipt of the adopted amendment package to issue the Notice of Intent.¹¹¹ The Notice of Intent states whether the Department finds the adopted amendment in compliance or not in compliance with state law.
 - b. If the adopted amendment does not qualify for expedited review, then the Department has 45 days to review the adopted amendment and issue the Notice of Intent.¹¹²
 - c. A local government with an internet site must post the Notice of Intent on the site within 5 days of receiving a mailed copy of the Notice.¹¹³

Part III. Administrative Hearing Process

1. **Challenges.**

¹⁰⁵ § 163.3184(7)(a).

¹⁰⁶ § 163.3184(15).

¹⁰⁷¹⁰⁷ *Id.*

¹⁰⁸ § 163.3184(7)(a).

¹⁰⁹ § 163.3184(7)(a).

¹¹⁰ § 163.3184(8)(a).

¹¹¹ *Id.*

¹¹² § 163.3184(8)(b).

¹¹³ § 163.3184(8)(c)2.

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- a. If the Department finds the adopted amendment in compliance, then an affected person has 21 days to challenge the finding of compliance.¹¹⁴ A challenge follows the administrative hearing rules under Chapter 120, Florida Statutes.¹¹⁵
- b. An “affected person” is defined by state statute to mean “the affected local government; persons owning property, residing, or owning or operating a business within the boundaries of the local government whose plan is the subject of the review; owners of real property abutting real property that is the subject of a proposed change to a future land use map; and adjoining local governments that can demonstrate that the plan or plan amendment will produce substantial impacts on the increased need for publicly funded infrastructure or substantial impacts on areas designated for protection or special treatment within their jurisdiction. Each person, other than an adjoining local government, in order to qualify under this definition, shall also have submitted oral or written comments, recommendations, or objections to the local government during the period of time beginning with the transmittal hearing for the plan or plan amendment and ending with the adoption of the plan or plan amendment.”¹¹⁶
- c. If the Department finds the adopted amendment not in compliance, then the Department requests an administrative hearing under Chapter 120, Florida Statutes.¹¹⁷

2. Settlement and Hearings .

- a. Before an administrative hearing occurs, the Department must afford the parties an opportunity to mediate or otherwise resolve the dispute.¹¹⁸ A settlement may be a formal “compliance agreement” pursuant to state law or some other form.
- b. If a compliance agreement or other settlement is reached, then the administrative hearing would be dismissed. If the issues are only partially resolved, then the administrative hearing would still occur but would only deal with the unresolved issues.
- c. If no compliance agreement or other settlement is reached, then the administrative hearing would proceed.

3. Compliance agreement.

- a. Anytime there is a challenge to a finding of compliance, or there is a finding of noncompliance, the relevant parties may enter into a “compliance agreement”.¹¹⁹ The compliance agreement specifies remedial measures the local government must undertake to bring the amendments into compliance.¹²⁰ The filing of the compliance agreement places the administrative hearing on hold.¹²¹
- b. The local government votes on whether to approve the compliance agreement at a public meeting held at least 10 days after notice is published. § 163.3184(16)(b).
- c. The local government may adopt new or modified amendments that comply with the compliance agreement. The local government does not have to go through the transmittal stage for

¹¹⁴ § 163.3184(9)(a).

¹¹⁵ § 163.3184(9)(b).

¹¹⁶ § 163.3184(1)(a).

¹¹⁷ § 163.3184(10)(a).

¹¹⁸ § 163.3184(10)(b).

¹¹⁹ § 163.3184(16)(a).

¹²⁰ *Id.*

¹²¹ § 163.3184(16)(b).

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compliance agreement amendments.¹²² It only needs to meet the requirements for the adoption stage.¹²³ Furthermore, the local government only has to send copies to the Department, the regional planning council, any local or state agency that has requested a copy, and any party to the administrative hearing proceeding, including parties granted intervener status.¹²⁴

- d. Within 30 days of receiving the complete package, the Department issues a cumulative Notice of Intent for all the amendments as changed by the compliance agreement amendments.¹²⁵ If the Notice of Intent finds the amendments to be in compliance with state law, the Notice of Intent is filed with the Division of Administrative Hearings. The administrative proceedings then continue as appropriate (e.g., are dismissed, or if there are outstanding issues then the hearing would continue on those issues).¹²⁶
- e. If the Department finds them not in compliance, or if the local government does not adopt amendments, then the administrative proceedings continue as appropriate.¹²⁷

¹²² § 163.3184(16)(d).

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ § 163.3184(8)(b), (16)(e).

¹²⁶ § 163.3184(16)(f).

¹²⁷ § 163.3184(16)(f), (g).

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Attachment A: Notice Requirements for Large Scale Amendments –
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Attachment A: Notice Requirements for Large Scale Amendments –
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Attachment B: Department' Sample Citizen Courtesy Information List

Comprehensive Plan Citizen Courtesy Information List

Local

Government:_____

Hearing Date:_____

Type Hearing: Transmittal (Proposed) Adoption

Department Amendment Number:_____ (Department Official Use)

Please Print Clearly

By providing your name and address you will receive information concerning the date of publication of the Notice of Intent by the Department.

Citizen Name	Address, City, State, Zip Code	• Check		Identify Amendment which is of Interest
		Appropriate Response(s)		
		Written Comment	Spoken Comment	

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Attachment C: Department Check List for Transmittal Package

RULE 9J-11, F.A.C., SUBMITTAL REQUIREMENTS FOR PROPOSED COMPREHENSIVE PLAN AMENDMENTS

October 2005

NUMBER OF COPIES TO BE SUBMITTED: Please submit three copies of all comprehensive plan materials, of which one copy shall be paper and the other two copies may be on CD ROM in Portable Document Format (PDF), to the Florida Department and one copy each to the Florida Department of Environmental Protection (DEP), appropriate Florida Department of Transportation (DOT) district office, Department of State (DOS), appropriate Regional Planning Council (RPC), the appropriate Water Management District (WMD), Office of Educational Facilities of Commissioner of Education (if related to public educational facilities element pursuant to 163.31776, F.S.), the commanding officer or designee of each military installation located within, adjacent or proximate to the local government (if the amendment would affect the intensity, density, or use of the land adjacent to or in close proximity to the military installation), Office of Tourism, Trade, and Economic Development (OTTED) (if the amendment is related to a rural area of critical economic concern pursuant to Section 163.3187(1)(o), F.S.), appropriate County, the Florida Fish and Wildlife Conservation Commission (FFWCC) (county plans only), and the Florida Department of Agriculture and Consumer Services (DOACS), Division of Planning and Budgeting (county plans only).

SUBMITTAL LETTER REQUIREMENTS: Please include the following information in the cover letter transmitting the proposed amendment (Rule 9J-11.006(1)(a), F.A.C.):

_____ The date(s) the local planning agency and the city commission held public hearings (Rules 9J-11.006(1)(a)1 and 9J-11.006(1)(a)2, F.A.C.);

_____ A statement certifying that the proposed amendment(s) have been submitted to DEP, DOT, DOS, the RPC and the WMD, County, Education (PEFE related amendment only), Military Base Commanding Officer (if amendment would affect the intensity, density, or use of the land adjacent to or in close proximity to the military installation), OTTED (if the amendment is related to a rural area of critical economic concern pursuant to Section 163.3187(1)(o), F.S.), FFWCC (county only), and Agriculture (county only) . Certification means that the letter must state that a copy of each item specified under 9J-11.006(1)(a)(b) and (c), F.A.C., has been mailed to these agencies and the date the amendment package was mailed (Rule 9J-11.006(1), F.A.C.);

_____ A statement certifying that a copy of the adopted plan, including amendments, associated data and analysis and all support documents, has been submitted to the review agencies listed in Rule 9J-11.009(6), F.A.C. If amendment is based on the EAR, must certify that adopted EAR has been sent to agencies listed in Rule 9J-11.009(6), F.A.C.; (Rules 9J-11.006(1)(a)8, F.A.C.);

_____ A copy of letters submitted to each review agency providing them with a copy of the complete adopted plan or EAR, if applicable. Note: this is not required if copies of the elements being amended are included in the amendment submittal package (Rule 9J-11.006(1)(a)8., F.A.C.);

_____ A summary of the plan amendment(s) content and effect (Rule 9J-11.006(1)(a)3, F.A.C.);

_____ A statement indicating whether to have Department review the proposed amendment as provided in 163.3184(3)(a), F.S., (Rule 9J-11.006(1)(a)3., F.A.C.);

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_____ The month the local government anticipates the amendment will be adopted (Rule 9J-11.006(1)(a)4., F.A.C.);

_____ The name, title, address, telephone, FAX number, and e-mail of the local contact person (Rule 9J-11.006(1)(a)10, F.A.C.);

_____ A statement indicating whether the amendment is applicable to an area of critical state concern (Rule 9J-11.006(1)(a)5., F.A.C.)

_____ A statement indicating whether the amendment(s) is located within Orange, Lake or Seminole Counties and subject to the Wekiva River Protection Area, pursuant to Chapter 369, Part III, F.S. (Rule 9J-11.006(1)(a)6., F.A.C.);

_____ A statement indicating whether the amendment is subject to a joint planning agreement and, if so, a list of the local government(s) that are party to the agreement. If the amendment is subject to a joint planning agreement, the transmittal letter shall be signed by the chief elected official (or designee) of each local government (Rule 9J-11.006(1)(a)9., F.A.C.).

EXEMPTIONS: A comprehensive plan is exempt from the limit of two amendments per year if it meets any of the following criteria (Rule 9J-11.006(1)(a)7., F.A.C.):

_____The amendment is directly related to a proposed development of regional impact (Rule 9J-11.006(1)(a)7a, F.A.C.);

_____The amendment is directly related to small scale development activities (Rule 9J-11.006(1)(a)7b, F.A.C.);

_____The amendment meets the definition of emergency (Rule 9J-11.006(1)(a)7c, F.A.C.);

_____The amendment is submitted pursuant to a compliance agreement (Rule 9J-11.006(1)(a)7d, F.A.C.);

_____The amendment is directly related to the intergovernmental coordination element (Rule 9J-11.006(1)(a)7e, F.A.C.);

_____The amendment is related to the location of a state correctional facility (Rule 9J-11.006(1)(a)7f, F.A.C.);

_____The amendment identifies the land use categories in which public schools are allowed (Rule 9J-11.006(1)(a)7g, F.A.C.);

_____ The amendment updates the five-year schedule of Capital Improvements pursuant to Section 163.3187(1)(f), F.S.; (Rule 9J-11.006(1)(a)7h, F.A.C.);

_____The amendment is associated with an economic development project (Rule 9J-11.006(1)(a)7i, F.A.C.);

_____The amendment is directly related to the redevelopment of a brownfield area (Rule 9J-11.006(1)(a)7j, F.A.C.).

_____The amendment is directly related to Port Transportation Facility (Rule 9J-11.006(1)(a)7k, F.A.C.);

_____The amendment is directly related to Urban Infill Areas (Rule 9J-11.006(1)(a)7l, F.A.C.);

_____The amendment is directly related to Transportation Improvements (Rule 9J-11.006(1)(a)7m, F.A.C.);

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_____The amendment is directly related to Public Schools Facilities Element (Rule 9J-11.006(1)(a)7n, F.A.C.);

_____The amendment is directly related to FLUM school sites in Public Schools Facilities Element (Rule 9J-11.006(1)(a)7o, F.A.C.);

_____The amendment is directly ICE related pursuant to Section 163.3177(6)(h)4b, F.S.; (Rule 9J-11.006(1)(a)7p, F.A.C.);

_____The amendment is directly related to Boat Facility Siting Plan/Policy pursuant to Section 380.06(24)(k)1, F.S. (Rule 9J-11.006(1)(a)7q, F.A.C.)

_____The amendment directly addresses criteria or compatibility of land uses adjacent to or in close proximity to military installations pursuant to Sections 163.3187(1)(m), F.S.; (Rule 9J-11.006(1)(a)7r, F.A.C.)

_____The amendment directly establishes or implements a rural land stewardship area pursuant to Section 163.3177(11)(d), F.S.; (Rule 9J-11.006(1)(a)7s, F.A.C.)

_____The amendment directly incorporates the regional water supply work plan approved pursuant to Sections 373.0361 and 163.3177(6)(c), F.S.; (Rule 9J-11.006(1)(a)7t, F.A.C.)

_____The amendment directly implements the Wekiva Study Area plan pursuant to Section 369.321, F.S.; (Rule 9J-11.006(1)(a)7u, F.A.C.)

_____The amendment updates the capital improvements element to update the schedule of capital improvements on an annual basis pursuant to Section 163.3177(3)(b)1, F.S.; (Rule 9J-11.006(1)(a)7v, F.A.C.)

_____The amendment is to the capital improvements element other than an update to the schedule of capital improvements pursuant to Section 163.3177(3)(b)2, F.S.; (Rule 9J-11.006(1)(a)7w, F.A.C.)

_____The amendment directly incorporates a community vision meeting the criteria of Section 163.3177(13), F.S., as a component to the comprehensive plan pursuant to Section 163.3177(13)(f), F.S.; (Rule 9J-11.006(1)(a)7x, F.A.C.)

_____The amendment directly designates an urban service boundary meeting the criteria of Section 163.3177(14), F.S., pursuant to Section 163.3177(14)(b), F.S.; (Rule 9J-11.006(1)(a)7y, F.A.C.)

_____The map amendment is consistent with Section 163.3184(17), F.S., within the urban service boundary for those local governments that have adopted a community vision and urban service boundary pursuant to Sections 163.3177(13) and (14), F.S.; (Rule 9J-11.006(1)(a)7z, F.A.C.)

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_____The map amendment is consistent with Section 163.3184(18), F.S., within the urban infill and redevelopment area for those local governments that have adopted an urban infill and redevelopment area pursuant to Section 163.2517, F.S.; (Rule 9J-11.006(1)(a)7aa, F.A.C.)

_____The amendment is submitted pursuant to Section 163.3187(1)(o), F.S., within an area designated by the Governor as a rural area of critical economic concern under Section 288.0656(7), F.S.; (Rule 9J-11.006(1)(a)7bb, F.A.C.)

_____The amendment is necessary to carry out the approved recommendation of a special magistrate under Section 70.051, F.S. (Rule 9J-11.006(1)(a)7cc, F.A.C.)

PROPOSED AMENDMENT PACKAGE: Please include the following information in the proposed amendment package (Rule 9J-11.006(1)(b), and (c), F.A.C.):

_____ All proposed text, maps and support documents (including data and analysis) reflected on new pages of the affected amendment in a strike-through/underline format (or similar easily identifiable format);

_____ Identify the plan amendment number of each page affected (Rule 9J-11.006(1)(b), F.A.C.);

_____ Staff, local planning agency and local governing body recommendations (Rule 9J-11.006(1)(c), F.A.C.);

_____ Support documents or summaries of the support documents on which the recommendations regarding the proposed plan amendment(s) are based (Rule 9J-11.006(1)(c), F.A.C.);

_____ Copies of the entire elements being amended if the local government did not certify that it submitted copies of its adopted plan to review agencies (Rule 9J-11.006(1)(a)8., F.A.C.).

_____For Future Land Use Map amendments, please include a future land use map depicting:

_____The proposed future land use designation of the subject property (9J-11.006(1)(b)1.a., F.A.C.)

_____ The boundary of the subject property and its location in relation to the surrounding street and thoroughfare network (9J-11.006(1)(b)1.a., F.A.C.);

_____ The present future land use map designations of the subject properties and abutting properties (9J-11.006(1)(b)1.b., F.A.C.).

