Unified Land Development Code Update

Amended:
March 11, 2016
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General Provisions
ARTICLE 1

GENERAL PROVISIONS

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ARTICLE 1

GENERAL PROVISIONS

1.01.00 Title

This document shall be referred to as the "Land Development Code of the City of Mulberry" and may be referred to herein as the "Code", the “Land Development Code” and the “LDC”.

1.02.00 Authority

This Land Development Code is enacted pursuant to the requirements and authority of Chapter 163.3202, Florida Statutes (the Local Government Comprehensive Planning and Land Development Regulation Act), the City Charter effective September 1, 1991, and the general powers enumerated in Chapter 166, Florida Statutes (City Government).

1.03.00 Applicability

1.03.01 General Applicability

With the exceptions listed in Section 1.10.00, all development in the City of Mulberry shall be subject to the provisions of this Code, and no development shall be undertaken without prior authorization pursuant to this Code.

1.04.00 Repeal of Conflicting Local Laws

Any and all other City ordinances, resolutions, or general laws, or any part thereof, which conflict with any provision or provisions of this Code are hereby repealed.

1.05.00 Interpretation

The provisions of this Code will be held to be the minimum requirements adopted for the promotion of the public health, safety and welfare and to implement the Comprehensive Plan of the City of Mulberry.

1.05.01 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.

1.05.02 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 this Code, the City Manager, or his/her designee, or his designee, shall be responsible for interpretation and shall look to the City of Mulberry Comprehensive Plan for guidance.
1.05.03. *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, then the next business day shall be the last day.

1.05.04. *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 duty, it is to be construed to authorize delegation to professional-level subordinates to perform the required act or duty unless the terms of the provision or section specify otherwise.

1.05.05. *Gender.*

Words importing the masculine gender shall be construed to include the feminine and neuter.

1.05.06. *Number.*

Words in the singular shall include the plural, and words in the plural shall include the singular.

1.05.07. *Shall, May.*

The word "shall" is mandatory; the word "may" is permissive.

1.05.08. *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.

1.05.09. *Year.*

The word "year" shall mean a calendar year, unless otherwise indicated.

1.05.10. *Day.*

The word "day" shall mean a business day, unless a calendar day is indicated.

1.05.11. *Boundaries.*

Where uncertainty exists with respect to the boundaries of the zoning districts, as shown on the Official Zoning Map, the following rules shall apply:

(A) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
(B) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

(C) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

(D) Boundaries indicated as following shorelines shall be construed to follow the high water line, and in the event of a lowering of the water level shall be construed as moving downward to the current water level;

(E) Boundaries indicated as following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines; and

(F) Boundaries indicated as parallel to or extensions of features indicated in subsections (A) through (E) above shall be so construed.

(G) Where a district boundary line, as appearing on the Official Zoning Map, divides a lot which is in single ownership at the time of this enactment, the use classification of a larger portion may be extended to the remainder by the City Manager, or his/her designee, or his designee, without recourse to the amendment procedure.

(H) In case the exact location of a boundary cannot be determined by the foregoing methods, the City Commission shall, upon application, determine the location of the boundary.

1.05.12. Relationship to Specific/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 provision.

1.05.13. State Law Requirements

Where this Code references applicable provisions of State law (e.g. Chapter 166.041 F.S.) the reference shall be construed to be to the applicable State law provisions as they may be amended from time to time.

1.06.00 Penalties for Violation

It shall be unlawful for any person to violate the provisions of this Code or to use land or structures in violation of any provision of this Code. Persons found guilty of violating this Code shall be deemed guilty of a misdemeanor and shall be subject to a fine not exceeding $500.00 for each day that a violation exists, or by imprisonment for a period not exceeding 60 days, or both.

1.07.00 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.

**1.08.00 Enactment and Effective Date**

These regulations shall be effective January 1994.

The following amendments have been made to the document:

Ord. 2.99, February 1999:

In general:

- all references to “adult congregate living facility” have been changed to “assisted living facility”;
- all references to “drainage” have been changed to “stormwater management”;
- all references to “mobile homes” have been changed to “manufactured homes”;
- modular homes are not manufactured (mobile) homes and must conform to all aspects of the Southern Standard Building Code.

<table>
<thead>
<tr>
<th>Page #</th>
<th>Change made</th>
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</thead>
<tbody>
<tr>
<td>4</td>
<td>Add date of adoption.</td>
</tr>
<tr>
<td>9</td>
<td>HRS name change.</td>
</tr>
<tr>
<td>9</td>
<td>Adult congregate living facility to assisted living facility.</td>
</tr>
<tr>
<td>11-12</td>
<td>Sale of alcoholic beverages and adult entertainment amendments.</td>
</tr>
<tr>
<td>15</td>
<td>Add line for “single family, modular” home.</td>
</tr>
<tr>
<td>15</td>
<td>In table of land uses, changed ACLF to Assisted Living Facility.</td>
</tr>
<tr>
<td>15</td>
<td>Add Hotel/Motel permitted in I-L zoning district.</td>
</tr>
<tr>
<td>15</td>
<td>In table of land uses, add Bar/Lounge to table of uses permitted in C-2 &amp; I-L.</td>
</tr>
<tr>
<td>17</td>
<td>In table of land uses, add Fertilizer Plant under Heavy Industry.</td>
</tr>
<tr>
<td>17</td>
<td>Changed the title of Manufacturing Chemicals to Blending/Processing/Manufacturing Chemicals.</td>
</tr>
<tr>
<td>44</td>
<td>Pavement widths added in the table.</td>
</tr>
<tr>
<td>45</td>
<td>X added in drawing.</td>
</tr>
<tr>
<td>111-115</td>
<td>Potable Water Wellhead Protection Areas - new.</td>
</tr>
<tr>
<td>127-141</td>
<td>All references to “drainage” changed to “stormwater management”.</td>
</tr>
<tr>
<td>167-168</td>
<td>7.05.05.01 Preliminary Subdivision Plat. Shorten the list of requirements for these plans from 14 items to 7 items. Those that are eliminated are required at the construction plan or final plat phase and are included there.</td>
</tr>
<tr>
<td>172-174</td>
<td>7.05.07 Final Plat: addition of language to require all plats be reviewed by an employee of the city who is a professional surveyor or mapper; also added in (A) and under (14).</td>
</tr>
<tr>
<td>203-204</td>
<td>8.06.00 Public Hearings- updated.</td>
</tr>
<tr>
<td>205-208</td>
<td>8.07.00 Statutory requirements for comprehensive plan amendments and small scale amendments-updated.</td>
</tr>
<tr>
<td>211-238</td>
<td>Definitions: new definitions added to 9J-5 inserted here. All additions and changes are underlined.</td>
</tr>
</tbody>
</table>

Dec. 1999: Article 9, Definitions. Modify and add definitions for modular and manufactured homes; recreational vehicle campground and park; single family attached dwelling unit and single family dwelling unit-standard construction.

Feb. 2000: Article 5, Section 5.02.00, Wellhead Protection. Changes made to the section.
December 3, 2002:

<table>
<thead>
<tr>
<th>Section</th>
<th>Change made</th>
</tr>
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<tbody>
<tr>
<td>2.02.07</td>
<td>Addition of agricultural regulations.</td>
</tr>
<tr>
<td>2.02.08</td>
<td>Addition to animal limitation regulations to allow farm animals.</td>
</tr>
<tr>
<td>2.02.09</td>
<td>Renumber fence regulations to 2.02.09.</td>
</tr>
<tr>
<td>2.04.00</td>
<td>Change names of zoning districts to match new recreation districts.</td>
</tr>
<tr>
<td>2.04.01 (A) &amp; (B)</td>
<td>Add new agricultural zoning districts to Table of Uses and Table of Development Standards; update tables with some new entries.</td>
</tr>
<tr>
<td>2.04.02.04</td>
<td>Change name of zoning district C-1 from Highway Commercial to Central Business District to be consistent with the Comprehensive Plan.</td>
</tr>
<tr>
<td>2.04.02.05</td>
<td>Change name of zoning district C-2 from Service Commercial to Highway Commercial to be consistent with the Comprehensive Plan.</td>
</tr>
<tr>
<td>2.04.02.08</td>
<td>Update P-1 Public Institutional District.</td>
</tr>
<tr>
<td>2.04.02.09</td>
<td>Change name of PR zoning district from Public Recreation to “OR” Outdoor Recreation District; update description of Permitted Principal Uses &amp; Structures.</td>
</tr>
<tr>
<td>2.04.02.11</td>
<td>Add new district 2.04.02.11 AG Agriculture.</td>
</tr>
<tr>
<td>3.02.05</td>
<td>Access Points onto Streets: Add a requirement for paving driveways.</td>
</tr>
<tr>
<td>3.03.02</td>
<td>Off-Street Parking: Add a requirement for all businesses to pave their parking lots.</td>
</tr>
<tr>
<td>Article 9</td>
<td>Definitions: Add two new definitions for agricultural uses and limited agricultural uses. Update five definitions regarding recreation. All changes are consistent with the Comprehensive Plan of the City.</td>
</tr>
</tbody>
</table>

1.09.00 Amendment of this Code

This Code shall be amended by ordinance and in accordance with the regulations for a public hearing for an ordinance as adopted by the City. The proposed changes shall go before the Planning Board, who shall make a recommendation for or against and shall forward that recommendation, with the ordinance, to the City Commission.

Proposed amendments to this Code are not reviewed by the Florida Department of Economic Opportunity (DEO), according to State statute.

1.10.00 Rules of Transition

The following rules shall apply to all properties in the City on the effective date of this Code:

A. Violations Continue

Any violation of the Code previously in effect (1994 Land Development Code with all amendments through the effective date of this Land Development Code) will continue to be a violation under this Code and shall be subject to the penalties and enforcement provisions provided in Section 1.06.00 (Penalties for Violation), unless the use, development, construction, other activity, or violation issue complies with the provisions of this Code.

B. Developments with Approvals or Permits

1. Building Permit Issued Prior to Effective Date
Any building, structure, or sign for which a lawful Building Permit is issued or for which a complete Building Permit or Sign Permit application as determined by the Building Director or City Manager, or his/her designee, has been filed at least one day prior to the effective date of this Code, may be constructed and completed in conformance with the permit and other applicable approvals, permits, and conditions, even if such building, structure, or sign does not fully comply with this Code. If construction is not commenced in compliance with the applicable permit terms, the Building Director or City Manager, or his/her designee, may grant an extension in compliance with the provisions of the Building Code. If the extension does not state a specific time, it shall be an extension for six months. If the building, structure, or sign is not completed in conformance with the Building Permit and any granted extension, then the building, structure, or sign shall be constructed, completed, or occupied only in compliance with this Code.

2. Final Site Plan Review and Approval Prior to Effective Date

An applicant whose development has received Site Plan Review and Approval prior to the effective date of this Code may file an application for a Building Permit in compliance with the approved site plan and any conditions of approval, even if the development does not comply with the provisions of this Code. Upon approval of construction plans for the development, a Building Permit may be issued. Site Plan Review and Approval for developments approved prior to the effective date of this Code shall be valid for one year from the date of approval. No time extensions shall be permitted.

3. Preliminary Subdivision Plat Approved Prior to Effective Date

An applicant who has received preliminary plat approval for a proposed subdivision prior to the effective date of this Code may file an application for final plat approval, even if the subdivision does not fully comply with the provisions of this Code. If an application for final plat approval is not filed within one year of the date of the preliminary plat’s approval, the preliminary plat shall expire. No time extensions shall be permitted. Subsequent preliminary plat applications shall comply with this Section 7.05.00 (Subdivision Regulations).

4. Special Exception Use Approved Prior to Effective Date

An applicant for a use for which a Special Exception has been approved prior to the effective date of this Code may file an application for a Building Permit, even if the use does not fully comply with the provisions of this Code. If the Special Exception does not begin to serve the purpose for which it was granted permission within 180 days from the date of approval, it shall expire. No time extensions shall be permitted.
C. Applications Filed Prior to the Effective Date

1. Complete applications for new developments including, but not limited to Site Plan Review and Approval, Special Exception Use, and preliminary plats, filed prior to the effective date of this Code may be approved under the provisions of the zoning code previously in effect (1994 Land Development Code with all amendments through the effective date of this Land Development Code). Applicants may also elect to develop in compliance with the provisions of this Code, and in that case shall comply with all provisions of this Code. If a Building Permit application is not filed within one year of the date of approval of the application for new development, the approval shall expire. No time extensions shall be permitted.

2. Applications for amendments to the Zoning Map filed prior to the effective date of this Code shall be governed by the provisions of the zoning code previously in effect (1994 Land Development Code with all amendments through the effective date of this Land Development Code) unless the applicant elects to comply with this Code.

D. Planning Applications Filed After the Effective Date

All applications for new developments including, but not limited to, Site Plan Review and Approval, Special Exception Use, preliminary plats, as well as amendments to the Zoning Map, filed on or after the effective date of this Code, including modifications and amendments, shall conform to the provisions of this Code.

[RESERVED]
Unified Land Development Code Update

ARTICLE 2

Regulations for Specific Districts
ARTICLE 2

REGULATIONS FOR SPECIFIC DISTRICTS

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2.02.02 Special Needs Facilities
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2.02.08 Limitations on Animals
2.02.09 Fence Height Requirements and Limitations
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2.02.12 Measurement of Setbacks
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2.02.14 Temporary Uses

2.03.00 General Regulations for Commercial/Industrial Zoning Districts

2.03.01 Sale of Alcoholic Beverages
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2.04.01 Zoning District Summary Tables
2.04.02 Establishment of Zoning Districts

2.04.02.01 R-1L Single Family Residential
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2.04.02.03 MH Manufactured (mobile)HomePlanned
2.04.02.04 C-1 Central Business District
2.04.02.05 C-2 Highway Commercial
2.04.02.06 I-L Light Industrial
2.04.02.07 I-H Heavy Industrial
2.04.02.08 P-I Public Institutional District
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2.04.02.12 PD Planned Development

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2.05.02 Boat Slips/Ramps, Docks, Boat Houses and Fishing Piers
2.05.03 Satellite Dishes and Antennas
2.05.04 Bulk Propane Gas Storage and Sales
ARTICLE 2
REGULATIONS FOR SPECIFIC DISTRICTS

2.01.00 General Provisions

The purpose of this Section is to set forth the general provisions concerning land use. The provisions established herein shall regulate land use, density and intensity, establish building lot and yard requirements, establish land use districts which identify the location of land uses in the City of Mulberry, establish standards for land use in the City, and provide for a map locating the permitted land uses in the City. All land in Mulberry shall be subject to the provisions of this Section, and shall be shown on the Official Zoning Map as provided in Section 8.05.00. More than one permitted use may be co-located on a single parcel of land in any zoning district within the City.

2.01.01 Development Approval

(A) No development approval shall be issued unless the proposed development conforms to the design regulations prescribed within the applicable zoning district. The design regulations, including lot layout, height, and density/intensity standards, are included in Table 2.04.01B.

(B) No use is permitted unless it is listed as allowed or requiring a special exception in the Table of Land Uses. However, uses that are required to be permitted in any zoning district by State statute may be permitted in accordance with State law whether or not the use is included in the Table of Land Uses.

(C) A use not specifically mentioned or described by category in the Table of Land Uses is prohibited. Evaluation of these uses shall be as set forth in Section 2.01.02 of this chapter.

2.01.02 Interpretation – Materially Similar Uses

(A) The City Manager, or his/her designee, shall determine if a use not mentioned can reasonably be interpreted to fit into a use category where similar uses are described. Interpretations may be ratified by the City of Mulberry upon recommendation by the Planning Board at a regularly scheduled meeting. It is the intent of this Code to group similar or compatible land uses into specific zoning districts, either as permitted uses (P) or uses authorized as special exceptions (S). Uses not listed in the Table of Uses [Table 2.04.01(A)] are presumed to be prohibited from the applicable zoning district. In the event that a particular use is not listed in the Table of Uses, and such use is not listed as a prohibited use under the specific zoning district and is not otherwise prohibited by law, the City Manager, or his/her designee, shall determine whether a materially similar use exists in this section.
(1) Should the City Manager, or his/her designee, determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed, and the City Manager, or his/her designee’s, decision shall be recorded in writing.

(2) Should the City Manager, or his/her designee, determine that a materially similar use does not exist; the matter may be referred to the Planning Board for consideration for amendment to the LDC to establish a specific listing for the use in question. Unless an appeal is timely filed pursuant to Article 8, the City Manager, or his/her designee’s, decision is valid.

(3) Periodically, the City Manager, or his/her designee, shall forward the materially similar use decisions to the Planning Board for ratification of interpretations and to be considered as potential text amendments to the LDC. If, when seeking periodic ratification of interpretations, the City Manager, or his/her designee’s, interpretation is reversed, then decisions made in reliance on the City Manager, or his/her designee’s, interpretation become non-conforming uses.

(B) Rules of Interpretation

(1) The City Manager, or his/her designee, may determine that a use is materially similar if the use is of the same general type as the uses permitted there by this Code based on characteristics, use patterns, and land use and traffic impacts.

(2) The City Manager, or his/her designee, may utilize the following resources in making a determination of materially similar use.

   a. The use is listed as within the same structure or function classification as the use specifically enumerated in the Table of Land Uses, as determined by the Land-Based Classification Standards (LBCS) of the American Planning Association (APA). The City Manager, or his/her designee, shall refer to the following documents in making this determination, which documents are incorporated by reference and are maintained on file in the office of the planning department:

      1. LBCS Activity Dimension with Detail Descriptions (April 1, 2001);

      2. LBCS Function Dimension with Detail Descriptions (April 1, 2001);

      3. LBCS Structure Dimension with Detail Descriptions (April 1, 2001); and

      4. LBCS Tables (April 1, 2001).
The use shall be considered materially similar if it falls within the same LBCS classification.

b. If the use cannot be located within one of the APA’s LBCS classifications pursuant to subsection (A), above, the City Manager, or his/her designee, may refer to the most recent North American Industry Classification System (NAICS) Manual. The use shall be considered materially similar if it falls within the same industry classification of the most recent NAICS Manual.

2.02.00 General Regulations for All Zoning Districts

2.02.01 Regulations for Historic Sites

(A) Criteria for Designation of Historic Sites

The purpose of this Section is to establish criteria for identifying structures and sites of historical significance in the City of Mulberry, and to establish procedures to preserve them. The City Commission, after receiving recommendation(s) from the Planning Board, shall designate historic sites based on the following criteria:

(1) The site or structure is associated with events that are significant to local, state, or national history; or the site or structure embodies the 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.

(2) The property is one that, by its location, design, setting, materials, workmanship, feeling and association adds to the City's sense of time and place and historical development.

(3) The property's design, setting, materials, workmanship, feeling and association have not been so altered that the overall integrity of the site has been irretrievably lost.

(4) The structure or site is more than 50 years old, unless there is a strong justification concerning its historical or architectural merit, or the historical attributes of the structure or site are considered to be less than 50 years old.

All properties listed in the National Register of Historic Places and/or the Florida Master Site File of Historic Places shall be presumed to meet the above criteria, and shall be classified as Designated Historic Sites. Any other property may be so classified by the City Commission upon a finding that it meets the above criteria. The Building Director may issue an official certificate of historic signi-
A significance to the owners of Designated Historic Sites, and is authorized to issue and place official signs at such locations.

Structures and buildings classified as Designated Historic Sites shall be entitled to modified enforcement of the Florida Building Code.

(B) Criteria for Modification of Historic Structures

No demolition, alteration, or relocation of a historic structure shall be permitted except as provided below:

1. Work that does not require a construction permit and that is done to repair damage or prevent deterioration or decay of a structure or part thereof as nearly as possible to its condition prior to the damage, deterioration, or decay.