_____An Existing Land Use Map depicting:

_____The existing land use(s) of the subject property and abutting properties (Rule 9J-11.006(1)(b)2, F.A.C.);

_____ In addition:

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_____ The size of the subject property in acres or fractions thereof (Rule 9J-11.006(1)(b)3., F.A.C.)

_____ A description of the availability of and the demand on sanitary sewer, solid waste, drainage, potable water, traffic circulation, schools and recreation, as appropriate (Rule 9J-11.006(1)(b)4., F.A.C.);

_____ Information regarding the compatibility of the proposed land use amendments with the Future Land Use Element goals, objectives and policies, and those of other affected elements (Rule 9J-11.006(1)(b)5., F.A.C.).

_____ If a local government relies on original data, or data and analysis from a previous amendment, it shall provide to Department, at the time of submittal, a reference to the specific portions of the previously submitted data and analysis on which the local government relies to support the amendment (Rule 9J-11.007(2), F.A.C.);

_____ If previous data and analysis is no longer the best available existing data or no longer supports the plan, then copies of updated and reanalyzed data and analysis must be submitted to support the proposed amendment (Rule 9J-11.007(1), F.A.C.). Note: Remember 9J-11.006(1) states that applicable data and analysis must accompany the amendment packages submitted to DEP, DOT, DOS, the RPC and the WMD, County, Education (PEFE related amendment only), Military Base Commanding Officer (if amendment would affect the intensity, density, or use of the land adjacent to or in close proximity to the military installation), OTTED (if the amendment is related to an area of rural critical economic concern pursuant to Section 163.3187(1)(o), F.S.), (FFWCC (county only), and Agriculture (county only).

_____ All plan amendments must meet the requirements of Rule 9J-5, F.A.C. (Rule 9J-11.007(3), F.A.C.).

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Attachment D: Department Check List for Submittal of Adopted Amendments

RULE 9J-11, F.A.C., TRANSMITTAL REQUIREMENTS FOR THE SUBMISSION OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS

October 2005

NUMBER OF COPIES TO BE SUBMITTED: Please submit three copies of all comprehensive plan materials, of which one copy shall be paper and the other two copies may be on CD ROM in Portable Document Format (PDF), to the Florida Department and one copy each to the Florida Department of Environmental Protection (DEP), appropriate Florida Department of Transportation (DOT) district office, Department of State (DOS), appropriate Regional Planning Council (RPC), the appropriate Water Management District (WMD), Office of Educational Facilities of Commissioner of Education (if related to public educational facilities element pursuant to 163.31776, F.S.), the commanding officer or designee of each military installation located within, adjacent or proximate to the local government (if the amendment would affect the intensity, density, or use of the land adjacent to or in close proximity to the military installation), Office of Tourism, Trade, and Economic Development (OTTED) (if the amendment is related to an area of rural critical economic concern pursuant to Section 163.3187(1)(o), F.S., appropriate County, the Florida Fish and Wildlife Conservation Commission (FFWCC) (county plans only), and the Florida Department of Agriculture and Consumer Services (DOACS), Division of Planning and Budgeting (county plans only).

SUBMITTAL LETTER REQUIREMENTS: Please include the following information in the transmittal cover letter transmitted the adopted amendment (see Rule 9J-11.011(5), F.A.C.):

_____ Department identification number for adopted amendment package;

_____ Name of newspaper in which the Department will publish the required Notice of Intent (Rule 9J-11.011(5) F.A.C. and Section 163.3184(8)(c)1, F.S.);

_____ Brief description of the adoption package, including any amendments previously proposed but not adopted (Rule 9J-11.011(5)(a)5, F.A.C.);

_____ Ordinance number and adoption date (Rule 9J-11.011(5), F.A.C.);

_____ Certification that the adopted amendment(s) has been submitted to all parties listed in Rule 9J-11.009(6), F.A.C. (Rule 9J-11.011(5), F.A.C.);

_____ Name, title, address, telephone, FAX number and e-mail address of local government contact;

_____ Letter signed by the chief elected official or the person designated by the local government (Rule 9J-11.011(5), F.A.C.).

_____ If the plan amendment is unchanged and was not subject to review or objections, a statement requesting expedited publication of the notice of intent. The transmittal letter shall include the following language: **The comprehensive plan amendment package was adopted without revision from the proposed amendment**

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package and no objections were raised by an affected party, the amendment was not reviewed by the Department or if reviewed no objections were raised. Based upon these facts, we request expedited publication of a Notice of Intent pursuant to Section 163.3184(8), Florida Statutes.

_____ If adopted package contains a future land use map amendment adopted after December 1, 2007, a statement indicating the date that the annual capital improvement element update has been adopted and submitted along with the summary of de minimis impact records.

ADOPTION AMENDMENT PACKAGE: Please include the following information in the amendment package (Rule 9J-11.011(5), F.A.C.):

_____ All adopted text, maps and support documents (including data and analysis) on new pages of the affected amendment in a strike-through/underline format (or similar easily identifiable format). In case of future land use map amendment, the adopted future land use map reflecting the changes made when adopted. Note: If the local government is relying on previously submitted data and analysis, no additional data and analysis is required.

_____ Copy of executed ordinance adopting the comprehensive plan amendment(s);

_____ Copy of the Citizen Courtesy Information List. In event no individuals sign up to receive a courtesy information statement, indicate on sign-in form that no request were made and include the form in the adopted package. [9J-11.015(5)(b)4 and 163.3184(15)(c), F.S.] (Section 163.3184(8)(b)2, F.S.);

_____ List of additional changes made in the adopted amendment that the Department did not previously review (Rule 9J-11.011(5)(a)5.a, F.A.C.);

_____ List of findings of the local governing body, if any, that were not included in the ordinance and which provided the basis of the adoption or determination not to adopt the proposed amendment (Rule 9J-11.011(5)(a)5.b, F.A.C.);

_____ Statement indicating the relationship of the additional changes not previously reviewed by the Department to the ORC report from the Department (Rule 9J-11.011(5)(a)5.c, F.A.C.)

_____ List of proposed amendments previously reviewed by the Department in current cycle of amendments that were not adopted by local government (Rule 9J-11.011(5)(a)5.d, F.A.C.)

_____ In the case where the local government amends the **Capital Improvement Element**, the following information will be required: (Rule 9J-11.011(8), F.A.C.).

(a) **If the amendment adopts corrections and modifications** of the capital improvements element concerning costs, revenue sources, or acceptance of facilities pursuant to dedications that are consistent with the plan pursuant to Section 163.3177(3)(b), F.S., a copy of the executed ordinance shall be submitted to the Department within ten working days after adoption.

(b) **If the amendment is adopted to meet the annual update** of the schedule or to eliminate, defer, or delay the construction for any facility listed in the 5-year schedule pursuant to Section 163.3177(3)(b), F.S., the local government must submit a copy of the executed ordinance, the amendment in strike thru and underline format, and a summary of the de minimis impact records pursuant to Section 163.3180(6), F.S.

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_____ If local government uses replacement page format: copies of newly adopted comprehensive plan pages that contain newly adopted plan amendments and new cumulative table of contents (Rule 9J-11.011(5)(b)6. and 7., F.A.C.).

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CITY ATTORNEY OPINION

May 14, 2007

TOPIC: PARKING

ISSUE

How can the City collect the parking fines for violations of municipal parking ordinances when the violator challenges the ticket in county court?

SHORT ANSWER

The fines collected by the court are distributed according to a mandatory state formula. Challenges to tickets must go through the Levy County Court and there is no way for the City to obtain the entire fine when it is challenged in court.

COMPLETE ANSWER

Cedar Key has the authority to adopt laws regulating or prohibiting parking within the City as long as the ordinance does not conflict with state law. Cedar Key has already adopted laws regulating parking that for the most part track state law.¹²⁸ When issuing a ticket for a violation of a state parking or traffic ordinance, a police officer has to use the uniform traffic citation form provided by the state. This form may not be used to issue a ticket for a violation of a city parking ordinance.

The City collects and keeps all the money from violations of municipal parking ordinances. Overdue parking tickets may be turned over to a collections agency. Additionally, Cedar Key has an ordinance allowing it to report violators with at least 3 overdue parking tickets to the Department of Motor Vehicles. The state will not issue a registration or drivers license to individuals on the list. When the violator is reported to the state, part of the fine collected goes to the tax collector and the clerk of the court since they administer the program. Also, the City authorizes the police department to boot a car whose owner has three unpaid tickets and to impound a car whose owner has five unpaid tickets.

If a violator wants to challenge a parking ticket, he or she has to do so in county court. The Levy County Court apparently has a policy of not hearing municipal parking violations. Because of this, the police department must issue a ticket using the state form when the violator wants to challenge the ticket. When

¹²⁸ Compare Laws of Cedar Key, Chpt. 2, art. VI with § 316.945, Fla. Stat. (2006).

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a ticket is challenged in court, the clerk of the court collects the fine and distributes it pursuant to a state formula. Only some of the fine collected by the court goes to the City.

Opinion prepared by:

C. David Coffey, Esq.

City Attorney

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

May 14, 2007

TOPIC: MUNICIPAL EMPLOYEES

ISSUES

- 1. Whether the police department may require department employees to live in or near the City of Cedar Key.**
- 2. Whether the Police Department can give a hiring preference to residents of Cedar Key.**

SHORT ANSWERS

- 1. Yes, as long as long as the requirement is rationally related to a legitimate government objective and similarly situated employees are treated similarly.**
- 2. Yes, but you cannot refuse to consider a nonresident for employment.**

COMPLETE ANSWER

You asked me to examine the following two issues: 1) whether the police department may require employees to live in or near the City of Cedar Key; and 2) whether the police department can give a hiring preference to residents of Cedar Key. It is my understanding of the law that the City may have a continuing residency requirement for Police Department employees. In other words, the City may require that police department employees live in or near the City as a condition of continuing employment. The ordinances that I looked at generally had a grace period of 6 to 12 months for current employees and new hires. Since Cedar Key is so small, the City should be able to extend the residency requirement to a reasonable geographic area outside the City limits.

The residency requirement does have to be rationally related to a legitimate government objective. Courts have upheld reasons such as nearness of emergency personnel, greater knowledge and understanding of city conditions, greater attachment to the city, and support of the local economy through provision of jobs to residents and spending of wages in the city.

The city does need to make sure that they are treating “similarly situated” employees similarly in order to avoid a violation of equal protection. For instance, requiring police officers, as emergency personnel, to live within a certain driving distance makes sense; but if that is the primary rationale for the residency requirement, it may be that other employees who would also be considered emergency personnel should

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then be included. I did find ordinances that required only emergency personnel to live within a given driving time to their place of employment.

Hiring preferences for city residents are also ok. The State of Florida allows state agencies to give preference to state residents in hiring, and I could not find any reason why municipalities could not also do so. In fact, many municipalities in Florida do give hiring preferences to residents. However, it is probably unconstitutional to require that a person actually live in the city before being considered for employment.

Opinion prepared by:

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LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

May 14, 2007

TOPIC: COASTAL MAPPING ACT

ISSUES

- 1. Whether the City of Cedar Key must comply with the Coastal Mapping Act, Chapter 177, Florida Statutes.**
- 2. If yes, what must the City of Cedar Key do to comply with the Act when reviewing applications for bulkheads and seawalls or construction in proximity to the mean high-water line?**

SHORT ANSWERS

- 1. Yes.**
- 2. As part of the building official's review for application completeness, the building official should ensure that those applications which identify tidal datums, mean high-water lines and mean low-water lines comply with the Act.**

COMPLETE ANSWER

In response to the first question, the Act creates standards for surveyors to follow in the establishment of local tidal datums and the determination of the location of the mean high-water line or the mean low-water line. §177.35, F.S. (2005). Only licensed surveyors or other persons approved by the Department of Environmental Protection ("DEP") may perform such work. Further, §177.37 requires surveyors doing such work to submit a copy of the results to DEP if the results are "to be recorded or submitted to any court or agency of state or local government." Finally, the Act prohibits maps or surveys prepared after 1974 purporting to establish such information from being admissible as evidence in any court, administrative agency, political subdivision or tribunal in the state, unless the map or survey was prepared in accordance with the Act. §177.40, F.S. (2005). This provision applies at least to quasi-judicial hearings held by the City Commission, if not to other types of hearings as well. Therefore, the City must comply with the Act.

Our second question is what, exactly, constitutes compliance with the Act. Because the Act provides standards for the *establishment* of local tidal datums and the *determination* of the location of the mean high-water line or the mean low-water line, most applications to the City are unlikely to invoke it. That is, Cedar Key rarely encounters instances in which applicants actually establish tidal datums. For example,

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an application for a bulkhead or seawall must include a site plan which identifies environmental resources and environmental buffers. §10

.04.02.B.2.b., Chapter Four, Laws of Cedar Key. The location of the mean high-water line is required as a reference for the environmental buffers. §5.01.02.A., Chapter Four, Laws of Cedar Key. However, reliable data to map the mean high-water line are available from DEP so residents do not need to establish their location each time they propose a seawall or bulkhead.

Surveyors may access DEP's data through the Land Boundary Information System which can be found on the World Wide Web at <http://data.labins.org>. As part of the building official's review for application completeness under §10.04.03.A.1, or §12.02.02.B., Chapter Four, Laws of Cedar Key, the building official should ensure that those applications which identify tidal datums, mean high-water lines and mean low-water lines comply with the Act. To that end the Application for Land Use Action has been modified to reference the requirements of the Act so that potential applicants are aware from the outset of the need to comply with the Act.

Opinion prepared by:

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LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

May 14, 2007

TOPIC: MUNICIPAL EMPLOYEES

ISSUE

Whether the Laws of Cedar Key, including the City Charter and Comprehensive Plan, require that the City Clerk of the City Commission exclusively fulfill the City's financial, accounting, and bookkeeping duties.

SHORT ANSWERS

No. The Clerk may delegate financial duties except signing checks, warrants and vouchers.

COMPLETE ANSWER

The office of the City Clerk of the City Commission is created by §1.06.01., Article I, Chapter Two, Laws of Cedar Key. This section establishes the City Clerk of the City Commission ("Clerk") as the department administrator for the office of the City Clerk. The section does not assign specific duties to the Clerk but refers generally to other parts of the Laws of Cedar Key ("Laws"). After reviewing the Laws, the following provisions are the only ones assigning financial, accounting, or bookkeeping duties to the Clerk.

Section 3.00.08., Article III, Chapter Two designates the Clerk as the custodian of sums withheld from employees as part of the City's employee benefit program.

Section 5.00.00., Article V, Chapter Two gives the Clerk the duty to sign all checks, warrants or vouchers issued by the City of Cedar Key.

Beyond these two provisions, the Laws do not assign any financial, accounting or bookkeeping duties to the Clerk. The City, therefore, appears to have leeway in how it assigns those responsibilities and may do so in the most economical manner.

Opinion prepared by:

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**LAWS OF CEDAR KEY-CHAPTER SIX
CITY ATTORNEY OPINIONS**

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LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

May 14, 2007

TOPIC: CODE ENFORCEMENT

ISSUE

Whether the City of Cedar Key has the authority to impose imprisonment as a punishment for violations of the City Code.

SHORT ANSWER

Yes. Although there is no explicit authority for such punishment, state law implies the authority.

COMPLETE ANSWER

Under the Laws of Cedar Key, an individual who violates a City ordinance may be imprisoned for up to sixty days.¹²⁹ There is no specific statute authorizing municipalities to punish violations of municipal ordinances with imprisonment. However, state law appears to imply such authority.