2. Activity approved by the Building Director that restores the structure's original appearance, or a reasonable approximation.

3. Activity approved by the City Commission that will not preserve or recreate the structure's original appearance. The Planning Board shall review the proposal and make a recommendation prior to the City Commission's vote.

(C) New Construction on Historic Sites

All new construction within a Designated Historic Site shall be reviewed by the Planning Commission and approved by the City Commission. New structures, parking lots, drainage facilities, and other objects shall be depicted on a site development plan or sketch plan, that shall be submitted to the Building Director prior to review by the Planning Board. All site alterations shall be consistent with the approved site plan.

In approving new structures or facilities on a historic site, the City Commission shall determine that the proposal would not hinder the use or enjoyment of the historic site or surrounding historic properties. Also, the Commission shall find that the new site feature(s) would be hidden to the greatest extent possible and/or are appropriate and compatible with the balance of the site and adjacent historic sites. The Commission may place any conditions on approval that it determines are necessary to protect the integrity of the historic site or area.

2.02.02 Special Needs Facilities

(A) Special needs facilities provide 24-hour care. These care facilities are subject to local zoning laws and may be located in residential areas but are generally more appropriate in commercial areas.
(B) They are licensed or registered by the State of Florida according to separate and specific provisions of the Florida Statutes. Article 9 of this Code defines each special needs facility. They are listed as a group in the Table of Land Uses, 2.04.01(A), and permitted in all commercial zoning districts and in some residential districts as a Special Exception.

(C) When locating a facility in a residential zoning district, the facility shall be designed to look like a single family home or shall be located in a single family home. In addition to parking spaces normally required for a residential dwelling unit, one parking space shall be provided for each employee; and one space shall be provided for the first five residents, and an additional space shall be provided per five additional residents.

(D) Play areas and play grounds for these type facilities shall be shaded a minimum of 50% by canopy trees. The list of acceptable trees is found in Article 3, Section 3.07.00, Table 3.07A, “Canopy Trees”.

(E) Any violation of applicable State regulations shall be deemed a violation of this Code, and shall constitute grounds for termination of the use.

(F) Any violation of applicable state regulations shall be deemed a violation of this Code, and shall constitute grounds for termination of the Special Exception.

2.02.03 Family Foster and Day Care Homes

(A) Family Foster Homes, Family Day Care Homes and Adult Family-Care Homes are permitted in residential areas, in occupied homes only and are not subject to local zoning laws when so located. Licensing, registration, occupancy and other matters are regulated under specific provisions of the Florida Statutes. Article 9 of this Code defines each family care or foster home. They are included as a group in the Table of Land Uses, 2.04.01(A), and permitted in all residential zoning districts.

(B) Where State Law permits such uses in residential zoning districts, no sign indicating the purpose or nature of the facility shall be permitted, except as is allowed for a home occupation.

(C) Play areas and play grounds for these type facilities shall be shaded a minimum of 50% by canopy trees. The list of acceptable trees is found in Article 3, Section 3.07.00, Table 3.07A, “Canopy Trees”.

(D) Any violation of applicable State regulations shall be deemed a violation of this Code, and shall constitute grounds for termination of the use.

(E) Any violation of applicable state regulations shall be deemed a violation of this Code, and shall constitute grounds for termination of the Special Exception.
2.02.04 Moving of Buildings

No structure shall be moved from one development site to another unless such structure shall, at the new location, comply with all applicable provisions of this Code and all other applicable codes.

2.02.05 Requirements for Lots Divided by a Right-of-Way

Where a single lot or parcel that has been recorded in the public records of Polk County under a unified legal description is divided by a public or private right-of-way, road, alley or easement, the following standards shall apply:

(A) Where the land area on each side of the right-of-way meets the minimum size requirement of the applicable zoning district, the property shall be considered two (2) lots for the purposes of this Code.

(B) Where the land area on one or both sides of the right-of-way fails to meet the minimum size requirement, then the property shall be considered one (1) lot for the purposes of this Code. The principal structure shall be located on the larger portion of the property.

(C) No subdivision plat that includes a lot divided by a right-of-way shall be approved unless such lot meets the applicable size requirement on at least one side of the right-of-way.

2.02.06 Alteration of Lot Size

No existing lot shall be reduced in area or dimension below the minimum requirements applicable to such lot under the provisions of this Code, except that when a lot is reduced in dimension or total area by 20 percent or less by the voluntary dedication and acceptance of a portion of such lot for a public use, the lot shall be considered to contain the dimensions and area it contained prior to such dedication. However, for purposes of measuring compliance with setback requirements of this Code, the dimensions and area of such lot as it exists after the voluntary dedication shall apply.

2.02.07 Agricultural Uses and Limitations

(A) Agricultural products may be displayed or offered for sale from the roadside by the property residents with approval from the City Manager, or his/her designee. The City Manager, or his/her designee, may require a sketch of the area, showing parking and access.

(B) Property that was previously classified and zoned by Polk County for agricultural uses; and is used for a "Bona Fide Agricultural Purpose", as certified by the Polk County Property Appraiser; and qualifies for an agricultural tax exemption by the State of Florida under F.S. 193.461; may be annexed into the City with AG Agricultural Zoning classification to allow the property owner to continue his agricultural (including farm animal) activity.
C) Lands that are surrounded by the city limits, and known as "enclaves", may not be annexed in and zoned for agricultural purposes, unless such lands are currently the site of agricultural activities, such as groves, and unless the health, safety and welfare of the citizens of Mulberry can be protected. For the health, safety and welfare of the citizens of Mulberry, agricultural uses will only be permitted at the perimeter of the City, in areas that already support agricultural uses and have qualifying agricultural tax exemptions. At the time of development, or subdivision of the land for development, or when the agricultural tax exemption is removed, all rights to agricultural uses (including the keeping of farm animals) shall cease.

2.02.08 Limitations on Animals

A) No person shall keep or maintain in connection with any residential dwelling unit more than two (2) dogs aged six (6) months or older. No person shall keep or maintain more than two (2) dogs in connection with any building used for commercial or industrial purposes.

B) No person shall breed or maintain farm animals, fowl, or other livestock within the City of Mulberry, except in the Agriculture Zoning District. These shall include, but are not limited to, bees, cattle, chickens (including roosters), goats, horses, peacocks, pigeons, and pigs. However, farm animals may be raised for school projects for the time period of the school project, subject to the approval of the City Manager, or his/her designee. Where farm animals are permitted, such animals shall be maintained in healthy condition. Where the agricultural zoning district abuts any other zoning district, pens, cages, grazing areas and other structures or facilities for such animals shall be located no less than 50 feet from any residential structure.

C) No person shall breed or maintain any wild animal or poisonous reptile that, in the opinion of the Building Director, poses a threat to human safety in Mulberry. Excluded from this restriction are animal shelters, medical or scientific facilities, pet shops, zoos or other locations where the showing or maintenance of such animals is a permitted use under the provisions of this Code.

2.02.09 Fence Requirements and Limitations

All new fence installations shall require a permit prior to installation, and shall be subject to the following requirements and limitations.

A) No fence or solid wall permit shall be issued for installation on any property without proof satisfactory to the City that the fence shall be installed within the applicant’s property. Regardless of the City’s acceptance of the applicant’s proof, the applicant is and shall be solely responsible to the City and the neighboring properties for the proper installation of the fence without encroachment onto properties other than applicant’s.
(B) No fence or solid wall on any property shall exceed six (6) feet in height in any residential zoning district, or eight (8) feet in any commercial or industrial zoning district. No fence or other obstruction, including signs (having less than 8 feet of ground clearance), walls, hedges, or other structures shall exceed four (4) feet in height within 25 feet of a street intersection. In all zoning districts, except where permitted at eight (8) feet in height in commercial or industrial zoning districts, fences or walls shall be limited to four (4) feet in height within required front or side street setback areas.

On a through lot, other than a corner lot, a six (6) foot fence may be placed on the rear property line adjacent to an arterial road, and in such instances, such lot shall not be treated as a through lot for setback purposes. If residential structures on abutting properties face or have access to the arterial road, this exception shall not apply.

Berms within the front setback, or within 25 feet of a street intersection, used in conjunction with fences or walls, shall be considered as included in the height restriction for such fences or walls. The height of a fence or wall shall be measured from finished grade prior to berming. Fences or walls that exceed the height limits established in this Section shall meet side and rear setback requirements applicable to accessory structures, and front setback requirements applicable to principal structures.

(C) Electric and glass shard fences are prohibited.

(D) In all zoning districts except Heavy Industrial (I-H) and Public Institution (P-I), razor wire and barbed wire are prohibited except as follows:

1. Barbed wire is allowed when used to fence large livestock, provided such fencing is located no closer than ten (10) feet from any public street or sidewalk.

2. The Building Official has determined that the use of razor wire or barbed wire is necessary for a non-residential use deemed to be a hazardous use or in need of additional security, provided that any barbed wire or razor wire is installed according to industry standards.

(E) All razor wire and barbed wire fence use, including use in IH districts, shall be properly buffered from view from residential districts, as well as view from State Road 37 or State Road 60, and shall only be used at the top of a standard fence.

(F) Maintenance. Fences and walls must be maintained in good repair and free from structural defects by the owner of the real property upon which they are located. Missing or damaged boards, pickets, posts, gates, rails, chain link, or other material parts of the fence or wall shall be replaced in a timely manner with material of the same type, quality, and finish as the existing fence or wall.
2.02.10 Regulations for Gated Communities

(A) General. It is recognized by the City of Mulberry that there is a market demand for subdivision communities having limited access by the public through the utilization of entryway gates. The utilization of such gates as a means of limiting access by the public necessitates that those streets and drainage systems be privately owned and maintained. However, the public's interest is served only if "gated communities" and the accompanying private streets and drainage systems are allowed as a privilege, not a right, of the developer and subsequent property owners, and only if the improvements within a gated community comply with the minimum standards of the subdivision regulations and are maintained in a manner consistent with the existing standards established for similar facilities.

When the developer provides sufficient evidence showing that a gated community furthers the goals of the City to provide quality communities incorporated within the existing City communities, the City hereby allows a developer to create a gated community and allows the developer and the Homeowners Association (HOA) to keep the subdivision as a community with gates that restrict access by the public, so long as the developer and the HOA substantially comply with the requirements of this section. Substantial compliance with the requirements of this section gives the developer the contract right to create a gated community and gives the developer and the HOA the contract right to keep the subdivision as a community with gates that restrict access by the public.

(B) The Developer. For the purposes of this section, "developer" is defined as (i) the person or entity that is the original declarant which records the declaration and/or plat for a gated community or (ii) the person or entity that succeeds to the rights and liabilities of the person or entity which is the original declarant, or (iii) in the absence of a written assignment of developer rights recorded in the public records of Polk County, Florida, the person or entity that materially or substantially exercises the rights and liabilities of the original declarant including, but not limited to controlling the board of directors of the HOA as hereinafter defined.

(C) The HOA. For the purposes of this section, the HOA shall mean a mandatory community association in which the owners of all lots, blocks, and tracts in the subdivision are required by the terms of the declaration to be members, as contemplated by F.S. (2002) § 720.301(7), with the ability and duty to impose and collect on assessments.

(D) Commission Approval. From time to time, the City Commission may grant to a developer the privilege of platting and developing a residential subdivision as a "gated community" in which the subdivision infrastructure may be located on privately controlled easements or tracts, not public rights-of-way. The privilege of having a gated community runs with the land, but is subject to forfeiture for failure to comply with any of the following requirements. Upon a forfeiture of the privilege, the City may prohibit the closure of gates. Thereafter, if and when the subdivision rights-of-way are dedicated or otherwise conveyed to the City, the City shall assume responsibility for street and drainage-system maintenance.
City Commission approval may be so stated at the time the City is asked to approve a preliminary subdivision plat. Commission approval shall be based on its findings that:

1. The developer has provided a market, economic, and/or consumer study or other substantial justification for establishing a community that excludes the general public;

2. The value of the homes to be constructed in the gated community are guaranteed to exceed the average market value of homes in the city by at least 100 percent;

3. Assurance is provided that all private improvements, such as roadways, landscaped areas, walls, private community buildings, and other physical amenities within the community will be maintained privately by a homeowners association or other legal entity;

4. Assurance is provided that any improvements required by a public agency, such as public regulated utilities and stormwater retention facilities, are provided legal access for their service and upkeep;

5. The developer has provided evidence of unified control in developing the gated subdivision and has submitted a draft of proposed deed restrictions regulating the use and maintenance of private lots and improvements;

6. The developer commits to providing and maintaining suitably located, commonly owned open space and landscaped beautification tracts to enhance the appearance around gated entranceways and, where feasible, along the perimeter of the property facing and in view of a street or public place; and,

7. City departments and emergency service providers have reviewed and approved plans for access into and within the gated community.

(E) **Requirements.** All gated communities approved by the city commission must comply with the following:

1. Streets and stormwater detention/retention areas must be platted as separate tracts.

2. Streets and stormwater detention/retention areas must be owned and maintained by an HOA.

3. Access-easement rights over the platted roadway right-of-way tracts must be dedicated or otherwise granted to the owners of each lot within the subdivision and to all their successors in interest.
4. The developer shall construct the streets and drainage systems to city standards as adopted from time to time, and shall comply with the provisions of the City’s subdivision regulations regarding performance bonds, construction inspections, and maintenance guarantees, as if the subdivision infrastructure were "public improvements."

5. Entryway gates must be equipped with an audio (siren) override device to allow emergency access to the subdivision by fire/rescue, police and other emergency-response personnel. The audio-override device must be submitted to the fire and rescue department for inspection, and the entrance gates may not be closed unless and until the department determines that the device is acceptable and in good working order.

6. The entryway gate must include a box with a master-keyed padlock, and the box must contain a key, a card-key, a code, a remote-control device, or some other means by which essential public service workers (e.g., animal control, code enforcement, meter readers, utilities workers) may gain access to the subdivision. Any other utilities serving the subdivision must have similar access, and the names of such utilities must be on the outside of the box containing the means of access.

7. The means of access must be approved and the box installed prior to the City's approval and recording of the final subdivision plat.

8. Simultaneous with the recording of the subdivision plat, the developer must record in the Public Records of Polk County a declaration document. The declaration shall govern all platted lots within the subdivision, shall impose requirements and restrictions that run with the land, and shall address the responsibilities for the ongoing maintenance and repair of the subdivision infrastructure. The terms of the declaration shall be, to the City’s satisfaction, legally sufficient and enforceable to accomplish or otherwise ensure, at a minimum, the following:

   a. Require the establishment and maintenance of an HOA account for annual routine infrastructure maintenance, an HOA account for major capital repair and replacement of the subdivision's streets, an HOA account for major capital repair and replacement of the subdivision's stormwater retention/detention facilities, and an HOA account for major capital repair and replacement of other subdivision infrastructure such as sidewalks, stormwater conveyance systems, curbing, bike paths, etc.

   b. Establish the point at which the developer must turn over control of the HOA.

   c. Establish the point at which the developer must turn over control of the subdivision infrastructure.
d. Provide that until turnover of the HOA and/or transfer of control of subdivision infrastructure, all maintenance and repair of streets, sidewalks and the drainage system, including stormwater detention/retention areas, is the responsibility of the developer.

e. The developer (so long as the developer retains control of the board of directors of the HOA) and the HOA expressly indemnify and hold the City of Mulberry and its officers and employees harmless from any cost of maintenance, repair, and reconstruction of, or tort liability or award of damages related to or arising in connection with, the streets, sidewalks, drainage system (including stormwater retention/detention area), and/or any other subdivision infrastructure.

f. Require that each initial purchaser of a residential lot in a gated subdivision for the personal or family use of the purchaser receive a copy of the declaration at or prior to the time the sales contract is executed.

g. Declare that upon any default by the HOA or the developer in any requirements of either this section or the declaration required under this section, the City, at its option and after due notice of its declaration of a default and a reasonable time to cure, may prohibit closure of the gates and, upon dedication or conveyance of the rights-of-way to the county, assume responsibility for maintenance, using all HOA monies on deposit in the routine-infrastructure-maintenance account and the several capital-repair accounts or, if no monies exist or if an insufficient amount exists, using such other revenues or financing methods as the county may elect, including (but not limited to) special assessments against the subdivision lots, blocks, and tracts.

h. Require that the HOA carry an insurance policy insuring itself from liability for damages related to or arising in connection with the streets, sidewalks, drainage system (including detention/retention areas), at least in the amount of $1,000,000/$2,000,000.

i. Require that enforcement of traffic laws within the gated community, as requested by the HOA, shall be by the Mulberry Police Department and that all costs of enforcement incurred by the sheriff shall be paid by the HOA.

j. Provide that any transfer of subdivision infrastructure (including the property on which the subdivision infrastructure is located) to the City or other governmental entity is prohibited without the concurrence of the owners of two-thirds (or such higher percentage as the declaration may provide) of the platted lots.
(F) **Declaration.** The declaration setting forth the gated-community requirements in this article must be in form acceptable to the county and in substance consistent with and in compliance with the minimum requirements of this section. The declaration must be submitted for review by the City prior to plat recording. Nothing in this article precludes the declaration from addressing other matters so long as the substance of each part of the declaration is not inconsistent with the requirements of this article.

(G) **Disclosure.** No contract for the initial sale and purchase of a residential lot in a gated subdivision for the personal or family use of the purchaser shall be effective until a Gated Community Cost Disclosure Statement ("disclosure statement") in substantially the following form has been provided to and executed by such purchaser:

**Gated Community Cost Disclosure Statement**

If you are buying a home in a private gated community in Mulberry you should know these basic facts:

1. By law, the City cannot pay to maintain the roads, sidewalks and drainage in this community because these things are private property and the general public cannot access the community.

2. Although the cost of properly maintaining and repairing roads, sidewalks and drainage systems can be very high, only the owners of homes and lots in this community will share these expenses. Tax dollars will not be used. The members must also pay for the cost of liability insurance and traffic enforcement on the community's roads.

3. Under Florida law, no reduction in your tax burden will result from living in this community.

4. Members of this community, through their mandatory homeowners association, must set aside adequate reserves to properly maintain, repair and replace the roads, sidewalks and drainage system, and must have a professional engineer regularly inspect the roads, sidewalks and drainage system and report what work is necessary to maintain and/or repair them. The mandatory homeowners association is obligated to do the necessary work reported and the members of the homeowners association pay for the work through their assessments.

5. The extra expenses you incur to maintain the roads, sidewalks and drainage in your community are in addition to other expenses charged by your homeowners association to pay for private recreational, security and other amenities and services the community may offer, including the community's gates.
6. As with any assessment, the failure or inability to pay may lead to a lien being placed on your home. If a lien is placed and foreclosed, you could lose your home.

7. The homeowners association is also required to maintain liability insurance adequate to pay claims for injuries and property damage arising on the private roadway, sidewalks, drainage ponds, and other common areas in the neighborhood.

8. If the City of Mulberry determines that the community is not meeting its obligations, it may revoke the community's privilege to close its gates so that the roads in the community become available for public use.

9. If the community fails to maintain its roads, sidewalks and drainage system, the City may require that the gates be removed. In the event the gates are removed, and the HOA dedicates the roads and other infrastructure to the City, all costs and expenses which the City of Mulberry incurs for such maintenance are recoverable from the community. Funds which have been set aside by the community may become the property of the City of Mulberry, and the roads in your community shall permanently become open to the public. The City will not maintain your recreational, security and other amenities under any circumstances.

10. Before you sign a contract be sure that you receive written information about the costs of living in this community.

I have read and understand the disclosures provided in this disclosure statement prior to execution of a contract to purchase any lot in the [insert name of development] subdivision.