Municipalities have all powers not prohibited by general law, the Constitution, or their charter, and there is nothing in Florida statutes preventing such a punishment.¹³⁰ Additionally, Florida's state sentencing guidelines imply that municipalities may use imprisonment as a punishment.¹³¹ The sentencing guidelines state that a noncriminal violation is not enforceable by any means other than a fine, forfeiture, or other civil penalty.¹³² However, per the statute, the term "non criminal violation" does not include a violation of a municipal ordinance.¹³³ Furthermore, someone convicted of a noncriminal violation may not be sentenced to imprisonment "*except as provided in chapter 316 [traffic violations] or by ordinance of any city or county.*"¹³⁴

Moreover, the punishment that Cedar Key imposes is in line with the type of punishment that the State imposes for similar types of offenses. The Florida Supreme Court has stated that a municipality may not

¹²⁹ Cedar Key, Fla, Laws of Cedar Key, ch. 2, § 1.02.01.

¹³⁰ § 166.021(3), Fla. Stat. (2006); Fla. Attorney Gen. Op. 081-76 (1981).

¹³¹ Fla. Attorney Gen. Op. 081-76.

¹³² § 775.08(3), Fla. Stat.

¹³³ *Id.*

¹³⁴ § 775.082(5) (emphasis added).

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impose a more severe punishment than state law provides for the same type of offense.¹³⁵ State law provides that “[a]ll nuisances that tend to annoy the community, injure the health of the citizens in general, or corrupt the public morals are misdemeanors of the second degree” Under state law, second degree misdemeanors may be punished by up to 60 days in jail and a fine.¹³⁶ In general, municipal ordinances protect the public health, safety and welfare and thus violations of those ordinance would probably be considered a nuisance that would fall under the state’s second degree misdemeanor category. The Cedar Key ordinance allows for the same punishment as the state—up to sixty days in jail and a fine.

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¹³⁵ Thomas v. State, 614 So. 2d. 468 (Fla. 1993) (holding invalid an Orlando ordinance that punished failure to have a bicycle horn with a fine or imprisonment because state law explicitly defined traffic violations as civil violations not punishable by imprisonment).

¹³⁶ § 775.082(4)(b); § 775.083(1).

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

May 14, 2007

TOPIC: TAXES

ISSUES

- 1. What affect does classifying property as agricultural have on the property taxes assessed for that property?**
- 2. What factors are considered in classifying a property as agricultural?**
- 3. What affect does the agricultural land use designation have on the property appraiser's options for assessing the property?**

SHORT ANSWERS

- 1. Since the property is valued based on its use value instead of the fair market value, the effect of the classification is to significantly reduce the appraised value of the property for determining property taxes.**
- 2. The property appraiser may consider a number of factors in deciding whether a property qualifies for agricultural classification. Zoning is not a determinative factor. I did not find any case law relating to comprehensive plan designations but I think that that would also not be determinative.**
- 3. The Levy County property appraiser uses the income methodology for assessing the value of agricultural property. Although not required by statute, this is apparently the generally accepted method for valuing agricultural property. Normally the appraiser would use industry wide data to determine an estimated income for properties, not individual records. If such data is not available, then the appraiser may request income data from a property owner and state financial information from the Florida Department of Revenue.**

COMPLETE ANSWER

I. Affects of Agricultural Classification on Property Taxes

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Property classified as agriculture is assessed based on the property's agricultural use value rather than its fair market ("just") value.¹³⁷ This can result in significant savings to the property owner. The 2005 Florida Property Valuations and Appraisal Book shows a "just" value for Levy County property classified as agriculture of \$1,051,029,544 compared to its use value of \$276,081,233.

II. Factors in Classifying Property as Agricultural

A property owner applies to have his or her land classified as agriculture.¹³⁸ To qualify, the property must be in "good faith commercial agricultural use."¹³⁹ The property appraiser decides whether land should be classified as agriculture. The appraiser may consider a number of listed factors such as the length of time the property has been used in agriculture and the purchase price of the property; additionally, the appraiser may consider other applicable factors.¹⁴⁰

Land use designation is not a listed factor and a zoning designation is not determinative of the actual land use.¹⁴¹ However, the property appraiser must reclassify land to nonagricultural when the property owner requests that the zoning be changed to a nonagricultural use.¹⁴² The comprehensive plan does not affect a property's agricultural classification for tax purposes.¹⁴³

The classification is made based on the use as of January 1 of the year in question.¹⁴⁴ It must be based on the primary use of the property, not its incidental use.¹⁴⁵ By statute, the property may still be considered agricultural if there is a dwelling on it.¹⁴⁶ The application for the agricultural exemption must be resubmitted each year by March 1.¹⁴⁷ However, the county commission may waive the requirement that

¹³⁷ § 193.461(6)(a), Fla. Stat. (2006); Donna Blanton, *The Taxation and Budget Reform Commission: Florida's Best Hope for the Future*, 18 Fla. St. U.L. Rev. 437, 452 (1991).

¹³⁸ § 193.461(3)(a).

¹³⁹ § 193.461(3)(b).

¹⁴⁰ § 193.461(3)(b)1-7.

¹⁴¹ *Schultz v. Love PGI Partners, LP*, 731 So. 2d 1270, 1271 (Fla. 1999).

¹⁴² § 193.461(4)(a).

¹⁴³ § 163.3194(5).

¹⁴⁴ *Gianolio v. Markham*, 564 So. 2d 1131, 1137 (Fla. Dist. Ct. App. 1990).

¹⁴⁵ *Walden v. Borden Co.*, 235 So. 2d 300, 302 (Fla. 1970).

¹⁴⁶ § 193.461(3)(c).

¹⁴⁷ § 193.461(3)(a).

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an application be resubmitted every year, in which case a notice should be sent to the property owner stating that the exemption has been renewed.¹⁴⁸

In an unpublished paper, Kate Dozark pointed out a possible problem with classifying aquacultural land as agricultural land for tax purposes.¹⁴⁹ The statute expressly states that aquaculture qualifies as an agricultural purpose for purposes of classifying property.¹⁵⁰ However, under Florida Department of Revenue Regulations, agricultural purposes excludes “the wholesaling, retailing or processing of farm products, such as by a canning factory.”¹⁵¹ As Dozark explains, this could be a problem for clam farmers since much of the property used in their business for which they pay taxes is used for processing the clams in preparation for selling. Since the rule uses a canning factory as an example, instead of an individual farmer, a reasonable argument could be made that the canning factory example indicates that the type of processing clam farmers are doing is probably not that intended to be encompassed by the rule. More traditional farmers probably also do some minimal processing of their crops on exempt property. Dozark also suggests that the definition of aquaculture used in the statute governing sovereign submerged lands could be used to argue that the legislature intended these sort of processing activities to fall within the definition of agricultural purposes for classifying lands. That statute defines aquaculture as “the cultivation of aquatic organisms and associated activities, including, but not limited to, grading, sorting, transporting, harvesting, holding, storing, growing and planting.”¹⁵²

III. Method of Valuing Agricultural Property

Florida Statutes lists the factors that the property appraiser must consider in assessing agricultural property for tax purposes.

1. The quantity and size of the property;
2. The condition of the property;
3. The present market value of the property as agricultural land;
4. The income produced by the property;
5. The productivity of land in its present use;
6. The economic merchantability of the agricultural product; and

¹⁴⁸ Id.

¹⁴⁹ *Legal Policy Issues Concerning Present Use Valuation for Aquaculture under Florida Law* (unpublished May 2006).

¹⁵⁰ § 193.461(5).

¹⁵¹ R. 12D-5.001(1), Fla. Admin. Code.

¹⁵² § 253.67(1).

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7. Such other agricultural factors as may from time to time become applicable, which are reflective of the standard present practices of agricultural use and production.¹⁵³

Although a property assessor must consider all of the seven listed factors,¹⁵⁴ the assessor is not required to use all of those factors in setting the actual assessment.¹⁵⁵ “The particular method of valuation, and the weight to be given each factor, is left to the discretion of the assessor, and his determination will not be disturbed on review as long as each factor has been lawfully considered and the assessed value is within the range of reasonable appraisals.”¹⁵⁶

According to Gary Ward at the Levy County Property Appraiser’s Office, Levy County uses an income methodology to assess agricultural property, which is the generally accepted method. The income formula uses the average income from the preceding five years.¹⁵⁷ The appraiser uses industry wide data, not the data from an individual property to estimate the income of each property. Thus, an individual property owner does not normally need to submit income records and the like.

It is possible that if the property was used for some type of agricultural use for which the appraiser did not have access to industry wide data, then the appraiser might need to request income records from the property owner. In such a case, he was unsure what rights the property owner had to refuse to supply the data and I could not find any case law on the subject. I do know that if a property owner refuses to supply information requested by the property appraiser, then that information may not be used by the property owner in an appeal to the Value Adjustment Board, but there is no such restriction for appeals to the circuit court.¹⁵⁸ Also, the property appraiser has the authority to request financial records from the Department of Revenue as needed to determine the valuation or proper categorization of non homestead property.¹⁵⁹ The Department of Revenue may only provide state tax information; it may not provide federal tax information.¹⁶⁰

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¹⁵³ § 193.461(6)(a).

¹⁵⁴ *Cassady v. McKinney*, 296 So. 2d 94, 96 (Fla. 2d DCA 1974).

¹⁵⁵ *Valencia Center, Inc. v. Bystrom*, 543 So. 2d 214, 216-217 (Fla. 1989); *Oyster Pointe Resort Condominium Assoc., Inc. v. Nolte*, 524 So. 2d 415, 417-418 (Fla. 1988).

¹⁵⁶ *Valencia Center*, 543 So. 2d at 216-17.

¹⁵⁷ § 193.461.

¹⁵⁸ § 194.034(1)(d).

¹⁵⁹ § 195.027(3); R. 12-22.004, Fla. Admin. Code (stating rules for property appraisers to request state tax information from the DOR and stating that the DOR may not provide federal tax information to property appraisers).

¹⁶⁰ *Id.*

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CITY ATTORNEY OPINION

May 14, 2007

TOPIC: BUILDING PERMITS

ISSUE

Whether the Cedar Key Comprehensive Plan policy requiring private development along the shoreline to provide for public access to the shoreline would result in an uncompensated taking of private property.

SHORT ANSWER

The policy is probably too broad. The law allows local governments to condition permits if there is a “rational nexus” between the condition imposed and the harm the condition is supposed to remedy. If the City wanted to enforce an access easement requirement, each case would have to be examined individually to determine if there was a rational nexus.

COMPLETE ANSWER

The Cedar Key Comprehensive Plan requires that “[p]rivate development along the shoreline shall provide for public access to that shoreline. An easement for public access shall be a condition of any coastal construction permit providing it advances the public interest and does not deny the owner economically viable use of the land.”¹⁶¹ The policy is of questionable legality given current takings jurisprudence.

In *Nollan v. California Coastal Commission*, the United States Supreme Court held that there must be a “nexus” between a condition imposed on a government permit, and the harm the condition is supposed to remedy.¹⁶² In that case, the Nollans purchased beachfront property in California located between two public beaches. They requested a permit to demolish the house on the property and to build a larger one. As a condition of granting the permit, the California Coastal Commission required the Nollans to grant a lateral public easement across the beachfront portion of their property. The Commission argued that the easement would make it easier for the public to visit the two parks and also that the new house “would increase blockage of the view of the ocean, thus contributing to the development of ‘a wall of residential structures’ that would prevent the public ‘psychologically from realizing a stretch of coastline exists

¹⁶¹ Coastal Management Element, Policy 7-9.5.

¹⁶² 438 U.S. 825, 837 (1987).

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nearby that they have every right to visit.”¹⁶³ The Court focused primarily on the latter reason in holding that there was no nexus between the condition and the harm caused by the planned building since lateral access (as opposed to horizontal) would not increase the public’s “visual access” of the beach from the road.¹⁶⁴

The Supreme Court took the test for permit conditions a step further when it decided *Dolan v. City of Tigard*.¹⁶⁵ In that case, the Court ruled that there must not only be a nexus between the permit condition and the impacts caused by the development, but that the condition must be roughly proportional to the amount of the impacts caused by the development.¹⁶⁶ The Court states that to find rough proportionality “[n]o precise mathematical calculation is required but the city must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development.”¹⁶⁷ In *Dolan*, for instance, the city attempted to condition a permit to increase the size of a store on the provision of an easement for a public bicycle path. The city showed how many additional automobile trips would be generated by the proposed expansion. However, other than making an assumption that a bicycle path would encourage customers to bike to the store, they failed to show that a bicycle path would actually reduce the number of automobile trips to the store.

A local government lawyer, Richard Faus, sets out a useful way of applying the “nexus” and “rough proportionality” tests in an article from *Stetson Law Review*.¹⁶⁸ First, “[i]dentify a public problem the condition is designed to address.”¹⁶⁹ Second, “[s]how that the proposed development will create or exacerbate the identified public problem.”¹⁷⁰ Third, “[s]how that the condition solves or alleviates the identified public problem.”¹⁷¹ Finally, “[s]how the proposed solution (condition) is roughly proportional to that part of the problem created or exacerbated by the proposed development.”¹⁷² Another useful point Faus makes is that *Nollan* and *Dolan* are “findings” cases—the government agency imposing the condition has to provide an evidentiary record supporting its imposition of the condition to avoid a successful takings claim.¹⁷³

Cedar Key might be able to justify an easement for shoreline access, but it would be case specific. The public problem would be lack of access to public waters. Private development along the coast exacerbates the problem because it means fewer public access points. Requiring an easement granting the public

¹⁶³ Id. at 828-29.

¹⁶⁴ Id. at 838.

¹⁶⁵ 512 U.S. 374 (1994).

¹⁶⁶ Id. at 391.

¹⁶⁷ Id.

¹⁶⁸ Richard Duane Faus, “*Exactions, Impact Fees, and Dedications—Local Government Responses to Nollan/Dolan Takings Law Issues*,” 29 *Stetson L. Rev.* 675, 681-82 (2000).

¹⁶⁹ Id. at 681.

¹⁷⁰ Id.

¹⁷¹ Id. at 682.

¹⁷² Id.

¹⁷³ Id. at 677-78.

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access to the shoreline would likely help alleviate the problem by allowing more public access points. Then the City would need to show rough proportionality—some sort of showing that the particular private development will cause additional loss of this much access and that providing an easement will allow approximately this number of people easier shoreline access.

The Cedar Key Comprehensive Plan policy requiring shore access is probably too broad to be constitutional. However, the City could include a policy that requires granting of public access when the condition meets state and federal law and is in the public interest. I would also note that there already is a state law requiring substitute access when existing public access is destroyed by a private developer, even if that public access is acquired through custom or prescriptive easement. Of course, someone would have to bring a suit to prove the public access by custom or prescriptive easement.

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LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

May 14, 2007

TOPIC: ABANDONED VEHICLES

ISSUE

Whether the City may remove abandoned vehicles from public property.

SHORT ANSWER

Yes, as long as the City complies with state law.

COMPLETE ANSWER

This memorandum is written to address how the City may remove abandoned vehicles.

Currently, the Laws of Cedar Key do not address this issue. Parking regulations contained within Chapter Two do allow the police department to tow vehicles when they are parked in violation of the parking code.¹⁷⁴ Cedar Key's parking ordinance does not create a time limit for otherwise legal parking,¹⁷⁵ thus the City cannot tow vehicles that have been left in a legal parking space unless the City complies with state notice requirements.

Florida Statutes allow the police department to remove lost or abandoned property after appropriate notice. The definitions of lost or abandoned property include trailers, vessels and other types of vehicles, even if the owner is identifiable through the Department of Highway Safety and Motor Vehicles.¹⁷⁶ Lost property is defined as all tangible property without an identifiable owner that has been mislaid in a place open to the public, including public property and private businesses.¹⁷⁷ The property must be in a substantially operable, functioning condition, or have apparent intrinsic value to the rightful owner.¹⁷⁸ Abandoned property is all tangible personal property without an identifiable owner that has been disposed on public property in a wrecked, inoperative, or partially dismantled condition or has no apparent intrinsic value to the owner.¹⁷⁹

¹⁷⁴ Cedar Key, Fla., Laws of Cedar Key, ch. 2, §6.01.10.

¹⁷⁵ *See id.* ch. 2., art. 6.

¹⁷⁶ §§ 705.103(2), 320.01(1)(a) & 320.01(4), Fla. Stat. (2006).

¹⁷⁷ §705.101(2).

¹⁷⁸ *Id.*

¹⁷⁹ § 705.101(3).

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Law enforcement officers may only remove lost or abandoned property from publicly owned property¹⁸⁰—that is, property owned by the federal government, the state, a county or a municipality.¹⁸¹

When a police officer identifies lost or abandoned property that cannot be easily removed (such as a trailer) the officer must take two steps prior to removing the property. First,

the officer shall cause a notice to be placed upon such article in substantially the following form:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY. This property, to wit: (setting forth brief description) is unlawfully upon public property known as (setting forth brief description of location) and must be removed within 5 days; otherwise, it will be removed and disposed of pursuant to chapter 705, Florida Statutes. The owner will be liable for the costs of removal, storage, and publication of notice. Dated this: (setting forth the date of posting of notice), signed: (setting forth name, title, address, and telephone number of law enforcement officer).

Such notice shall be not less than 8 inches by 10 inches and shall be sufficiently weatherproof to withstand normal exposure to the elements.¹⁸²

Second, the officer must make a reasonable attempt to ascertain the owner of the property.¹⁸³ For lost or abandoned vehicles, the reasonable attempt must include contacting the Department of Highway Safety and Motor Vehicles.¹⁸⁴ If the Department of Highway Safety and Motor Vehicles has contact information, “the law enforcement agency shall mail a copy of the notice by certified mail, return receipt requested, to the owner and to [any] lienholder.”¹⁸⁵

¹⁸⁰ § 705.103(1).

¹⁸¹ § 704.101(5).

¹⁸² § 705.103(2).

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

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The owner has five days from the date the notice was posted on the property to either remove the property or to show reasonable cause for the failure to do so.¹⁸⁶ At the end of the five days, the law enforcement agency may remove the property into the agency's custody.¹⁸⁷

The statute proceeds to outline the procedure for disposition of property taken into custody. The procedures are fairly detailed and differ depending on whether the property is classified as lost or abandoned. The owner of property taken into custody is ultimately liable for all costs of removing, storing and destroying such property, less any salvage value obtained by the proper disposal of the property.¹⁸⁸

One final note is that Cedar Key may designate code enforcement officers to handle lost or abandoned property.¹⁸⁹

Opinion prepared by:

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City Attorney

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ § 705.103(4).

¹⁸⁹ § 705.1015.

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CITY ATTORNEY OPINION

May 14, 2007

TOPIC: COMMUNITY REDEVELOPMENT

ISSUE

What is the procedure for adopting an amended community redevelopment plan?

SHORT ANSWER

After appropriate public notice, the City Commission adopts the amended plan by resolution.

COMPLETE ANSWER

I. Amendment Procedure

First, the Cedar Key Redevelopment Agency makes a recommendation to amend the plan.¹⁹⁰ Next, the City Commission holds a noticed public hearing on the proposed amended plan.¹⁹¹ The amendment is put forth in the form of a resolution.¹⁹² The hearing must be noticed at least 10 days prior to the hearing in a newspaper of general circulation.¹⁹³ The notice must state

1. the date of the hearing,
2. the time of the hearing,
3. the place of the hearing;
4. the title of the proposed resolution;
5. the place or places within the municipality where the resolution and amended plan may be inspected by the public; and
6. that interested parties may appear at the hearing and be heard with respect to the proposed resolution.¹⁹⁴

At the hearing the City Commission votes on whether to adopt the resolution. Since it is a resolution, only one hearing is required.¹⁹⁵

¹⁹⁰ § 163.361(1), Fla. Stat. (2006).

¹⁹¹ § 163.361(2).

¹⁹² See § 163.361. The statute does not say whether a resolution or ordinance is required, however a resolution required to change the CRA boundaries and changing boundaries has stricter requirements than amending the plan.

¹⁹³ §§ 163.346, 166.041(3)(a).

¹⁹⁴ § 166.041(3)(a).

¹⁹⁵ See *id.*

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Also, at least 15 days before voting on the amendments, the City and the Cedar Key Redevelopment Agency must mail by registered mail a notice to each taxing authority that levies taxes in the redevelopment area.¹⁹⁶ In Cedar Key's case, that would be the City of Cedar Key, the Cedar Key Water and Sewer District, Levy County, the Levy County School District, and the Suwannee River Water Management District. There are additional notice requirements for dealing with the County if the amendment changes the geographic boundaries of the redevelopment area.¹⁹⁷ Those additional requirements would extend the length of required notice and allow the County to challenge the amendment.¹⁹⁸

II. Time Line:

1. notice to taxing authorities at least 15 days prior to adoption.
2. notice to public at least 10 days prior to adoption.

Thus, the time line would start 15 days before the City Commission meeting at which the amendments will be adopted.

Opinion prepared by:

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City Attorney

¹⁹⁶ § 163.346.

¹⁹⁷ 163.361.

¹⁹⁸ *Id.*

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

July 9, 2007

TOPIC: PARKING

ISSUE

Who may issue parking tickets or code enforcement citations for failing to pay the launch fee at the Marina?

SHORT ANSWER

Only law enforcement officers and parking enforcement specialists meeting statutory requirements may issue parking “tickets.” However, the City may hire a code enforcement officer to issue code enforcement “citations.”

COMPLETE ANSWER

With certain restrictions, the City may issue either parking tickets or code enforcement citations for parking at the Marina but failing to pay the launch fee since it is both a parking violation and a code violation. A parking ticket may only be issued for a violation of a state or local parking law—for example, a law set out in Florida Statutes, chapter 316 or Part 6.01.00 of the Laws of Cedar Key. A code enforcement citation may be issued for a violation of the City’s code of ordinances. Both the City and State regulate who may issue parking tickets and code citations.

Under state law only a law enforcement officer or a “parking enforcement specialist” may issue parking tickets for violations of Part 6.01.00.¹⁹⁹ A parking enforcement specialist must complete a certified training program.²⁰⁰ The City Code specifically provides for law enforcement officers to issue parking tickets for violations of Part 6.01.00, but makes no mention of code enforcement officers.²⁰¹ Section 6.01.02.A.2 prohibits parking or standing where official signs prohibit it. Therefore, if the City has signs in the marina parking lot informing users that they may not park there without paying the launch fee, then police officers may issue a parking ticket.

¹⁹⁹ § 316.640, Fla. Stat. (2006).

²⁰⁰ *Id.*

²⁰¹ Cedar Key, Fla., Laws of Cedar Key ch. 2, art. 6, § 6.0101 D.

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Code enforcement officers may not issue code enforcement citations for violating Cedar Key parking regulations. Even though the parking regulations are obviously part of the City's code of ordinances, allowing code enforcement officers to issue citations for violating the parking regulations would allow the City to sidestep the requirement that only law enforcement officers issue parking tickets. It is unlikely that the legislature intended such a result.

Although code enforcement officers may not issue parking tickets, the City can have code enforcement officers issue a code enforcement citation to people who use the boat ramps at the marina without paying the launch fee.²⁰² The Laws of Cedar Key require people to pay a launch fee before using the boat ramps,²⁰³ thus the failure to do so is a code violation. However, the ordinance does not state that people may not *park* at the marina without paying the launch fee. This means that simply parking at the marina without paying the launch fee is not actually a code violation. It is probably a reasonable assumption that a vehicle parked at the marina with a trailer attached to it is using the boat ramps and so could be cited for failing to pay the launch fee. However, if there is a vehicle parked at the marina without a trailer, the City should issue a parking ticket and not a code enforcement citation.

I have not found any training requirements in state law for code enforcement officers. However, the City of Cedar Key does establish criteria for its code enforcement officers. An officer has to be designated by the City Commission and must receive a minimum of 40 hours training in the officer's area of expertise.²⁰⁴ At least arguably, issuing citations for failing to pay the launch fee does not require any particular expertise and thus an officer would not need to meet any training requirements for that job. Nonetheless, the City might want to consider rewording the ordinance to clarify when training is necessary.

Opinion prepared by:

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²⁰² *Id.* ch. 2, art. 4, §§ 4.00.06 (requiring launch fee for use of boat ramps at the marina), 4.00.07 (assigning fee amounts for failure to pay launch fee).

²⁰³ *Id.*

²⁰⁴ *Id.* ch. 2, art. 1, § 1.03.03.

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

July 25, 2007

TOPIC: PUBLIC NOTICE

ISSUE

Whether an error in a required public notice invalidates the action of the City Commission on the subject of that notice.

SHORT ANSWER

It depends. A notice error is fatal if the notice fails to comply with a statutory or regulatory mandate such as when an ordinance states that the notice must be mailed at least 15 days before the hearing, or if the notice fails to provide enough information so that the public can understand what changes the proposed action would bring about.

COMPLETE ANSWER

An error in a public notice regarding an action to be taken by the City does not automatically invalidate the action. There are two general rules to consider when deciding if a notice error is fatal. The first is that public notice must be “reasonably sufficient to inform the public of the essence and scope of the proposed changes under consideration.”²⁰⁵ The second rule is that when the law “calls for notice in a particular manner and form,” then those requirements are mandatory and must be strictly adhered to.²⁰⁶ Thus, whether the error is fatal depends on the exact error and the type of notice required.

For example, the Laws of Cedar Key require that the City provide public notice before considering an application for a variance: It states:

Notice of a public hearing must be made by mail to all property owners whose property abuts the property requesting a variance; by posting a notice of the hearing on the property, and by posting a notice at City Hall. All required notices of the public hearing shall be made at least fifteen (15) days prior to the hearing.²⁰⁷

²⁰⁵ N. Beach Med. Ctr. v. Ft. Lauderdale, 374 So. 2d 1106, 1108 (Fla. 4th DCA 1979) (discussing notice for zoning changes); *see also* Pop v. Shields, 140 So. 2d 144, 147 (Fla. 1st DCA 1962) (discussing notice for elections).

²⁰⁶ Malley v. Clay County Zoning Comm’n, 225 So. 2d 555, 556 (Fla. 1st DCA 1969).

²⁰⁷ Cedar Key, Fla., Laws of Cedar Key ch. 4, art. 10, § 10.01.02.B.

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Since the ordinance does not state the information that the notice must contain, the City just needs to provide enough information to convey to the average citizen receiving the notice what the proposed variance would allow.²⁰⁸ It would probably be a fatal error if the notice accidentally left off the address of the property for which the variance was requested, or the City mailed notice 5 days before the hearing instead of the required 15 days. However, if the notice incorrectly stated the name of the applicant, it would probably not be a fatal error since the information is neither required by the notice ordinance, nor necessary to understand what the proposed action would do.

If a notice error is fatal, then the City's action on the noticed issue will not withstand a court challenge. If possible, the City should publish a corrected notice and rehear the issue. If the error is discovered before the City has taken action, then the City Commission may not take action until the corrected notice is published. The corrected notice must be published within the time required by the applicable notice law. For instance, if a variance was supposed to be heard on May 20, and the flawed notice was mailed on May 6, there would be insufficient time to publish a corrected notice since the ordinance requires at least 15 days notice. In such a case, the variance hearing would have to be rescheduled.

Opinion prepared by:

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²⁰⁸ *N. Beach Med. Ctr.*, 374 So. 2d at 1109.

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

July 25, 2007

TOPIC: BUILDING PERMITS

ISSUES

- 1. Whether the City of Cedar Key may contest the accuracy of a survey and possibly revoke the building permit on which the survey is based, where the city relied on that survey when issuing a building permit and later doubts the accuracy of that survey?**
- 2. Whether the holder of a building permit has any vested rights in the building permit even though the building violates setback requirements?**
- 3. Whether the building permit holder can be awarded damages through litigation if the City revokes the building permit?**

SHORT ANSWERS

- 1. If the building official finds that a development activity is proceeding in violation of any code because the authorizing development permit relied on an inaccurate survey the building official must revoke the permit.**
- 2. It is unlikely that the building permit holder would be able to claim vested rights since courts will not award vested rights when a city issues a permit that violates city ordinances.**
- 3. It is unlikely that a building permit holder would be able to receive any damages through litigation if the City revokes the building permit since the permit holder would first have to prove that he or she had vested rights in the permit.**

COMPLETE ANSWERS

The City is concerned that a survey the building official relied on in issuing a building permit is inaccurate, and that as built, the structure will violate the City's setback requirements. First, the City has a duty to revoke a permit that was issued based on inaccurate information and where the resulting building would violate the City's code. Second, the law probably does not provide the permit holder with any

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vested rights, especially when the information the permit holder submitted was wrong. Third, it is unlikely the permit holder would be able to collect damages.

I. Duty to Revoke Permit Based on Inaccurate Information.

The building official has a duty to perform ongoing inspections of development in progress within the City to insure compliance with the City's Land Development Code.²⁰⁹ If the building official suspects that the City's setback requirements are not being met, then the building official needs to verify whether this is the case. In this instance, the City would have to hire a surveyor to check the accuracy of the setback from the mean high water line. The surveyor would need to check the setback from the official mean high water line at the time the permittee applied for the building permit (according to the City's Building Official, the official mean high water line has changed since then, but not significantly).

If the development activity does not meet the current setback requirements or "is not in compliance with any Code, the Building Official shall revoke the permit, shall notify the holder of the permit why it is being revoked and shall allow the holder seven days in which to cure any violation or noncompliance to the satisfaction of the Building Official to have the permit reinstated."²¹⁰ The permit holder also has the option of challenging the revocation pursuant to the process outlined in the Land Development Code.²¹¹

II. Lack of Vested Rights

Whether or not the survey the applicants submitted was wrong, if the building violates the setback requirements, it is unlikely that a court would find that the applicants had any vested rights either to the building permit or to continue building. In this situation, rights under the building permit would only vest if the applicant could prove equitable estoppel.²¹² Equitable estoppel is defined as good faith reliance on an act or omission that induces a detrimental change in circumstances.²¹³ It can be invoked against a municipality.²¹⁴ However, it is more difficult to prove equitable estoppel against a government than a nongovernmental entity. When invoked against a government, the party seeking estoppel must show that the government acted affirmatively, and not merely negligently.²¹⁵ Additionally, the party must show

²⁰⁹ Cedar Key, Fla., Laws of Cedar Key ch. 4, art. 12, § 12.11.01 (2007).

²¹⁰ *Id.* § 12.04.04.

²¹¹ *Id.* § 12.09.00 (procedure for review of building official decisions).

²¹² *Coral Springs St. Sys., Inc. v. City of Sunrise*, F.3d 1320, 1338 (11th Cir. 2004).

²¹³ *Sun Cruz Casinos, L.L.C. v. City of Hollywood*, 844 So. 2d 681, 684-685 (Fla. 4th DCA 2003).

²¹⁴ *Hollywood Beach Hotel Co. v. Hollywood*, 329 So. 2d 10, 15 (Fla. 1976).

²¹⁵ *Alachua County v. Cheshire*, 603 So. 2d 1334, 1337 (Fla. 1st DCA 1992).