[signature of purchaser]  [signature of purchaser]
[print name of purchaser]  [print name of purchaser]

The disclosure statement shall be in conspicuous type and shall be contained in a single document which shall be provided to the purchaser separately from the contract for purchase and sale.

2.02.11 Prohibition of Landfills and Solid Waste Facilities

(A) Notwithstanding any other provision of law to the contrary, any and all Landfills and other Solid Waste Facilities as defined in Article 9 of the Code, are prohibited within the City of Mulberry and shall not be a permitted use, special exception or site development plan use in any zoning district.
(B) Exemptions

(1) For purposes of this Section 2.02.11, the term Solid Waste Facility shall not include any area, station or facility where the following activities take place:

(a) Storage in containers by persons of solid waste resulting solely from their own activities on their property, leased or rented property, or property subject to a homeowners or maintenance association for which the person contributes association assessments, if the solid waste in such containers is collected at least once a week.

(b) Disposal of solid waste resulting from normal farming operations. Polyethylene agricultural plastic, damaged, nonsalvageable, untreated wood pallets, and packing material that cannot be feasibly recycled, which are used in connection with agricultural operations related to the growing, harvesting, or maintenance of crops, and which will be disposed of by otherwise lawfully permitted and operated open burning.

(c) The use of clean debris as fill material in any area. However, this paragraph does not exempt any person from obtaining any other required permits, and does not affect a person’s responsibility to dispose of clean debris appropriately if it is not to be used as fill material.

(d) Compost operations that produce less than 50 cubic yards of compost per year when the compost produced is used on the property where the compost operation is located.

(e) Junkyards and Auto Salvage Yards.

(2) Disposal of materials that could create a public nuisance of adversely affect the environment or public health, including, but not limited to, white goods; automotive fluids and materials, such as batteries and tires; petroleum products; pesticides; solvents; hazardous wastes; hazardous materials; or hazardous substances, are not covered under any of the exemptions listed in subsection 2.02.11(B)(1) above, and shall be included in the term Solid Waste Disposal Facility for purposes of compliance with subsection 2.02.11(A), above.

(3) Notwithstanding anything to the contrary herein, this Section 2.02.11 shall not prevent or affect the continuation of soil thermal treatment, waste processing or waste transportation operations by a business on a site where valid state and federal permits for such operations were obtained prior to June 1, 2009 and which remain in force as of the effective date of this section, nor the expansion of similar operations on such site. Expansion of
such operations to additional sites is not exempt.

(4) This Section 2.02.11 is not intended to prohibit or affect the construction or operation of a crematorium for human or animal remains.

(5) Notwithstanding anything to the contrary herein, Section 2.02.11 shall not prevent or affect the continuation of any business or activity by a business on a site where valid local, state and federal permits and approvals for such business or activities were obtained prior to and which remain in force as of the effective date of this section, nor the expansion of similar operations on such site. Expansion of such operations to additional sites is not exempt.

2.02.12 Measurement of Setbacks

Setback shall be measured in accordance with the following:

(A) Setbacks shall be measured by the shortest dimension, running from the property line to the base of the structure or vertical wall/support structure.

(B) No portion of an alley shall be considered as part of a required setback.

(C) For determinations of setbacks, corner lots and multiple-frontage lots shall be considered to have fronts on all street frontages unless otherwise specified in this chapter. Side setbacks shall apply to all other sides of such a lot or parcel.

(D) Sills, eaves, cornices, chimneys, flues, mechanical equipment and similar projections may project into a setback area nor more than three feet and shall not extend over adjacent properties.

2.02.13 Foundation Requirements; Door Apron

All new construction in Residential or Commercial zones shall have continuous concrete foundations of slab on grade or stem wall configurations. Proposed foundations shall conform to the current Florida Code. Engineering specifications may be required. In the interest of uniformity and community development, all building exit doorways shall have a minimum 4’ x 4’ impervious door apron.

2.02.14 Temporary Uses

Temporary uses are defined as those types of activities that are not regularly conducted from a permanent structure or location, and are conducted for only a short period of time.

(A) Categories of Temporary Uses

1. Garage or yard sales;
2. Booths, platforms, food trucks, and stands used for the production and sale of prepared or processed food products, such as hot dog and portable barbecue stands, also known as "Food Stands;"

3. Booths, platforms, and stands used for the selling flowers, fruits, vegetables, and firewood, (Flowers, firewood, fruits, and vegetables that are grown or cultivated on-site are exempt from the requirements of this section), also known as “Produce Stands;”

4. Sales of retail products not classified as Produce Stands, such as fireworks, crafts, and Christmas trees, also known as “Retail Sales;”

5. Sales of vehicles to include, cars, trucks, boats, recreational vehicles, and other similar type vehicles;

6. Tents, bleachers, and similar types of facilities intended for use by congregations of people, also known as “Meeting Places”;

7. Circuses, fairs, carnivals, festivals, rodeos and similar types of activities that are unlike the usual activities associated with the properties where the events are to be located, and which are intended or likely to attract substantial crowds, also known as "Special Events"; and

8. Other similar uses or activities as determined by the City Manager, or his/her designee.

(B) **Review Criteria**

Temporary Use applications shall be submitted in accordance with Section 2.02.14 C, through the City Manager, or his/her designee, and evaluated for;

1. Whether there is a legally established non-residential land use on the property;

2. Whether the proposed temporary use is incidental and subordinate to the legally established non-residential land use;

3. Whether the property is appropriately sized to accommodate all activities without infringement into public rights-of-way;

4. Whether all setback requirements and off-street parking and loading are consistent with the applicable district requirements;

5. Whether the proposed temporary use is compatible with surrounding properties;
6. If the proposed temporary use will attract 250 people or more at any given time during the event or will involve amplified music, whether it is appropriately sized to ensure that noise, odor, lighting, and traffic impacts to surrounding properties will be minimized and is compatible with surrounding properties;

7. Whether proposed strategies for mitigating noise, odor, lighting, and traffic impacts adequately protect the surrounding property owners;

8. Whether the hours of operation of the proposed temporary use are compatible with surrounding properties;

9. Whether adequate measures have been taken to ensure the safety of participants and customers, including but not limited to crowd control, fire safety, and emergency access;

10. Whether adequate plans exist to ensure that trash and debris are removed from the site within 24 hours of the conclusion of the proposed temporary use;

11. Whether consumption, distribution, or sale of alcoholic beverages comply with this Code and all other Federal, state and local regulations;

12. Whether proposed temporary signage is compatible with surrounding areas, not intruding into the public right of way, or otherwise posing a safety hazard;

13. Whether appropriate measures have been made to avoid the repeat of any previous violations or infractions of prior temporary uses.

(C) Application Requirements

Except as provided herein, no person or entity shall stage, conduct, manage or authorize a Temporary Use without first obtaining a Temporary Use Permit from the City.

1. Garage or yard sales require no permit from the City and shall be permitted in any district, notwithstanding the following:

a. The property where the sale is to be held must also contain a principal structure and,

b. Frequency of sales is limited, as noted in Section 2.02.14 E.
2. All other temporary use types may be permitted as specified in Table 2.02.14(A) and where there is a legally established non-residential land use and the temporary use is incidental and subordinate to the primary non-residential use.

3. All temporary use requests, with the exception of garage or yard sales, shall be required to apply for a Temporary Use permit, which is an administrative review. Application requirements include, at a minimum:

   a. Identification of legally established non-residential principal land use on the property to be used for the temporary use.
   
   b. Description of the temporary use proposed;
   
   c. The hours of operation and anticipated duration of the temporary use,
   
   d. The number of persons expected to attend the temporary use on a daily basis and over the duration of the temporary use together with the highest anticipated attendance at any time.
   
   e. A site layout plan that addresses location of temporary uses, access, parking area, pedestrian and vehicular travel patterns and distance from surrounding properties;
   
   f. Description of any amplified sound or music to be provided including the location of speakers and measures to be implemented to minimize noise impacts on surrounding properties.
   
   g. Description of potential impacts (e.g. noise, odor, traffic, lights) to surrounding properties and mitigation efforts to minimize such impacts.
   
   h. Description of safety and security measures to be followed, as well as a waste management plan;
   
   i. Description of temporary uses on the properties within the current calendar year;
   
   j. Description of any planned advertisement and marketing strategies;
   
   k. Description of any activities that require permitting from other agencies, such as the Florida Department of Health and the status of such permitting.
1. Provision of necessary permitting from the City or applicable agency if utilization of or closure of any public rights-of-way are being proposed, and

m. Provision of any other additional information as requested by the City or reviewing agencies which is deemed necessary to evaluate the application.

D. **Review Procedures**

Upon receipt of completed application packet and appropriate fees, (to be received no later than 15 business days prior to Meeting Place and Special Event type temporary uses), the City Manager, or his/her designee, will administer the review in accordance with the following:

1. For Special Events and Meeting Place temporary uses, the application packet will be distributed for review to the Development Review Committee and any other affected division or agency.

2. Each reviewing agency or division shall review the application to determine if it is in compliance with applicable laws, rules, and regulations within each reviewing agency’s purview and if the health, safety, and welfare of the participants, as well as that of the surrounding community are reasonably protected.

3. In the event that an agency or division determines that it cannot support the proposed temporary use or can only do so with conditions, the agency or division shall notify the City Manager, or his/her designee, of such objections or conditions.

4. Upon receipt of responses from each agency the of the City Manager, or his/her designee, or his or her assign shall approve the application, approve the application with conditions, or deny the application for failure to meet the standards of approval provided in Section 2.02.14B. No permit shall be issued until applicant complies with Section 2.02.14C, as applicable.

E. **Frequency Limitations**

An applicant may apply for a new temporary use permit or apply for renewal of an existing temporary use permit on the same lot(s) or parcel(s), in accordance with the following limitations:

1. Food stands: maximum of 60 days per calendar year per parcel

2. Retail stands: maximum of 60 days per calendar year per parcel
3. Produce stands: maximum of 60 days per calendar year per parcel.