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“that the government's act will cause serious injustice; and the imposition of estoppel will not unduly harm the public interest.”²¹⁶

Here, the permit holders might be able to show good faith (e.g., the inaccurate survey was not their fault, or the builder made a mistake), and detrimental reliance (e.g., significant money has been spent relying in the validity of the permit and would be lost if now required to relocate the building). However, it is unlikely that they would be able to prove that the City acted affirmatively since the City acted on information provided by the applicant.²¹⁷ Also, a court would probably find that revoking the permit would not cause a serious injustice.²¹⁸

Most importantly, courts will not invoke equitable estoppel against a government when the act the party relied on was itself illegal.²¹⁹ In other words, if the City could not legally issue the permit because the resulting building would violate the City Code, then the City will not be estopped from revoking the permit. This is true whether the applicant mistakenly or purposefully misrepresented the information on the permit application,²²⁰ or when the City simply made a mistake in approving the permit.²²¹ In the

²¹⁶ *Id.*

²¹⁷ For instances in which the government was found to act affirmatively, *see e.g.*, *Council Brothers v. City of Tallahassee*, 634 So. 2d 264 (Fla. 1st DCA 1994) (Estopping city from imposing systems charges for construction project where builder based bid on information supplied by the city that he would not have to pay systems charges, where city employee was authorized to supply the information, and where the city regularly correctly supplied such information. The court found that the city was liable to ensure the accuracy of the information it supplied.); *Kuge v. Dep't of Admin.*, 449 So. 2d 390 (Fla. 3d DCA 1984) (finding that state acted affirmatively when it told state employee she has worked the 10 years required to receive state retirement benefits but mistakenly included the period in which she was on educational leave).

²¹⁸ *See e.g.*, *Dade County v. Fountainbleau Gas & Wash, Inc.* 570 So. 2d 1006 (Fla. 3d DCA 1990) (allowing revocation of building permit even though gas station was almost complete where gas station violated unrecorded restrictive covenant); *Corona Props. of Fla. v. Monroe County*, 485 So. 2d 1314 (Fla. 3d DCA 1986) (allowing revocation of building permit even though property owner had already invested approximately \$82,000 in project).

²¹⁹ *See e.g.*, *Godson v. Town of Surfside*, 8 So. 2d 497 (Fla. 1942).

²²⁰ *Id.* (holding that the City could not be estopped from revoking a permit when it turned out the building would violate the setback requirements. The original survey submitted showed that the building would meet survey requirements, but a later submitted survey showed that it would violate the setback requirements. It was unclear whether the applicant purposefully submitted an incorrect survey).

²²¹ *See e.g.*, *Ammons v. Okeechobee County*, 710 So. 2d 641 (Fla. 4th DCA 1998). In *Ammons*, the court held that the city could not be estopped from revoking an occupational license permit where the zoning official mistakenly found that the property was zoned for delivery and storage of aluminum construction materials use and based on that information issued the permit. When the City discovered the mistake, it revoked the permit and ordered the owner to relocate the business. *See also Corona Props.*, 485 So. 2d at 1314 (holding that county was not estopped from revoking building permit where building permit was issued based on zoning official's determination that property was vested against change in zoning even though official did not have authority to issue the letter and the property should not have been vested); *Enderby v. City of Sunrise*, 376 So. 2d 444 (Fla. 4th DCA 1979) (holding that where for 18 months city clerk mistakenly charged apartment owner a lower rate for water and sewer service that was meant for single family homes, and where apartment owner based rental rates on the lower rate, city was not estopped from collecting the difference in the correct and incorrect charges). *But see Sun Cruz Casinos, L.L.C. v. City of Hollywood*, 844 So. 2d 681 (Fla. 4th DCA 2003) (upholding estoppel of city's attempt to revoke occupational license permit where City issued permit after a finding that the zoning code authorized a gambling casino boat as an accessory use to a restaurant even though court found that a gambling boat was not a legal accessory use).

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instant case, the City issued building permits that might violate city ordinances. Case law is generally in agreement that the property owners may not continue building in accord with the permits but in violation of City ordinances. If the permits violate the City code, the building inspector had no authority to issue the permits in the first place; thus, the City would probably not be estopped from revoking the permits.

Furthermore, property owners purchase property with constructive notice of applicable land regulations.²²² This means that even if property owners do not actually know the particular regulations that apply to their property, a court would treat them as though they did. While Cedar Key's building permit itself does not state that it is conditioned on compliance with City ordinances, the application for the permit does state that "I certify . . . all work will be performed to meet the standards of all laws regulating construction in this jurisdiction" and that "all work will be done in compliance with all applicable laws regulating construction and zoning." Since the property owners are charged with constructive notice of the Cedar Key Land Development Code, they cannot claim ignorance of the law.

III. Damages

The third question is whether the parties are entitled to damages even if they are not entitled to equitable estoppel. It is unlikely that a court would award the property owners damages based on either state or federal law.

There is probably no state cause of action for damages. Property rights are a question of state law and Florida law recognizes a property interest in a building permit "where the landowner possesses a building permit and where the circumstances that give rise to the doctrine of equitable estoppel are present."²²³ As discussed above, the property owners would not meet the requirements for equitable estoppel and thus would not have a property interest in the building permit. A person cannot get damages for the loss of a nonexistent property interest. Moreover, in *Paedae v. Escambia County*, the First Circuit Court of

Note that some Florida courts have attempted to distinguish between mistakes of fact and mistakes of law, finding that a government may be estopped when there is a mistake of fact. *Branca v. City of Miramar*, 634 So. 2d 604, 606 (Fla. 1994) (stating that a governmental entity may not be estopped because of mistaken statements of the law, but citing *Kuge v. Department of Administration*, 449 So. 2d 390, 390 (Fla. 3d DCA 1984), for the proposition that they might be for mistakes in fact). However, at least one federal court in reviewing Florida case law found that the mistake of fact/law issue was unimportant. *Villas of Lake Jackson, Ltd. v. Leon County*, 884 F. Supp 1544, 1572 (N.D. Fla. 1995) (stating that "while Florida courts observe a distinction between opinions of fact and opinions of law when applying equitable estoppel against a governmental agency, the decisions actually turn upon conventional equitable considerations").

²²² *Fountainbleau Gas & Wash*, 570 So. 2d at 1007 (holding that where zoning map indicated that property had resolution associated with it restricting the use of the property to a bank, and where county ordinance provided that resolutions may restrict property use, the property owner could not estop the government from revoking building permits for a gas station even though the gas station was almost complete and the restrictive covenant was never recorded).

²²³ *Hollywood v. Hollywood Beach Hotel Co.*, 283 So. 2d 867, 869 (Fla. 4th DCA 1973), *aff'd in part, rev'd in part on other grounds*, 329 So. 2d 10 (Fla. 1976).

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Appeals held that there is no tort liability for “peculiarly governmental functions such as permitting.”²²⁴ The remedy for the wrongful revocation of a building permit is limited to equitable estoppel.²²⁵

Since property interests are based in state law, the permit holders would probably not be entitled to damages under federal law unless they could show that one of their “fundamental rights” had been violated or that the revocation of the permit resulted in the City taking property without just compensation. A fundamental right is essentially a right that the United States Supreme Court has stated is so fundamental to individuals that both state and federal law must uphold that right—examples include the rights to privacy and free speech. Cases in both Florida courts and the federal Eleventh Circuit Court of Appeals have indicated that building permits do not provide a property interest that would be considered a fundamental right.²²⁶ Nor would the property owners likely be able to make a successful takings claim since the City is not denying them the use of the property. If the property owners are unable to meet the setback requirements because of a characteristic of the property itself, then the proper course of action would be to apply for a variance.

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²²⁴ 709 So. 2d 577, 578 (Fla. 1st DCA 1998); *see also* Cape Coral v. Landahl, Brown & Weed Assocs., 470 So. 2d 25, 27 (Fla. 2nd DCA 1985) (stating that “there is no cause of action for the manner in which a municipality exercises its governmental function of issuing or refusing to issue permits”).

²²⁵ *Landahl, Brown & Weed*, 470 So. 2d at 27.

²²⁶ *See e.g.*, Ammons v. Okeechobee County, 710 So. 2d 641, 645 (Fla. 4th DCA 1998) (stating that revocation of occupational license permit based on misinterpretation of zoning laws does not rise to the level of a fundamental right); *Paedae*, 709 So. 2d at 577 (citing 11th Circuit case for proposition that state created rights are not subject to substantive due process claims) (citing *McKinney v. Pate*, 20 F.3d 1550 (11th Cir. 1994)).

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CITY ATTORNEY OPINION

April 27, 2007

TOPIC: COASTAL HIGH HAZARD AREAS/ COMPREHENSIVE PLANNING

Issue

What must the Cedar Key Comprehensive Plan contain to ensure compliance with State law regulating coastal high hazard areas?

SHORT ANSWER

The Coastal Management Element of the Cedar Key Comprehensive Plan must contain Policies and Objectives that are directed at preserving human life and property within coastal high hazard areas. In 2006, the State Legislature amended the laws relating to coastal high hazard areas. By July 1, 2008, the City must amend its Comprehensive Plan to reflect the new statutory definition of coastal high hazard areas and to depict the coastal high hazard area on the future land use map. The 2006 legislation also provides methods that allow a local government to increase density in the coastal high hazard areas and still comply with state law.

COMPLETE ANSWER

I. Introduction

This is to update you on state law requirements regarding coastal high hazard areas. The existing law requires that the Coastal Management Element of the City's Comprehensive Plan contain certain Objectives and Policies related to coastal high hazard areas. Furthermore, in 2006 the Florida Legislature passed legislation that changed the definition of coastal high hazard areas. The change in definition means that the City must update its comprehensive plan to reflect the new definition. The new legislation also provided a method for local governments to increase density in coastal high hazard areas while still complying with Florida Department of Community Affairs rules requiring communities to direct population away from coastal high-hazard areas.

II. Required Updates to Comprehensive Plan

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By July 1, 2008, the City has to amend the Coastal Management Element of the Cedar Key Comprehensive Plan to include the new definition of coastal high hazard areas and to amend the future land use map to reflect the coastal high hazard area based on the new definition.²²⁷ A coastal high hazard area is now defined as “the area below the elevation of the category 1 storm surge line as established by a Sea, Lake and Overland Surges from Hurricanes computerized storm surge model.”²²⁸

III. Other Comprehensive Plan Requirements

The state requires that the coastal management element of local government comprehensive plans contain Objectives aimed at “protect[ing] human life and limit[ing] public expenditures in areas subject to destruction by natural disasters.”²²⁹ There are various types of policies and objectives listed in the Florida Administrative Code which the coastal management element must contain to further this goal. However, there are only a few that expressly apply to coastal high hazard areas.

The Coastal Management Element must contain Objectives that do the following:

- limit public subsidies of development in coastal high hazard areas, other than for restoration or enhancement of natural resources;²³⁰ and
- direct population concentrations away from known or predicted coastal high hazard areas.²³¹

Additionally, the Coastal Management Element must contain Policies for each Objective that identify regulatory or management techniques to accomplish the following:

- designate coastal high hazard areas and limit development in those areas;
- relocate, mitigate, or replace, as appropriate, infrastructure presently within the coastal high hazard area when state funding is expected to be needed for the infrastructure.

IV. Density in Coastal High Hazard Areas

The Florida Department of Community Affairs has interpreted state laws relating to coastal high hazard areas to mean that the overall density of development within a coastal high hazard area may not be increased above that in the current comprehensive plan.²³² The 1990 Cedar Key Comprehensive Plan prohibits high density development in the coastal high hazard area. It limits development in the coastal high hazard area to low-density, except that low- or moderate- income housing may be medium density.

²²⁷ § 163.3178(9)(c), Fla. Stat. (2006).

²²⁸ § 163.3178(2)(h).

²²⁹ Fla. Admin. Code R. 9J-5.012(3)(a).

²³⁰ R. 9J-5.012(3)(b)(5).

²³¹ R. 9J-5.012(3)(b)(6).

²³² *Fla Wildlife Fed’n, Inc. v. Town of Marineland*, 2006 Fla. Div. Adm. Hear. LEXIS 175 (recommended order Apr. 28, 2006).

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The current Cedar Key Land Development Code defines low density as less than 5 units per acre and medium density as 5 to 14 units per acre.

The limit on increasing density means that in areas that are newly part of the coastal high hazard area because of the definition change, the City may not increase the density above the density the area had under the 1990 Comprehensive Plan. In other words, you have Area “X,” which was not part of the coastal high hazard area under the old coastal high hazard definition and was designated medium density residential in the 1990 Comprehensive Plan. Under the new definition of a coastal high hazard area, Area X is now part of the coastal high hazard area. Area X can keep its medium density designation under the amended comprehensive plan even though it is now part of the coastal high hazard area.

The 2006 amendments make it possible for local governments to increase density in coastal high hazard areas if they comply with one of three listed options.²³³ The law states that if a local government meets one of the listed options, then the local government automatically complies with Department of Community Affairs rules that require comprehensive plans to contain policies that direct population concentrations away from known or predicted coastal high hazard areas²³⁴ and that maintain or reduce hurricane evacuation times.²³⁵

The first option requires a local government to maintain its adopted level of service for out-of-county hurricane evacuation for a category 5 storm event as measured on the Saffir-Simpson scale.²³⁶ In other words, the local government is supposed to adopt a level of service that designates the maximum amount of time it will take to move people in evacuation zones to an out-of-county location. For local governments that have not adopted an out-of-county evacuation level of service, the state provides a default level of service of 16 hours.²³⁷ If a local government wanted to increase density in a coastal high hazard area, it would have to ensure that the road network was capable of handling any additional people that might need to be evacuated while still meeting its level of service for out-of county evacuation time.

The second option requires a local government to maintain a 12-hour evacuation time to a shelter for a category 5 storm event.²³⁸ Shelter space must reasonably be expected to accommodate the residents of any development contemplated by a proposed comprehensive plan amendment that would increase density in a coastal high hazard area.²³⁹

²³³ § 163.3178(9)(a).

²³⁴ *Id.*; R. 9J-5.012(3)(b)(6).

²³⁵ § 163.3178(9)(a); R. 9J-5.012(3)(b)(7).

²³⁶ § 163.3178(9)(a)1.

²³⁷ § 163.3178(9)(b).

²³⁸ § 163.3178(9)(a)2.

²³⁹ *Id.*

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The third option is to allow a developer to provide mitigation to satisfy the first or second options.²⁴⁰ Mitigation may include payment of money, contribution of land, construction of hurricane shelters and transportation facilities or other appropriate forms.²⁴¹ The mitigation may not exceed the amount reasonably attributable to the impacts of the development and must be memorialized in a development agreement.²⁴²

Another alternative a local government could use if it wished to increase density in only part of the coastal high hazard area would be to increase density in one part of the coastal high hazard area, while lowering it an equivalent amount in another part. One method that some communities have used to accomplish this is to create a transferable development rights program in the coastal high hazard area. Unlike a traditional transferable development rights program, the coastal high hazard area would be both the sending and receiving zones. Presumably, a local government could also move density around within the coastal high hazard area by amending its comprehensive plan, as long as the overall density remains the same.

Opinion prepared by:

C. David Coffey, Esq.

City Attorney

²⁴⁰ § 163.3178(9)(a)3.

²⁴¹ *Id.*

²⁴² *Id.*

LAWS OF CEDAR KEY-CHAPTER SIX

CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

June 5, 2007

TOPIC: BONDS

ISSUE

What is the process for validating bonds?

SHORT ANSWER

The City files a complaint with the Levy County Circuit Court. The court holds a hearing at which the bonds can be challenged. Then the court renders a judgment validating or not validating the bonds.

COMPLETE ANSWER

The City files a complaint in the Levy County Circuit Court.²⁴³ The City is the plaintiff and the city residents, property owners and taxpayers are the defendants.²⁴⁴ The State of Florida, represented by the state attorney, is also a defendant.²⁴⁵ The complaint has to set out the CRA's authority for issuing the bonds, the resolution authorizing the issue and its adoption, all other related proceedings, the amount of the bonds to be issued and the interest they are to bear.²⁴⁶ According to the City's bond counsel, the complaint should include documents like the resolutions creating the CRA, and the interlocal agreement between the City and the CRA reducing the amount of tax increment revenue given by the City to the CRA. The state attorney is required to examine the complaint.²⁴⁷ If the state attorney finds any defect in the complaint or thinks that the bonds have not been authorized, then the state attorney is required to defend against the validation of the bonds.²⁴⁸

After the City files the complaint, the circuit court issues an order to hold a hearing.²⁴⁹ At that hearing, the state attorney or any defendant may attempt to show why the complaint should not be granted and the bonds validated.²⁵⁰ The court is supposed to resolve all questions of law and fact and make any necessary orders to try the action and to "render a final judgment with the least possible delay."²⁵¹

²⁴³ § 75.02, Fla. Stat. (2006).

²⁴⁴ *Id.*

²⁴⁵ *Id.*

²⁴⁶ § 75.04(1).

²⁴⁷ § 75.05(1).

²⁴⁸ *Id.*

²⁴⁹ *Id.*

²⁵⁰ *Id.*

²⁵¹ § 75.07

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The clerk publishes a notice at least 20 days before the court hearing in a newspaper once a week for two consecutive weeks.²⁵² Although the statute does not define “clerk”, I assume it is the clerk of the court. The notice acts as a service of process, making all affected citizens, taxpayers and property owners defendants to the complaint.²⁵³

Any plaintiff, defendant or intervenor may appeal the court’s decision to the State Supreme Court within the time allowed for appellate review.²⁵⁴ The deadline for appealing is 30 days after the court renders the order for which the appellant requests review.²⁵⁵

Once the court validates the bonds and the time for appeal passes, then the judgment is “forever conclusive” and the validity of the bonds cannot be challenged again.²⁵⁶

Opinion prepared by:

C. David Coffey, Esq.

City Attorney

²⁵² § 75.06(1).

²⁵³ *Id.*

²⁵⁴ § 75.09.

²⁵⁵ Fla. R. App. P. 9.110.

²⁵⁶ § 75.09.

LAWS OF CEDAR KEY-CHAPTER SIX

CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

August 2, 2007

TOPIC: CITY COMMISSION MEETINGS

ISSUE

Whether the participants at a City Commission meeting may discuss issues that are not on the published agenda and whether a City Commission meeting may include a citizen comment period.

SHORT ANSWER

There is no explicit constitutional, statutory or local ordinance, resolution or rule requirement that the City have an agenda for City Commission meetings. Similarly, there is no requirement that meeting participants only discuss items on the agenda. The City may, however, adopt or establish such a limitation. The Commission may in the alternative allow a citizen comment period during which items not on the agenda may be discussed. Limitations should be placed upon discussions pertaining to matters to be heard in a quasi-judicial hearing.

COMPLETE ANSWER

Participants at a City Commission meeting may legally discuss items at the meeting, even if those items are not listed on the agenda.²⁵⁷ In fact, as long as the Commission meeting is properly noticed, the City is not even required to have an agenda.²⁵⁸ Of course, certain types of *decisions* may only be made at a meeting for which notice was given of the intent to make that decision, for example decisions on comprehensive plan amendments or on ordinances. In other words, when state or local law requires public notice before the meeting the noticed item should, as a practical matter, also be listed on an agenda.

Even though some issues not on the agenda may be discussed at a Commission meeting, it is important to recognize that agendas do serve several important public policy objectives. First, agendas provide notice to the public that an issue will be discussed at the meeting. This increases the likelihood that interested citizens will attend the meeting and participate in the discussion of an agenda item. Second, having an item on the agenda provides advance notice to Commissioners and citizens, allowing them to gather

²⁵⁷ Yarbrough v. Young, 462 So. 2d 515, 517 (Fla. 1st DCA 1985); *see also* Lawn and Info. Servs., Inc. v. City of Riviera Beach, 670 So. 2d 1014 (Fla. 4th DCA 1996); Hough v. Stembridge, 278 So. 2d 288, 291 (Fla. 3^d DCA 1973).

²⁵⁸ *Id.*

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CITY ATTORNEY OPINIONS

information on the issue before the meeting occurs. This allows for a more informed discussion, which presumably results in a more informed decision. Third, agendas help the Commission ensure that the public's business is handled efficiently at meetings. Generally, public participation is improved when meetings are orderly and efficient.

Many Florida local governments provide a regular time on their agendas allowing citizens to raise issues that are not on the agenda. Typically, a set time and a set amount of time is provided on the regular meeting agenda for citizen comments. Some provide for citizen comments near the beginning of the meeting, some at a time certain during the meeting, and others at the end of the meeting. For example some local governments set aside up to 30 minutes to hear citizen comments following adoption of the agenda and approval of the minutes. If there are many citizens that intend to speak, the chair can divide the 30 minutes by the number proposing to speak and allow each their proportionate amount of time to speak. Other local governments do the same thing at a time certain during the meeting, while others require citizens to wait until all of the agenda items have been addressed before hearing citizen comments.

Numerous Florida communities have concluded that having a set citizen comment period on the agenda helps citizens better participate in the governing process. The timing and amount of time devoted to citizen input on matters not on the agenda raises fairness issues that must be considered. Citizens waiting to observe or be heard on specific items on the published agenda often resent being asked to wait a prolonged amount of time while citizens comment on matters not on the agenda. Still other citizens raise concerns about discussing any matter that is not on a published agenda because they may make their decision on whether to attend a meeting based on what they think will be discussed after reviewing the agenda. Still others, including the Florida Supreme Court, have noted that if citizens and their elected officials are prohibited from discussing matters not on an agenda, their ability to think and act with spontaneity and creativity will be stifled.

After balancing the competing interests and perspectives, a common approach taken by local governments is to establish a set time on the agenda for citizens to comment, but only take action on the simplest of issues raised. Generally, if a citizen's comments require action, the matter is addressed at a subsequent meeting with the issue placed on the agenda allowing the public to become aware that the matter will be discussed and allowing the decision-makers to get prepared to deal with the matter.

It should be noted that it is not proper for any discussion to occur during citizen comments that may pertain to a matter that will be the subject of a quasi-judicial hearing. Due process of law requires that all parties to a quasi-judicial matter hear and observe all testimony and evidence pertaining to the matter that may be presented to the decision-makers. To ensure due process is observed, therefore, it is generally necessary that all discussions occur only at the scheduled, noticed quasi-judicial hearing itself. When there is discussion that occurs outside the noticed hearing (i.e., *ex parte* communications) a presumption is raised that the process has been prejudiced. To avoid this result, it is certainly best not to entertain any

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discussion raised by any citizen at the City Commission meeting that pertains to a matter that is known to be the subject of a future quasi-judicial hearing.

Finally, one option that appears available to the City Commission is to adopt a local ordinance, resolution or policy that prohibits discussion at regular City Commission meetings of any matter not on the agenda. It is clear that the Commission has authority to adopt and maintain such an approach. It may do so without necessity of adopting an ordinance or resolution. It may be adopted as a practice administered by the chair, as has been generally been done by the Commission.

In conclusion, this is a matter that local governments have discretion to handle in the manner each determines best serves the public interest. As noted above, there are numerous countervailing public policy considerations to be weighed and there are clearly legal and legitimate basis for deciding to allow citizen comments on matters not on the agenda or to disallow such comments. Either approach is clearly lawful.

Opinion prepared by:

C. David Coffey, Esq.

City Attorney

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

August 23, 2007

TOPIC: MUNICIPAL EMPLOYEES

ISSUE

When do the City Charter and state law require the City Attorney to attest to the form and legality of documents?

SHORT ANSWER

The City Attorney must attest to the form and legality of all instruments to which the city is a party. However, the City Attorney is not required to sign each document to which the city is a party.

COMPLETE ANSWER

Generally, the City Attorney signs all adopted ordinances and resolutions and thereby attests to the form and legality of these documents. Florida Statutes do not require the City Attorney to take this action.²⁵⁹ However, § 3.04.00.A. of the City Charter states that the City Attorney “shall review all contracts, bonds and other instruments in writing in which the city is to be a party, and shall endorse on each approval as to form and legality.” This is a clear requirement that the City Attorney endorse not only ordinances and resolutions, but that the City Attorney also endorse all other instruments as to form and legality.

Webster’s New World Dictionary defines “endorse” to mean, in part, “to give approval to; support; sanction.”²⁶⁰ That dictionary also defines “instrument,” to mean, in part, “a formal document.”²⁶¹ Therefore, pursuant to § 3.04.00.A. of the City Charter, the City Attorney must review and approve of the form and legality of all formal documents to which the city is a party. Examples of instruments the city routinely enters into include permits issued by the police department and marina slip leases issued by the City Clerk’s office.

One practical way for the City Attorney to comply with the requirement of § 3.04.00.A., without overseeing every Cedar Key transaction, is to continue to sign all unique documents, such as ordinances and resolutions, but, for routine instruments, the City Attorney may review and endorse only the original document as to form and legality. The City Attorney does not need to individually sign subsequently executed documents which do not vary from the approved instrument.

Opinion prepared by:

C. David Coffey, Esq.

²⁵⁹ See, § 166.04(5), Florida Statutes (2007) (Requiring only the presiding officer and the City Clerk to sign adopted ordinances and resolutions).

²⁶⁰ Webster’s New World Dictionary of the American Language 463 (2nd College ed. 1968).

²⁶¹ Id. at 731.

**LAWS OF CEDAR KEY-CHAPTER SIX
CITY ATTORNEY OPINIONS**

City Attorney

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

October 16, 2007

TOPIC: TAXES

ISSUES

1. Do recent changes to Florida Statutes regarding local business tax receipts require the City of Cedar Key to amend the Laws of Cedar Key?
2. After adopting Ord. No. 437, what responsibilities will the City of Cedar Key have when issuing local business tax receipts?²⁶²

SHORT ANSWERS

1. Yes. The city should amend its ordinance covering local business tax receipts so that the Laws of Cedar Key are consistent with Florida Statutes.
2. Chapter 205, Florida Statutes, entitled Local Business Taxes, establishes the responsibilities of municipalities when collecting the local business tax. Generally, it requires that local governments (1) obtain a federal employer identification number from applicants, (2) obtain proof of fictitious name registration from applicants, and (3) determine whether professionals have appropriate state licenses to engage in a profession which the State of Florida regulates. Additionally, the city may, but is not required to, determine whether the land development code permits the proposed business in the location proposed when collecting the local business tax.

COMPLETE ANSWERS

Currently, Cedar Key levies an “occupational license tax” for the privilege of engaging in a business or profession within the city. Florida Statutes have historically explicitly authorized levy of this tax and the city has implemented the tax for many years. However, the terminology for the tax has created confusion with some citizens believing that local governments are involved in licensing professionals rather than only collecting a tax. Many citizens have assumed that local governments are checking to ensure that businesses

²⁶² Note that Chapter 205, Florida Statutes formerly used the term “occupational license” to describe the local business tax receipt. In 2006, Chapter 2006-152, Florida Laws, amended Chapter 205, Florida Statutes, to change the term “local occupational license” to “local business tax.” Under the amended statute, businesses no longer acquire a license to operate a business in a given municipality. Instead, businesses acquire a “business tax receipt.” In this opinion, for accuracy, the term “local business tax” is used although the existing Laws of Cedar Key still use the term “occupational license tax.”

LAWS OF CEDAR KEY-CHAPTER SIX

CITY ATTORNEY OPINIONS

receiving “occupational licenses” are qualified to engage in their business or profession. Worse, unscrupulous persons have even presented an “occupational license” to consumers as proof of competency. In short, the terminology has made it difficult for citizens to understand that in reality, the “occupational license” is merely a receipt for payment of a tax levied by the local government.

In order to avoid this misconception that a business tax receipt represents an assurance of competency, the Florida legislature adopted House Bill 1269, which is attached to this memorandum. This statute renames the “occupational license tax” the “local business tax” and replaces the term “license” with “business tax receipt.” In addition, the revised statute places three requirements on local government to obtain information from businesses required to pay the tax.

First, the statute now requires that local governments obtain a federal employer identification number or a social security number from applicants.²⁶³

Second, the statute requires that persons paying local business taxes report fictitious name registration, issued by the Division of Corporations of the Department of State, to the city.²⁶⁴ Alternatively, a person may submit a written statement explaining reasons why he or she does not need to comply with the Fictitious Name Act.²⁶⁵ In practice, as part of the application process, local governments may ask persons for a Fictitious Name Certificate which is freely available from the Florida Department of State’s website.²⁶⁶

Third, the statute requires that cities ensure professionals have appropriate state licenses to engage in a profession which the State of Florida regulates when they apply for a local business tax receipt. The professions regulated by the State of Florida, for which Cedar Key should ensure that applicants have appropriate licenses, include:

- Architecture and Interior Design,
- Asbestos Consultants,
- Athlete Agents,
- Auctioneers,
- Barbers,
- Boxing,
- Building Code Administrators and Inspectors,
- Community Association Managers,
- Construction Industry Licensing Board,
- Cosmetology,
- Electrical Contractors' Licensing Board,
- Employee Leasing,
- Funeral Directors and Embalmers,

²⁶³ § 205.0535(5), Florida Statutes (2007).

²⁶⁴ § 205.023(1), Florida Statutes (2007).

²⁶⁵ § 205.023(2), Florida Statutes (2007).

²⁶⁶ The Division of Corporations of the Department of State posts fictitious name filings on the internet. These documents are available through <http://www.sunbiz.org/search.html>.

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- Landscape Architecture,
- Pilot Commissioners,
- Pilotage Rate Review Board,
- Professional Geologists,
- Surveyors and Mappers,
- Talent Agencies,
- Veterinary Medicine,²⁶⁷
- Pharmacies and pharmacists,²⁶⁸
- Assisted living facilities,²⁶⁹
- pest control business,²⁷⁰
- Health studios,²⁷¹
- ballroom dance studio,²⁷²
- Sellers of travel,²⁷³
- Telemarketing businesses,²⁷⁴ and
- Household moving services.²⁷⁵

For professions that are on this list, information about the appropriate licenses required is located on the internet at <http://www.myflorida.com/dbpr> and in Chapter 205, Florida Statutes.

Finally, many local governments in Florida have historically used the local business tax collection process to verify that businesses comply with local land use laws. For example, the application process asks whether a business is in a location with the appropriate land use designation for the proposed business. It is my understanding that Cedar Key has not been doing this as a matter of course, but may want to consider instituting the practice.

Attached to this opinion is a proposed ordinance to amend the Laws of Cedar Key to implement the local business tax terminology consistent with the requirements of Chapter 205, Florida Statutes. If the City Commission wishes to implement a process for the verification of the land use designation of proposed business locations, it may request revision of the attached draft ordinance.

The Florida Constitution prohibits taxation except where authorized by a general law of the State of Florida.²⁷⁶ Where Cedar Key levies taxes pursuant to an authorization by general law, that levy should be

²⁶⁷ Department of Business & Professional Regulation, Division Regulated Professions, Councils and Commissions, June 1, 2007, <http://www.myflorida.com/dbpr/pro/index.shtml>.

²⁶⁸ § 205.196, Florida Statutes (2006).

²⁶⁹ § 205.1965, Florida Statutes (2006).

²⁷⁰ § 205.1967, Florida Statutes (2006).

²⁷¹ § 205.1969, Florida Statutes (2006).

²⁷² Id.

²⁷³ § 205.1971, Florida Statutes (2006).

²⁷⁴ § 205.1973, Florida Statutes (2006).