4. Meeting places: maximum of 30 days, renewable with application after use has ceased for 60 days.

5. Special events: maximum of 14 days per calendar year per parcel.

6. Garage or yard sales: Although permits are not required, limited to four times a calendar year with a limit of three days per sale per parcel.

7. Vehicle sales: a maximum of four (4) four-day permits per calendar year per parcel.

8. All other uses not specifically addressed: maximum of 30 days per calendar year per parcel.

9. Applicants may not obtain a permit for a temporary use for the same parcel if that site has exceeded the time limitation for that calendar year. In the event that an applicant requests a temporary use permit for a parcel that has previously received a permit for an activity that is different from the current permit request, the most restrictive time limitation for the applicable temporary use shall apply.

F. Signage for Temporary Uses

Signs for Temporary Uses shall be in accordance with Article 4 except the time limit for signs for Food Stands, Produce Stands, Special Events, and Meeting Place temporary uses may be for the duration of the temporary use approval.

G. Performance Bond Requirements

1. For Special Events or Meeting Places types of temporary uses with expected attendance greater than 250 people, the applicant shall obtain a performance bond on behalf of the City of Mulberry in the sum of $10,000, conditioned that the applicant shall conduct the approved temporary use in accordance with the approval and any imposed conditions and that any damages to public infrastructure, demands for removal, or other failure on the part of the applicant, the amount thereof shall be recoverable by the City for any damages resulting from the failure.

2. The performance bond provisions may be waived or modified by the City Manager, or his/her designee, upon written request accompanied by evidence of financial responsibility, an estimate demonstrating coverage less than $10,000 is sufficient to cover any damages or failure to comply with approval, or demonstration of the successful execution of prior temporary uses.
Contiguous parcels under the same ownership comprising a single principal use, including accessory uses, shall be considered as one parcel.

### Table 2.02.14(A) Temporary Uses

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X = Permitted subject to requirements in Section 2.02.14
Blank = Not Permitted

1. For non-residential principal land uses in R-1L, R-1H, and MH zoning districts that are legal, non-conforming uses, Special Events, Retail Stands, and Meeting Place may be considered.

### 2.03.00 General Regulations for Commercial/Industrial Zoning Districts

#### 2.03.01 Sale of Alcoholic Beverages

The sale of alcoholic beverages for consumption on the premises where such beverages are sold is prohibited, except as provided in this subsection. "Bottle clubs" or other establishments where alcoholic beverages are consumed, but not sold, on the premises, are allowed in C-2 and I-L.

(A) **Private Clubs**

Private clubs, including country clubs and civic or fraternal organizations, may serve alcoholic beverages upon obtaining the necessary licenses and permits from the State of Florida, when such service is incidental to the main use of the property and is limited to the exclusive use of members and guests of the club.

(B) **Restaurants**

The sale of alcoholic beverages in restaurants shall be permitted in all districts that allow restaurants if more than 50 percent of the establishment’s revenues are derived from the sale of food.
2.03.02 Adult Entertainment Establishments

(A) New Establishments

New adult entertainment establishments shall be permitted in districts subject to the following standards:

(1) No adult entertainment establishment shall be located within 750 feet of any property zoned R-1L, R-1H, or MH, or property within unincorporated Polk County zoned for agricultural or residential use, including in a PD zoning classification.

(2) No adult entertainment establishment shall be located within 500 feet of any day care center or public recreation facility.

(3) No adult entertainment establishment shall be located within 500 feet of any church or school.

(4) No adult entertainment establishment shall be located within 500 feet of another adult entertainment establishment.

(B) Non-Conforming Establishments

Adult entertainment establishments legally in operation prior to the effective date of this Code may continue to operate as a non-conforming use in accordance with Section 7.09.00.

Adult entertainment businesses established under paragraph (A) above shall not be rendered non-conforming by any of the following subsequent occurrences:

(1) The rezoning of property within the City of Mulberry or unincorporated Polk County for agricultural or residential use.

(2) The placement of a day care center or public recreation facility within 500 feet.

(3) The establishment of a church or school within 500 feet.

(C) Measurement of Distances

Distances shall be measured from property line to property line, along the shortest distance between property lines, without regard to the route of normal travel.

(D) Applicability of Other Laws and Ordinances

Nothing in this subsection shall be construed to permit the operation of any business or the performance of any activity prohibited under any other section of this Code or other applicable law or regulation. Additionally, nothing in this
Code shall be construed to authorize, allow, or permit the establishment of any business, the performance of any activity, or the possession of any item, which is obscene under the judicially established definition of obscenity.

2.04.00 Establishment of Districts

In order to classify, regulate, and restrict the uses of land, water, buildings, and structures; to regulate and restrict the height and bulk of buildings; to regulate the area of yards, courts, and other open spaces between buildings; and to regulate the intensity of land use, all the area of the City of Mulberry is classified into one of the following districts:

R-1L Single Family Residential  
R-1H Multiple Family Residential  
MH Manufactured (mobile) Home Planned Development  
C-1 Central Business District  
C-2 Highway Commercial  
I-L Light Industrial  
I-H Heavy Industrial  
P-I Public Institutional District  
OR Outdoor Recreation District  
CN Conservation  
AG Agricultural  
PD Planned Development

2.04.01 Zoning District Summary Tables

The tables on the following pages present, in a quick-reference form, information regarding permitted and special exception land uses, and development standards for all zoning districts. These tables must be read in conjunction with the regulations for specific zoning districts in Section 2.04.02. The key to the Table is as follows:

P = Permitted Use – Use is permitted by right subject to Section 7.04.00 and all other applicable standards

S = Special Exception - Use is permitted if it meets the conditions in Section 3.09.00, subject to all other applicable standards, and only after review and approval by the Planning Board and the City Commission.
Changes made 12-02 are marked with an *.

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### Article 2 – Regulations for Specific Districts
Amended March 11, 2016
2-30

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<th>Setbacks (feet)</th>
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2.04.02 Establishment of Zoning Districts

The following zoning designations are hereby established within the City of Mulberry.

2.04.02.01 R-1L Single Family Residential

(A) **FLUM Designation:** Low Density Residential Classification

(B) **Purpose:** The purpose of this district to provide for the lowest residential densities and limited agricultural uses. The district is restricted to single family dwelling uses with necessary and incidental accessory uses, and public uses compatible with residential uses.

(C) **Permitted Principal Uses & Structures:** Uses permitted in this district are detailed in the Table of Land Uses in Section 2.04.01(A). Permitted uses are designated by the letter "P".

(D) **Accessory Uses:** Accessory uses and structures customarily incidental and subordinate to permitted principal uses and structures. Section 2.05.00 contains detailed guidance and regulations for permitted accessory uses.

(1) Private boat ramps, docks, boat houses and fishing piers, subject to the provisions of Article 5.

(E) **Special Exception Uses:** Uses permitted as Special Exceptions in this district are detailed in the Table of Land Uses in Section 2.04.01(A). Such uses are designated by the letter "S". Special Exception uses require the submission of an application and approval by the Zoning Board of Appeals prior to application for a Development Permit. Review of an application for approval of a Special Exception is governed by Article 7.

(F) **Development Standards:** Development standards for uses in this district are detailed in the Table of Development Standards in Section 2.04.01(B). Specifically, standards are established for Maximum Density; Minimum Lot Size; Minimum Lot Width; Minimum Lot Depth; Minimum Floor Area; Floor Area Ratio (as applicable); Setbacks; Maximum Lot Coverage; and Maximum Building Height.

(G) **Other Requirements:**

(1) **Home Occupation:** An activity conducted in a residential dwelling unit that employs only members of the immediate family residing there. The activity may not occupy more than 500 square feet of the dwelling nor may it display anything that will indicate from the exterior that the building is being utilized for any purpose other than that of a dwelling. Specific regulations are contained in Section 7.07.00 of this Code.
2.04.02 R-1H Multiple Family Residential

(A) **FLUM Designation:** High Density Residential Classification

(B) **Purpose:** The purpose of this district is to provide areas for single family, duplex, and multiple family dwelling uses with a higher density standard and lower restrictive regulations than single family districts, along with the necessary and incidental accessory uses, and uses characteristic with, but not detrimental to, the principal use. In no case shall a density be permitted in any R-1H multiple family dwelling district that exceeds the rate of sixteen (16) dwelling units per net acre; provided however, that such limitation shall not be applicable in any other zoning district within the City solely by reference to this section of the zoning ordinance.

(C) **Permitted Principal Uses & Structures:** Uses permitted in this district are detailed in the Table of Land Uses in Section 2.04.01(A). Permitted uses are designated by the letter "P".

(D) **Accessory Uses:** Accessory uses and structures customarily incidental and subordinate to permitted principal uses and structures. Section 2.05.00 contains detailed guidance and regulations for permitted accessory uses.

  (1) Private boat ramps, docks, boat houses and fishing piers, subject to the provisions of Article 5.

(E) **Special Exception Uses:** Uses permitted as Special Exceptions in this district are detailed in the Table of Land Uses in Section 2.04.01(A). Such uses are designated by the letter "S". Special Exception uses require the submission of an application and approval by the Zoning Board of Appeals prior to application for a Development Permit. Review of an application for approval of a Special Exception is governed by Article 7.

(F) **Development Standards:** Development standards for uses in this district are detailed in the Table of Development Standards in Section 2.04.01(B). Specifically, standards are established for Maximum Density; Minimum Lot Size; Minimum Lot Width; Minimum Lot Depth; Minimum Floor Area; Floor Area Ratio (as applicable); Setbacks; Maximum Lot Coverage; and Maximum Building Height.

(G) **Other Requirements:**

  (1) **Bed and Breakfast:** Property shall front on a collector or arterial roadway. Primary points of ingress-egress shall connect to such roadway. Signs shall be in accordance with regulations in Article 4. Parking requirements shall be one space per unit available for rent.
(2) **Home Occupation**: An activity conducted in a residential dwelling unit that employs only members of the immediate family residing there. The activity may not occupy more than 500 square feet of the dwelling nor may it display anything that will indicate from the exterior that the building is being utilized for any purpose other than that of a dwelling. Specific regulations are contained in Section 7.07.00 of this Code.