²⁷⁵ § 205.1975, Florida Statutes (2006).

²⁷⁶ Fla. Const., art. VII, § 1, cl. (a).

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consistent with state law requirements. In this case, the city derives its authority to levy the business license tax from Florida Statutes. In order to continue to levy the local business tax, Cedar Key must amend the Laws of Cedar Key to be consistent with state law.

Opinion prepared by:

C. David Coffey, Esq.

City Attorney

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

November 16, 2007

TOPIC: MUNICIPAL EMPLOYEES

ISSUE

Whether Section 112.3135 Florida Statutes (anti-nepotism) prohibits employment of a relative of a City Commissioner by a City Department?

SHORT ANSWER

It depends on the position. The statute prohibits the City from employing any relative of any City Commissioner²⁷⁷ in a position that the City Commission has authority to appoint, employ, promote, or advance, and therefore, a position over which the City Commission has jurisdiction or control. All of the city officials listed in Article I, Part 1.06.00 serve at the pleasure of the City Commission. If, however, the position is one over which the City Commission does not control, does not appoint, employ, promote or advance, then the answer is no, the law does not prohibit the City from employing a relative of a City Commissioner.

COMPLETE ANSWER

Section 112.3135 F.S. in relevant part states:

A public official may not appoint, employ, promote, or advance, or advocate for appointment, employment, promotion, or advancement, in or to a position in the agency in which the official is serving or over which the official exercises jurisdiction or control any individual who is a relative of the public official.²⁷⁸

Section 3.01.01, Chapter 2, Laws of Cedar Key in relevant part states:

²⁷⁷ "'Relative,' for purposes of this section only, with respect to a public official, means an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister." §112.3135(1)(d) F.S. (2006).

²⁷⁸ Emphasis added.

LAWS OF CEDAR KEY-CHAPTER SIX

CITY ATTORNEY OPINIONS

3.01.00. PERSONNEL

3.01.01. General Provisions

Departments. The city commission establishes departments and appoints a city commissioner to be a liaison to each department, establishes policies, rules, regulations and duties for each department and delegates administration of each department to the department administrator, department director or chief in charge, *unless otherwise determined by the commission.*²⁷⁹

If the City Commission, pursuant to §3.01.01 above, has delegated to each department all of the authority described in Section 112.3135, it is likely that there would not be a nepotism problem if a department administrator hired a relative of a City Commissioner. If, however, the City Commission has ‘otherwise determined’ not to make such full delegation of authority to a department administrator and instead handles the responsibilities of a department administrator itself, then most likely such employment is prohibited.

Opinion prepared by:

C. David Coffey, Esq.

City Attorney

²⁷⁹ Emphasis added.

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

January 2, 2008

TOPIC: PARKING

ISSUES

1. Whether the City may ticket an animal-drawn vehicle that violates City parking ordinances or state traffic laws.
2. Whether the City may designate parking spaces for animal-drawn vehicles.

SHORT ANSWERS

1. Yes. The City may ticket an animal-drawn vehicle that violates City parking ordinances or state traffic laws. State law provides that animal-drawn vehicles are subject to all state traffic laws. Furthermore, the City's parking ordinances are broad enough to apply to animal-drawn vehicles.
2. Yes. The City may designate parking spaces for animal-drawn vehicles. By state law, municipalities have the authority to regulate standing and parking within their jurisdiction.

COMPLETE ANSWER

The City has recently had complaints that a horse-drawn carriage which commonly parks on Dock Street while waiting for customers is impeding traffic. Two issues have arisen from these complaints. The first is whether the police may ticket an animal-drawn vehicle that is waiting for customers. The second is whether the City may designate a parking spot for animal-drawn vehicles.

I. WHETHER THE CITY CAN TICKET ANIMAL-DRAWN VEHICLES.

The State of Florida's uniform traffic control laws apply to horse-drawn vehicles, unless by nature a particular law is inapplicable.²⁸⁰ Cedar Key has adopted the uniform traffic control laws as part of the Laws of Cedar Key.²⁸¹ The uniform traffic laws prohibit obstruction of public streets:

(1) It is unlawful for any person or persons willfully to obstruct the free, convenient, and normal use of any public street, highway, or road by impeding, hindering, stifling, retarding, or restraining traffic or passage thereon, by standing or approaching motor vehicles thereon, or by endangering the safe movement of vehicles or pedestrians traveling thereon; and any person or persons who violate the provisions of this

²⁸⁰ § 316.073, Fla. Stat. (2006).

²⁸¹ Laws of Cedar Key, Chpt. 2, Art. VI, § 6.00.01.

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

subsection, upon conviction, shall be cited for a pedestrian violation, punishable as provided in chapter 318.²⁸²

Thus, police may ticket the driver of a horse-drawn carriage that is obstructing traffic.

Although the Laws of Cedar Key do not explicitly state that the City's parking ordinances apply to animal-drawn vehicles, I did not find anything that would prevent them from including animal-drawn vehicles. The parking ordinance uses the term "vehicle," and the dictionary definition of "vehicle" is broad enough to include things such as horse-drawn carriages.²⁸³ The City of St. Augustine has an ordinance that explicitly states that horse-drawn carriages are subject to all of the city's municipal traffic control laws.²⁸⁴

The Laws of Cedar Key contain numerous parking prohibitions that could apply to an animal-drawn vehicle stopped on the road waiting for passengers. For instance, they prohibit stopping, standing or parking that "interfere[s] with the orderly flow of traffic or so as to constitute a hazard to passage of emergency vehicles."²⁸⁵ The City also prohibits on-street parallel parking except in designated areas.²⁸⁶ Moreover, it is illegal to park or stand a vehicle unless the vehicle is entirely within the area designated for parking.²⁸⁷ Another subsection prohibits parking or standing "except momentarily" to pick up or discharge a passenger within five feet of a public or private driveway, within 15 feet of a fire hydrant, or any place where official signs prohibit standing.²⁸⁸ However, a person may temporarily park in a place designated as a no parking zone while actually engaged in the process of loading or unloading passengers.²⁸⁹ The police could issue a ticket to a carriage driver that violated these or any other Cedar Key parking laws.

II. WHETHER THE CITY CAN DESIGNATE PARKING SPACES FOR ANIMAL-DRAWN VEHICLES.

A second question is whether the City may designate an area or areas for animal-drawn vehicles to park while awaiting passengers. Municipalities have explicit authority to regulate stopping, standing and parking within their jurisdictions.²⁹⁰ Thus it appears that the City could designate a parking spot for an animal-drawn vehicle as long as the parking spot does not violate a City ordinance or obstruct traffic.

The City of St. Augustine regulates its horse-drawn carriage businesses. St. Augustine requires drivers to have licenses, horses to have health certificates and the like. It also limits the number of licenses it gives out (40 or 50 with 10 to 15 horses actually working on any given day). The city manager is allowed to designate "hack stands" where the drivers are allowed to park the carriages and solicit rides. There is one main hack stand near the fort and a couple of smaller ones throughout the city. Drivers may only solicit rides at a hack stand. However, a person may call a company and request a pick up from other locations. The city sets the routes that the drivers are allowed to use. The city also provides a couple of water troughs for the horses along the designated routes.

²⁸² § 316.2045(1), Fla. Stat. (emphasis added).

²⁸³ See e.g., Webster's Unabridged Dictionary (2001), which defines vehicle as "any means in or by which someone travels or something is carried or conveyed; a means of conveyance or transport."

²⁸⁴ St. Augustine, Fla. Code of Ordinances, Ch. 27, Art.V, § 27-129.

²⁸⁵ Laws of Cedar Key, § 6.01.02.A.f.

²⁸⁶ Id. § 6.01.05.

²⁸⁷ Id. § 6.01.07.

²⁸⁸ Id. § 6.01.02.A.2.

²⁸⁹ Id. § 6.01.02.A.3.

²⁹⁰ § 316.008(1)(a), Fla. Stat.

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

Opinion prepared by:

C. David Coffey, Esq.

City Attorney

LAWS OF CEDAR KEY-CHAPTER SIX

CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

March 13, 2008

TOPIC: ENVIRONMENTAL PROTECTION/ BUILDING PERMITS

ISSUE

Whether, the Laws of Cedar Key require residential development to be setback from wetlands.

SHORT ANSWER

Yes. The Cedar Key Comprehensive Plan and Land Development Code broadly identify the importance of protecting wetlands.²⁹¹ The Laws of Cedar Key protect wetlands, in part, by prohibiting development, except for water dependent development, within “Protected Zones.” These Protected Zones include wetlands and wetland buffers under the jurisdiction of the Suwannee River Water Management District.

COMPLETE ANSWER

Sections 5.01.01. through 5.01.08. of the Land Development Code (“Code”) provide resource protection standards for defined Wetland and Shoreline Protection Zones (“Protected Zones”) within the City of Cedar Key. These Protected Zones include wetlands and wetland buffers and, within these Protected Zones, the Code prohibits residential development.

Protected Zones include wetlands and wetland buffers. Protected Zones include all “[a]reas within the jurisdiction of the Suwannee River Water Management District” (“SRWMD”).²⁹² The SRWMD, in turn, affords protection to wetlands by requiring an environmental resource permit prior to the development of property.²⁹³ An environmental resource permit cannot be issued if the proposed development has adverse secondary impacts to wetlands.²⁹⁴ Further, SRWMD rules state that “[s]econdary impacts to the habitat functions of wetlands associated with adjacent upland activities will not be considered adverse if buffers, with a minimum width of 15’ and an average width of 25’ are provided abutting those wetlands.”²⁹⁵ Therefore, the Land Development Code creates a protected zone that includes all wetlands and a buffer surrounding wetlands that is a minimum width of 15’ and an average width of 25’.

The Land Development Code prohibits residential development within Protected Zones. The Code broadly states that “no development activity shall be permitted in Protected Zones,” but does allow narrow

²⁹¹ See, for example, Objective 4-3 of the Conservation Element, which requires Cedar Key to “protect any environmentally sensitive land ... INCLUDING wetlands,” and Section 1.03.09.B., Land Development Code, which makes extensive findings related to the beneficial functions of wetlands.

²⁹² § 5.01.02.A.4., Land Development Code.

²⁹³ Rule 40B-1.702(3), Florida Administrative Code.

²⁹⁴ Rule 40B-400.103, Florida Administrative Code.

²⁹⁵ Suwannee River Water Management District, Environmental Resource Permit Applicant’s Handbook at 20 (May 15, 2002).

LAWS OF CEDAR KEY-CHAPTER SIX CITY ATTORNEY OPINIONS

exceptions which are presumed to have minimal impacts on Protected Zones.²⁹⁶ Residential development, of any type, is not among those exemptions.²⁹⁷

Other exemptions for residential property do not include Protected Zone standards. Another portion of the Code, § 6.05.03., which provides Cedar Key's stormwater management requirements, requires development to meet SRWMD performance standards. This section specifically excludes "single family [and] duplex dwelling unit[s]," thereby exempting these types of residential development from SRWMD standards for stormwater.²⁹⁸ Section 6.05.03., however, only provides for stormwater management and does not create exceptions from other requirements of the Code, such as the wetland protection standards discussed above.

Opinion prepared by:

C. David Coffey, Esq.

City Attorney

²⁹⁶ § 5.01.03., Land Development Code.

²⁹⁷ See, §§ 5.01.01 through 5.01.08., Land Development Code.

²⁹⁸ § 6.05.03.

LAWS OF CEDAR KEY-CHAPTER SIX

CITY ATTORNEY OPINIONS

CITY ATTORNEY OPINION

October 12, 2007

TOPIC: ENVIRONMENTAL PROTECTION/ BUILDING PERMITS

ISSUE

Whether the averaging provisions of the 'coastal setback' requirements contained in the comprehensive plan²⁹⁹ and land development regulations³⁰⁰ override the 'Protected Zone' setback requirements contained in the 'Resource Protection' provisions of the land development regulations.³⁰¹

SHORT ANSWER

No.

COMPLETE ANSWER

The flexibility provided in the coastal setback provisions of the comprehensive plan and land development regulations allowing an average 50' setback from the mean high water line does not alter the necessity of first complying with the resource protection provisions. An encroachment into the 50' coastal setback through averaging is only allowed when the encroachment is also authorized by the resource protection provisions. Thus, if development activity is allowed within the 50' setback required by the resource protection standards, the same encroachment into the parallel 50' coastal setback may also be allowed using the averaging provisions.

If a property owner seeks to construct some or all of a structure within the 50' Protected Zone without seeking a variance, the development activity must qualify for one of the allowed exceptions. One such exception is contained at Section 5.01.03.A. 9, Chapter 4, Laws of Cedar Key which states:

5.01.03. Development Activities Within Protected Zones

Except as expressly provided herein, no development activity shall be permitted in Protected Zone.

Presumed Insignificant Adverse Affects Permitted. Certain activities and certain activities when mitigated are presumed to have an insignificant adverse affect on the beneficial functions of Protected Zones. Notwithstanding the prohibition in Section 5.01.03 above, these activities may be undertaken or may be permitted with mitigation unless it is shown by competent and substantial evidence that the specific activity would have a significant adverse effect on the Protected Environmentally Sensitive Area. The following uses and activities are presumed to have an insignificant adverse effect on Protected Zones:

9. Developing an area that no longer functions as a wetland, except a former wetland that has been filled or altered in violation of any rule, regulation, statute, or this Code. The developer must

²⁹⁹ 7-4.1 a., Coastal Management, Chapter 3, Laws of Cedar Key

³⁰⁰ § 6.01.03.A., Chapter 4, Laws of Cedar Key

³⁰¹ § 5.01.02.B., Chapter 4, Laws of Cedar Key

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demonstrate that the water regime has been permanently altered, either artificially or naturally, in a manner to preclude the area from maintaining surface water or hydroperiodicity necessary to sustain wetland structure and function. If the water regime of a wetland has been artificially altered, but wetland species remain the dominant vegetation of the area, the department shall determine the feasibility of restoring the altered hydrology. If the wetland may be restored at a cost that is reasonable in relation to the benefits to be derived from the restored wetland, the developer shall, as a condition of development, restore the wetland and comply with the requirements of this Code.

A property owner that is able to make the required showing described in Section 5.01.03 A.9. above, would be allowed under Article V, Resource Protection, Chapter 4, Laws of Cedar Key to encroach into the Protected Zone. To make use of this allowed encroachment, and still comply with the coastal setback requirements contained in the Development Design and Improvement standards contained in Article VI, Chapter 4, Laws of Cedar Key, the owner would need to comply with the averaging provisions contained at 6.01.03.A., Chapter 4, Laws of Cedar Key, which states:

The Coastal Construction Setback line may be interpreted as the average distance from the mean high water line to the face(s) or side(s) of structures nearest the water, and shall be measured from the eaves or roofline.

III. CONCLUSION

The City of Cedar Key may only permit development within fifty feet of the Mean High Water Line without a variance where the development complies with both the applicable shoreline Protected Zone requirements and the Coastal Construction Setback Line.

Opinion prepared by:

C. David Coffey, Esq.

City Attorney

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CITY ATTORNEY OPINION

June 20, 2008

TOPIC: SPEED LIMITS

ISSUE

Whether the City may change speed limits on all local roads to 25 miles per hour.

SHORT ANSWER

The City may set speed limits at 25 mph if it finds that it is reasonable after conducting a traffic study conforming to DOT requirements.