### 2.04.02.03 MH Manufactured (mobile) Home Planned Development

(A) **FLUM Designation**: Manufactured (mobile) Home Planned Development

(B) **Purpose**: To establish locations suitable for manufactured (mobile) home development; to designate those uses and activities that are appropriate for and compatible with such areas; and to establish standards and provisions necessary to ensure proper development and public safety in a manufactured (mobile) home residential environment.

(C) **Permitted Principal Uses & Structures**: Uses permitted in this district are detailed in the Table of Land Uses in Section 2.04.01(A). Permitted uses are designated by the letter "P".

1. Permitted uses include dwelling units that are transportable in one or more sections, built on a metal frame and designed to be used as a residential dwelling with or without a permanent foundation, and noncommercial recreational facilities.

(D) **Accessory Uses**: Accessory uses and structures customarily incidental and subordinate to permitted principal uses and structures; provided, however, that no accessory structures shall be located on property other than that on which the principal structure is located. Section 2.05.00 contains detailed guidance and regulations for permitted accessory uses.

(E) **Special Exception Uses**: Uses permitted as Special Exceptions in this district are detailed in the Table of Land Uses in Section 2.04.01(A). Such uses are designated by the letter "S". Special Exception uses require the submission of an application and approval by the Zoning Board of Appeals prior to application for a Development Permit. Review of an application for approval of a Special Exception is governed by Article 7.

(F) **Development Standards**: Development standards for uses in this district are detailed in the Table of Development Standards in Section 2.04.01(B). Specifically, standards are established for Maximum Density; Minimum Lot Size; Minimum Lot Width; Minimum Lot Depth; Minimum Floor Area; Floor Area Ratio (as applicable); Setbacks; Maximum Lot Coverage; and Maximum Building Height.

1. Planned development projects shall include dwelling units designed as a component of a master development rather than as a single
structure on a single lot. The overall density of a manufactured (mobile) home planned development project shall not exceed eight (8) manufactured (mobile) homes or manufactured (mobile) home lots per gross acre. Development of Manufactured (mobile) Home Planned Developments (MHPDs) shall also be subject to the following guidelines:

a. MHPDs shall be located immediately adjacent to arterials or collectors, or provide a transition from a higher to a lesser density or intensity of use;

b. Land uses shall be appropriately buffered within the MHPD, and the MHPD shall be appropriately buffered from adjacent land uses;

c. MHPDs shall require a site plan, including a compatibility analysis of adjacent uses;

d. Subject to compatibility criteria and site plan review, lower order services and goods, such as professional offices, financial institutions, convenience, grocery, and drug stores are permissible;

e. Commercial land uses shall not exceed 25 percent of the total site; and

f. A minimum of 10 percent of the total site shall consist of open space and/or passive recreation uses.

(G) Other Requirements:

(1) Home Occupation: An activity conducted in a residential dwelling unit that employs only members of the immediate family residing there. The activity may not occupy more than 500 square feet of the dwelling nor may it display anything that will indicate from the exterior that the building is being utilized for any purpose other than that of a dwelling. Specific regulations are contained in Section 7.07.00 of this Code.

2.04.02.04 C-1 Central Business District

(A) FLUM Designation: Central Business District Classification

(B) Purpose: The purpose of the district is to provide for the transitional commercial uses of land and buildings that will separate objectionable activities of industrial and commercial uses from amenities of single family residential uses of property; and to provide areas for general retail sales and services normally located in a central business area.
(C) **Permitted Principal Uses & Structures:**

Uses permitted in this district are detailed in the Table of Land Uses in Section 2.04.01(A). Permitted uses are designated by the letter "P".

(D) **Accessory Uses:**

Accessory uses and structures customarily incidental and subordinate to permitted principal uses and structures; provided, however, that no accessory structures shall be located on property other than that on which the principal structure is located. Section 2.05.00 contains detailed guidance and regulations for permitted accessory uses.

(E) **Special Exception Uses:**

Uses permitted as Special Exceptions in this district are detailed in the Table of Land Uses in Section 2.04.01(A). Such uses are designated by the letter "S". Special Exception uses require the submission of an application and approval by the Zoning Board of Appeals prior to application for a Development Permit. Review of an application for approval of a Special Exception is governed by Article 7.

(F) **Development Standards:**

Development standards for uses in this district are detailed in the Table of Development Standards in Section 2.04.01(B). Specifically, standards are established for Maximum Density; Minimum Lot Size; Minimum Lot Width; Minimum Lot Depth; Minimum Floor Area; Floor Area Ratio (as applicable); Setbacks; Maximum Lot Coverage; and Maximum Building Height.

**2.04.02.05 C-2 Highway Commercial**

(A) **FLUM Designation:** Highway Commercial Classification

(B) **Purpose:** The purpose of this district is provide for general retail and service land uses that may require considerable ground area, do not cater directly to pedestrians, and need a conspicuous and accessible locations convenient for motorists.

(C) **Permitted Principal Uses & Structures:** Uses permitted in this district are detailed in the Table of Land Uses in Section 2.04.01(A). Permitted uses are designated by the letter "P".

(D) **Accessory Uses:** Accessory uses and structures customarily incidental and subordinate to permitted principal uses and structures; provided, however, that no accessory structures shall be located on property other than that on which the principal structure is located. Section 2.05.00 contains detailed guidance and regulations for permitted accessory uses.
Special Exception Uses: Uses permitted as Special Exceptions in this district are detailed in the Table of Land Uses in Section 2.04.01(A). Such uses are designated by the letter "S". Special Exception uses require the submission of an application and approval by the Zoning Board of Appeals prior to application for a Development Permit. Review of an application for approval of a Special Exception is governed by Article 7.

Development Standards: Development standards for uses in this district are detailed in the Table of Development Standards in Section 2.04.01(B). Specifically, standards are established for Maximum Density; Minimum Lot Size; Minimum Lot Width; Minimum Lot Depth; Minimum Floor Area; Floor Area Ratio (as applicable); Setbacks; Maximum Lot Coverage; and Maximum Building Height.

2.04.02.06 I-L Light Industrial

(A) FLUM Designation: Industrial Classification

(B) Purpose: The purpose of this district is to provide for land uses that are primarily for manufacturing and processing, wholesale storage and warehousing enterprises.

(C) Permitted Principal Uses & Structures: Uses permitted in this district are detailed in the Table of Land Uses in Section 2.04.01(A). Permitted uses are designated by the letter "P".

(D) Accessory Uses: Accessory uses and structures customarily incidental and subordinate to permitted principal uses and structures; provided, however, that no accessory structures shall be located on property other than that on which the principal structure is located. Section 2.05.00 contains detailed guidance and regulations for permitted accessory uses.

(1) Caretakers’ residences are permitted as an accessory use in this district. Accessory structures shall be subject to the same setback requirements as principal structures. Minimum building spacing shall be 15 feet.

(E) Special Exception Uses: Uses permitted as Special Exceptions in this district are detailed in the Table of Land Uses in Section 2.04.01(A). Such uses are designated by the letter "S". Special Exception uses require the submission of an application and approval by the Zoning Board of Appeals prior to application for a Development Permit. Review of an application for approval of a Special Exception is governed by Article 7.

(F) Development Standards: Development standards for uses in this district are detailed in the Table of Development Standards in Section 2.04.01(B). Specifically, standards are established for Maximum Density; Minimum Lot Size; Minimum Lot Width; Minimum Lot Depth; Minimum Floor Area; Floor Area Ratio (as applicable); Setbacks; Maximum Lot Coverage; and Maximum Building Height.
2.04.02.07 I-H Heavy Industrial

(A) **FLUM Designation:** Industrial

(B) **Purpose:** The purpose of this industrial district is to provide for those manufacturing activities that may unavoidably create some undesirable effects and that are not desirably associated in proximity to residential areas. In order to minimize conflicts, and to preserve and protect the character of the general industrial districts, certain residential and institutional uses are not permitted therein.

(C) **Permitted Principal Uses & Structures:** Uses permitted in this district are detailed in the Table of Land Uses in Section 2.04.01(A). Permitted uses are designated by the letter "P".

(D) **Accessory Uses:** Accessory uses and structures customarily incidental and subordinate to permitted principal uses and structures; provided, however, that no accessory structures shall be located on property other than that on which the principal structure is located. Section 2.05.00 contains detailed guidance and regulations for permitted accessory uses.

(1) Caretakers’ residences are permitted as an accessory use in this district. Accessory structures shall be subject to the same setback requirements as principal structures. Minimum building spacing shall be 15 feet.

(E) **Special Exception Uses:** Uses permitted as Special Exceptions in this district are detailed in the Table of Land Uses in Section 2.04.01(A). Such uses are designated by the letter "S". Special Exception uses require the submission of an application and approval by the Zoning Board of Appeals prior to application for a Development Permit. Review of an application for approval of a Special Exception is governed by Article 7.

(F) **Development Standards:** Development standards for uses in this district are detailed in the Table of Development Standards in Section 2.04.01(B). Specifically, standards are established for Maximum Density; Minimum Lot Size; Minimum Lot Width; Minimum Lot Depth; Minimum Floor Area; Floor Area Ratio (as applicable); Setbacks; Maximum Lot Coverage; and Maximum Building Height.

(G) **Other Requirements:** None.
2.04.02.08 P-I Public Institutional District

(A) **FLUM Designation:** All

(B) **Purpose:** To establish locations for properties and/or facilities owned by government and used for purposes related to the public health, safety and welfare; and to accommodate public recreation and open space uses.

(C) **Permitted Principal Uses & Structures:** Buildings, facilities or activities owned or operated by governments or other public agencies and having a public purpose. Where residential uses are established, allowable density shall not exceed that of the underlying land use designation, as depicted on the Future Land Use Map of the City of Mulberry Comprehensive Plan. Uses permitted in this district are detailed in the Table of Land Uses in Section 2.04.01(A). Permitted uses are designated by the letter "P".