COMPLETE ANSWER

State law sets the minimum and maximum speed limits within a municipality at 30 miles per hour.³⁰² The City may alter the speed limit if it complies with state law.³⁰³

For purposes of setting speed limits, state law divides cities into business districts and residential districts. A business district is an area where 50 percent or more of the frontage on the road, for a distance of 300 feet or more, is occupied by buildings in use for business.³⁰⁴ A residential district is any area not comprising a business district when the frontage property for a distance of 300 feet or more is improved with residences or residences and buildings in use for business.³⁰⁵

In residential districts, the City may lower the speed limit to 20 or 25 miles per hour “after an investigation determines that such a limit is reasonable.”³⁰⁶ The City does not have to do a separate investigation for each residential district.³⁰⁷ For other areas, including business districts, the City may set a speed limit lower than 30 miles per hour “after investigation determines such a change is reasonable and conforms to criteria promulgated by the Florida Department of Transportation (FDOT).”³⁰⁸ Furthermore, the City may not change speed limits on state highways or “connecting links or extensions thereof.” Id.

The FDOT interprets performing an investigation to mean that a municipality may not change the speed limit in either residential or business areas without performing a traffic study that complies with the requirements in their Speed Zoning Manual,³⁰⁹ which DOT has adopted by reference into the Florida

³⁰² § 316.189(1), Fla. Stat. (2007).

³⁰³ Id.

³⁰⁴ § 316.003(4).

³⁰⁵ § 316.003(38).

³⁰⁶ § 316.189(1).

³⁰⁷ Id.

³⁰⁸ Id.

³⁰⁹ Dept. of Transportation, Speed Zoning for Highways, Roads and Streets, (1997), §§ 4.1, 12.1; phone conversation with DOT employee. “This manual sets forth the DOT criteria to establish specific speed zones and in no way provides a means whereby a blanket speed limit . . . can be enacted by local ordinance To do so is

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Administrative Code.³¹⁰ In its manual, DOT states that an investigation “would include, but is not limited to, the measurements of speed test runs and other traffic engineering evaluations contained in this manual.”³¹¹

Thus, the City is required to conduct a traffic study conforming to DOT requirements prior to changing the speed limit to 25 mph.

contrary to the intent of the statutory 30 mi/h Blanket Speed Limit, which only can be altered upward or downward on location basis by the traffic engineering procedures described herein.” § 12.1.

³¹⁰ Fla. R. Admin. Proc. R. 14-15.012

³¹¹ Dept. of Transportation, *supra* n. 8 at § 4.1.

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CITY ATTORNEY OPINION

August 23, 2007

TOPIC: FIRE CODE/CODE ENFORCEMENT

ISSUES

- I. What are the City's responsibilities regarding enforcement of the State Fire Code?
- II. May the City impose the state fire code on existing buildings?
- III. What is the City's liability regarding enforcement of the State Fire Code?

SHORT ANSWERS

- I. The State of Florida has adopted a statewide fire safety code. All local governments in Florida have a statutory duty to enforce the fire safety code. The City is responsible for hiring a certified fire safety inspector to enforce the state code.
- II. The City has a statutory duty to enforce the state fire code on certain types of existing buildings listed in state law, including restaurants. The city must also enforce it on existing buildings when an existing building undergoes a change in occupancy type or if the building is an imminent danger to people or property. The City may use its standard code enforcement procedure to enforce the fire code.
- III. The City would probably not be liable for failing to carry out fire inspections or for negligent fire inspections.

COMPLETE ANSWER

This memo sets out the responsibilities of the City with regard to the fire safety of privately owned buildings.

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I. DUTY TO ENFORCE FIRE SAFETY CODE.

All municipalities in Florida are deemed to have adopted the Florida Fire Prevention Code.³¹² The City has a statutorily imposed duty to enforce the fire prevention code.³¹³ The Code is made up of designated manuals and rules adopted by the State Fire Marshal.³¹⁴

Under Section 633.121: “The chiefs of county, municipal, and special-district fire departments; other fire department personnel designated by their respective chiefs; and personnel designated by local governments having no organized fire departments are authorized to enforce this law and all rules prescribed by the State Fire Marshal within their respective jurisdictions.” Since the City has a fire department, the chief of the Cedar Key Fire Department or his designee has the authority to enforce the state fire code within Cedar Key.

Although the fire chief has enforcement authority, inspections have to be carried out by a certified fire inspector.³¹⁵ A certified fire inspector has to meet state training standards.³¹⁶ The City is required to employ or contract with a certified fire safety inspector to carry out all fire safety inspections.³¹⁷

Although some municipalities inspect existing buildings on a regular schedule (e.g., once per year, once every three years, etc.), I was unable to find any requirement in Florida Statutes, the Florida Administrative Code, or the Florida Fire Code, that the City have an inspection schedule. Thus, although the City has a statutory duty to enforce the Fire Code, it appears that the City may choose if and when it performs inspections.

The City may adopt a fee schedule to pay for the costs of inspections required by state law and related administrative expenses.³¹⁸ According to one fire chief I spoke with, the standard practice in Florida is to only charge an inspection fee for repeat inspections—for example, if the property owner fails to correct violations found in an initial inspection.

Section 633.052(2), Florida Statutes, authorizes a municipality to enforce the fire safety code through the code enforcement procedure established pursuant to Chapter 162, Florida Statutes. Since Cedar Key already has such a procedure,³¹⁹ the City may enforce the fire safety code in the same way it enforces other code violations. The only difference would be that the City’s certified fire safety inspector would issue citations for violating the fire safety code.

³¹² § 633.025(1), Fla. Stat. (2007).

³¹³ Id. § 633.025(2); Fla. Admin. Code R. 69A-60.007(1)

³¹⁴ R. 69A-60.002(3)(a).

³¹⁵ § 633.081(2).

³¹⁶ *Id.*

³¹⁷ § 633.081(1).

³¹⁸ § 633.081(1).

³¹⁹ Laws of Cedar Key, Ch. 2, Article 1, § 1.05.00

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II. INSPECTIONS AND STANDARDS

Enforcing the fire safety code involves inspections of new buildings subject to the Code and inspection of existing buildings in certain circumstances. The Fire safety Code states new construction may not be occupied unless it meets the current minimum fire safety code.³²⁰ An existing building that does not meet the current minimum fire safety code requirements may remain in use as long as a) there is no change in occupancy category, or b) there are no conditions that would be an imminent danger to life or property.³²¹ If the local fire official determines that “a threat to lifesafety or property exists” then the official may apply the applicable fire safety code to the extent practical to assure a reasonable degree of lifesafety and safety of property or fashion an appropriate alternative.³²²

Additionally, the State Fire Marshall has established “uniform standards” that apply to certain types of buildings instead of the “minimum standards”, including new, existing and proposed public food service establishments, or restaurants.³²³ Thus existing restaurants are subject to the current Florida Fire Code. Even though the statute uses the term “uniform standards,” a review of the actual Florida Fire Code indicates that the “uniform standards” are different for existing buildings than for new construction.

III. TORT LIABILITY

The City would be unlikely to face tort liability for either failing to inspect buildings or for failing to find violations if it did inspect a building. The decision of whether to conduct inspections would probably be considered a planning level decision and the Florida Supreme Court has held that municipalities cannot be held liable for planning level decisions.³²⁴

Furthermore, the Supreme Court stated in *Trianon Park* that municipalities have never had a common law duty to conduct regulatory activities such as building inspections or fire inspections and that those type of

³²⁰ Florida Fire Safety Code 10.3.1.

³²¹ Florida Fire Safety Code 10.3.2.

³²² § 633.025(5),(6).

³²³ § 633.022(1)(b). A “public food service establishment” is not defined in the statute, Florida Administrative Code or the Fire Safety Code. However, it appears that the intent of the statute is to regulate restaurants that are open to the public. Florida Statutes Chapter 509, which requires health inspections of restaurants does define a public food service establishment. That definition is broad enough to encompass restaurants open to the public. Section 509.11 states that a health inspector inspecting a “public food service establishment” “shall immediately notify the local firesafety authority or the State Fire Marshal of any major violation of a rule adopted under chapter 633 [the fire safety code] which relates to . . . public food service establishments. The division may impose administrative sanctions for violations of these rules . . . or may refer such violations to the local firesafety authorities for enforcement.” This section would only make sense if “public food service establishment” meant the same thing in Chapter 633 as in Chapter 509.

³²⁴ See e.g., *Trianon Park Condominium Assoc., Inc. v. City of Hialeah*, 468 So. 2d 912, 918 (Fla. 1985) (stating that the “discretionary power to enforce compliance with the law is given to regulatory officials such as building inspectors [and] fire department inspectors . . . ”)

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enforcement activities are discretionary.³²⁵ Thus, the decision of whether to conduct a fire safety inspection is discretionary and probably would not subject the City to tort liability.

Moreover, in *Trinaon*, the Court ruled that building inspections are designed to protect the general welfare of the community, and thus do not create a cause of action for individuals to sue the local government having enforcement powers unless the legislature expressly creates such a cause of action.³²⁶ The Court found that although the legislature had adopted a building code that required building inspections, the legislature had not created a statutory right of recovery against municipalities for negligent building inspections conducted by city employees.³²⁷ In dicta, the Court went on to state that “[i]f we approved this principle for building inspections, we would also necessarily have to find governmental entities . . . responsible for the failure to use due care in carrying out their power to enforce compliance with laws regarding fire department inspections”³²⁸ I was unable to find any statute that expressly created a cause of action by individuals against local governments for failure to enforce the fire safety code or for negligent fire safety inspections.

³²⁵ Id.

³²⁶ Id. at 918, 922; see also *Pollack v. Fla. Dep’t of Highway Patrol*, 882 So. 2d 982, 935 (2004) (holding that the Florida DHP has a general duty to enforce traffic laws which does not create a duty to individuals).

³²⁷ Id. at 921.

³²⁸ Id.

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CITY ATTORNEY OPINION

October 22, 2014

TOPIC: COMPETITIVE BIDDING/GRANTS

ISSUE

Whether a nonprofit company receiving a grant from the CRA must comply with Chapter 287 or Chapter 255, Florida Statutes, which requires competitive bidding on contracts over a threshold set by statute.

SHORT ANSWER

No. Neither Chapter 287 nor Chapter 255 apply to grant recipients.

COMPLETE ANSWER

Section 287.055, Florida Statutes, requires a municipality to go through a competitive bidding process if it is purchasing professional services, including design-build services that it estimates will cost more than \$250,000.00.³²⁹ Section 255.20 requires local governments to competitively award contracts for construction or improvement of public buildings or public construction works above \$200,000.00, or \$50,000 for electrical work.

There is nothing in either Chapter 287 or Chapter 255 that implies that grant recipients are included in the requirements for competitive bidding. In this instance, the Cedar Key Historic Museum is not a public building and the Cedar Key Historic Society is not part of the City or the CRA.³³⁰ Furthermore, the CRA is giving the funds as a grant, the CRA is not contracting directly for any services related to the renovation of the museum.

I was unable to find any case law or attorney general opinions dealing with the specific issue. However, I did speak with an attorney in the Department of Management Services, which handles purchasing for the State; the attorney was not aware of any requirements that would apply to grant recipients. Finally, I did not find anything that would require competitive bidding in Chapter 163, Florida Statutes, which governs the CRA.

³²⁹ This number is adjusted for inflation every year. § 287.017(2), Fla. Stat. (2007).

³³⁰ See §§ 255.20, 287.055; Fla. Att’y. Gen. Op. 2002-59 (stating that a board created by the County must comply with the competitive bidding statutes when constructing a correctional facility that will be operated by the Sheriff for the benefit of the County).

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CITY ATTORNEY OPINION

April 22, 2016

TOPIC: ALCOHOLIC BEVERAGE ESTABLISHMENTS

ISSUE

Distance from Churches and Schools

ANSWER

At the direction of the City Commission, I have researched the Florida Statutes to determine state regulation of establishments selling or serving alcoholic beverages at locations proximate to schools and churches.

Fla. Stat. §562.45 states that, except for premises licensed before 1999 and except for restaurants, a location for on-premises consumption of alcoholic beverages cannot be within 500 feet of a school. Notably, the prohibition only applies to schools, (not churches), and only to on-premise consumption. The statute allows a local government to override this restriction.

Also, a Florida municipality, under its home rule powers, may adopt additional location restrictions which are more restrictive than the statute. For example, a municipality can adopt location restrictions based on proximity to a church, and it may increase the distance requirements for schools.

Other related questions are addressed as follows:

May the City decrease the distance in its current ordinance from 500 feet to a lesser distance? Yes it may.

May the City remove the word “sale” from its current ordinance, thus allowing sales for off-premise consumption to occur within the specified distances? Yes, it may.

May the City adopt language to better define the method for measuring distance? Yes, it may.

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CITY ATTORNEY OPINION

June 10, 2016

TOPIC: VACATION RENTALS

ISSUE

MAY THE City enact regulations to prohibit vacation rentals in certain areas

ANSWER

In response to the Mayor's request for Legal Opinion as discussed at the City Commission meeting earlier this week, I respond as follows:

Question: May the City enact regulations to prohibit vacation rentals in certain areas of the City, or regulate the location of vacation rentals, or regulate the duration or frequency of vacation rentals?

Answer: Section 509.032(7), Florida Statutes, as amended by chapter 2014-71, Laws of Florida, limits a local government's power to regulate vacation rentals to enforcement of the Florida Building Code and the Florida Fire Prevention Code. Otherwise, the statute preempts all other regulation of vacation rentals to the State. Moreover, subsection (7)(b) of the statute precludes any local law, ordinance or regulation which would prohibit vacation rentals or restrict the duration or frequency of vacation rentals. It is my opinion, therefore, that the City may not prohibit vacation rentals in a particular area where residential use is otherwise allowed, nor may the City regulate the frequency or duration of vacation rentals.

A copy of Fla. Stat. 509.032(7) is transmitted herewith.

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CITY ATTORNEY OPINION

July 28, 2016

TOPIC: MINOR REPLAT

ISSUE

This memo is in response to your request for legal opinion regarding the following question:

Must an owner of adjacent parcels of record who wishes to combine the parcels for the purpose of a single development proposal comply with the City's Minor Replat procedure in order to combine the parcels?

Chapter 4, §12.00.03 defines Minor Replat as follows:

Minor Replat

The subdivision of a single lot or parcel of land into two (2) lots or parcels, or the reconfiguration of two (2) or more lots or parcels to create no more than two (2) lots or parcels.

Chapter 4, §10.03.04 regarding reconfiguration defines "Reconfigured" as follows:

Reconfiguration of Nonconforming Lots

A. *Generally.* Any number of adjacent lots, some or all of which are nonconforming, may be realigned if the standards in this subsection are met.

B. *Definition.* "Reconfigured" shall mean that the direction of the long axis of the lot is changed ninety (90) degrees. See Figure 10.03.04-A below.

Note that the definition of a Minor Replat only includes either; (i) a division; or (ii) a reconfiguration, (which is a 90 degree change). This definition does not include a combining of lots. Therefore this section cannot be interpreted to require a Minor Replat.

Chapter 4, §6.01.01(D)(2) provides: "Multiple abutting parcels of record under common ownership may be replatted through the minor replat provisions of this Code to create new platted lots that are not less than 2,500 square feet", however, because this language is permissive, not mandatory, this section cannot be interpreted to require a Minor Replat.

The City's interest in the combination of parcels for the purpose of a single development proposal is to ensure that, upon approval of the development for the combined parcel, the combined parcel cannot later be divided without subsequent approval by the City. A Minor Replat is not necessary to accomplish this purpose, nor is it required under the Laws of Cedar Key. If a development approval is dependent upon the

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combining of the parcels in order to achieve compliance with the City's development requirements, (i.e. lot coverage restrictions), then this purpose will be accomplished by (i) inclusion in the development order of a restriction against future division of the combined parcel; and (ii) recording of the development order in the official records, indexed under the owner's name. Because the above steps can be included in the normal development order process, the additional process of a Minor Replat approval is avoided.