   (1) Manufactured buildings may be used as classrooms on existing school sites.

(D) **Accessory Uses:** Accessory uses and structures customarily incidental and subordinate to permitted principal uses and structures; provided, however, that no accessory structures shall be located on property other than that on which the principal structure is located. Section 2.05.00 contains detailed guidance and regulations for permitted accessory uses.

(E) **Special Exception Uses:** Uses permitted as Special Exceptions in this district are detailed in the Table of Land Uses in Section 2.04.01(A). Such uses are designated by the letter "S". Special Exception uses require the submission of an application and approval by the Zoning Board of Appeals prior to application for a Development Permit. Review of an application for approval of a Special Exception is governed by Article 7.

(F) **Development Standards:** Development standards for uses in this district are detailed in the Table of Development Standards in Section 2.04.01(B). Specifically, standards are established for Maximum Density; Minimum Lot Size; Minimum Lot Width; Minimum Lot Depth; Minimum Floor Area; Floor Area Ratio (as applicable); Setbacks; Maximum Lot Coverage; and Maximum Building Height.

(G) **Other Requirements:**

Each application for the P-I zoning designation shall be accompanied by a site development plan or sketch plan which accurately depicts the following:

   (1) lot lines, easements, adjacent rights-of-way and existing structures;

   (2) proposed use of the property;
(3) all proposed new structures, including floor area of buildings and setback distances from property lines;

(4) building heights;

(5) parking areas, roads and driveways; and

(6) tracks, play equipment or other site improvements not qualifying as structures.

Approval of the P-I zoning designation shall be granted in reliance upon the submitted plan, and all construction and improvements shall be substantially consistent with the plan, as determined by the City Manager, or his/her designee.

2.04.02.09 O-R Outdoor Recreation District

(A) FLUM Designation: Outdoor Recreation Classification

(B) Purpose: To provide for outdoor recreation land uses and facilities that may be publicly or privately owned and may require large land areas.

(C) Permitted Principal Uses & Structures: Permitted uses include publicly-owned and privately-owned outdoor recreation uses such as: special use parks; stadiums; golf courses; courts; ball fields and associated concessions, parking and facilities; water sports; all types of trails with or without exclusive right-of-way; and other similar facilities and uses. This district does not allow commercial indoor recreation uses, which would be zoned under a commercial classification rather than a recreation classification. Uses permitted in this district are detailed in the Table of Land Uses in Section 2.04.01(A). Permitted uses are designated by the letter "P".

(D) Accessory Uses: Customary uses which are secondary and incidental to principal uses, including caretakers' residences, pavilions, and public restrooms. Accessory structures shall be subject to the same setback requirements as principal structures. Minimum building spacing shall be 15 feet.

(E) Special Exception Uses: Uses permitted as Special Exceptions in this district are detailed in the Table of Land Uses in Section 2.04.01(A). Such uses are designated by the letter "S". Special Exception uses require the submission of an application and approval by the Zoning Board of Appeals prior to application for a Development Permit. Review of an application for approval of a Special Exception is governed by Article 7.

(F) Development Standards: Development standards for uses in this district are detailed in the Table of Development Standards in Section 2.04.01(B). Specifically, standards are established for Maximum Density; Minimum
Lot Size; Minimum Lot Width; Minimum Lot Depth; Minimum Floor Area; Floor Area Ratio (as applicable); Setbacks; Maximum Lot Coverage; and Maximum Building Height.

(G) **Other Requirements:**

Each application for the O-R zoning designation shall be accompanied by a site development plan or sketch plan which accurately depicts the following:

1. lot lines, easements, adjacent rights-of-way and existing structures;
2. proposed use of the property;
3. all proposed new structures, including floor area of buildings and setback distances from property lines;
4. building heights;
5. internal roads and driveways;
6. parking areas; and
7. tracks, play equipment or other site improvements not qualifying as structures.

Approval of the O-R zoning designation shall be granted in reliance upon the submitted plan, and all construction and improvements shall be substantially consistent with the plan, as determined by the City Manager, or his/her designee.

**2.04.02.10 CN Conservation District**

(A) **FLUM Designation:** Conservation

(B) **Purpose:** To preserve the proper functioning of natural resources, such as wetlands, floodplains, and groundwater recharge areas.

(C) **Permitted Principal Uses & Structures:** Publicly owned wetlands, floodplains, and other areas in which limited development is permitted in order to preserve a natural resource. Municipal wellfields and associated facilities. Boat docks and marinas, provided that all structures and parking areas are above the 100-year flood elevation.

(D) **Accessory Uses:** Customary uses which are secondary and incidental to principal uses, including restrooms, caretakers' residences, pavilions, boardwalks, and pedestrian/bicycle paths. Accessory structures shall be subject to the same setback requirements as principal structures. Minimum building spacing shall be 15 feet.
Special Exception Uses: Uses permitted as Special Exceptions in this district are detailed in the Table of Land Uses in Section 2.04.01(A). Such uses are designated by the letter "S". Special Exception uses require the submission of an application and approval by the Zoning Board of Appeals prior to application for a Development Permit. Review of an application for approval of a Special Exception is governed by Article 7.

Development Standards: Development standards for uses in this district are detailed in the Table of Development Standards in Section 2.04.01(B). Specifically, standards are established for Maximum Density; Minimum Lot Size; Minimum Lot Width; Minimum Lot Depth; Minimum Floor Area; Floor Area Ratio (as applicable); Setbacks; Maximum Lot Coverage; and Maximum Building Height.

Other Requirements:

Where any form of development is proposed in a CN zoning district, a site development plan shall be submitted which accurately depicts the following:

1. wetlands, flood-prone areas, and natural drainage features;
2. lot lines, easements, adjacent rights-of-way and existing structures;
3. proposed use of the property;
4. all proposed new structures, including floor area of buildings and setback distances from property lines;
5. building heights;
6. internal roads and driveways;
7. parking areas; and
8. tracks, play equipment or other site improvements not qualifying as structures.

Development proposals which include Conservation lands shall be considered by the Planning Commission and City Commission and approved in a public hearing. All construction and improvements shall be substantially consistent with the submitted site plan, as determined by the City Manager, or his/her designee.

2.04.02.11 AG Agriculture

FLUM Designation: Agriculture Classification

Purpose: To provide for agricultural activities within the City of
Mulberry; and to provide for the continuation of Agricultural Tax Exempt status as governed by State Statute, on property that is around the perimeter of the City and the subject of annexation. In general, agricultural pursuits and single family detached dwelling units are allowed.

(C) **Permitted Principal Uses & Structures:** Uses permitted in this district are detailed in the Table of Land Uses in Section 2.05.01(A). Agriculture uses like farming and pasturing are permitted without a dwelling unit. Permitted uses are designated by the letter "P".

1. **Agricultural Uses as defined herein:** The use of land for producing or harvesting crops or plants; for raising, livestock or fish; for dairying; for forestry, fisheries, animal specialty farms or hunting, trapping and game propagation. Intense agricultural activities such as feed lots and egg production are not allowed within the City Limits, unless they are pre-existing uses of the land prior to annexation.
2. **Limited Agricultural Uses as defined herein:** Land uses in residential areas that are characterized as agricultural in nature and are limited to orchards; vineyards; nurseries; ornamental horticulture areas; groves; noncommercial greenhouses, bee keeping and raising of exotic species with the exception of venomous reptiles.
3. **Permitted in this district are newly annexed parcels with agricultural uses that have been previously qualified for the Agricultural Tax Exemption as defined by F.S. 193.461, "which includes, but is not limited to, horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee, pisciculture, when the land is used principally for the production of tropical fish; aquaculture; sod farming; and all forms of farm products and farm production."

(D) **Accessory Uses:** Accessory uses and structures customarily incidental and subordinate to permitted principal uses and structures; provided, however, that no accessory structures shall be located on property other than that on which the principal structure is located. Section 2.05.00 contains detailed guidance and regulations for permitted accessory uses.

(E) **Special Exception Uses:** Uses permitted as Special Exceptions in this district are detailed in the Table of Land Uses in Section 2.04.01(A). Such uses are designated by the letter "S". Special Exception uses require the submission of an application and approval by the Planning and Zoning Board and Appeals prior to application for a Development Permit. Review of an application for approval of a Special Exception is governed by Article 7.
Development Standards: Development standards for uses in this district are detailed in the Table of Development Standards in Section 2.04.01(B). Specifically, standards are established for Maximum Density; Minimum Lot Size; Minimum Lot Width; Minimum Lot Depth; Minimum Floor Area; Floor Area Ratio (as applicable); Setbacks; Maximum Lot Coverage; and Maximum Building Height.

Other Requirements:

(1) Aquaculture, composting and recycling activities conducted on non-mandatory reclamation lands shall be subject to, and require evidence of, all relevant state and federal permits, and shall be appropriately buffered from existing or future adjacent residential development; and may be permitted as a Special Exception or a Conditional Use, as listed in the “Table of Land Uses”, Table 2.05.01(A).

(2) Roadside Stands: Excess produce and other products that are agricultural in nature and harvested from orchards, vineyards, nurseries, ornamental horticultural areas, groves, noncommercial greenhouses, etc., as well as excess produce harvested from any commercial farm, may be sold on the premises to the general public by the means of a roadside stand or similar structure, by the residents of the property. All setbacks must be observed from right-of-ways and property lines as required for any accessory structure.

Sec. 2.04.02.12 Planned Development District.

(A) FLUM designation: The primary use of a Planned Development must be consistent with the future land use designation of the property.

(B) Purpose and intent:

(1) The planned development district is intended to provide a method for consideration and approval of unique zoning districts for individual Planned Developments (PD), which are not provided for or allowed in the zoning districts otherwise established by this chapter.

(2) The standards and procedures of this district are intended to promote flexibility of design and to permit planned diversification and integration of uses and structures, while at the same time reserving to the city commission the absolute authority to establish limitations and regulations for the development deemed necessary to protect the public health, safety and welfare. In so doing, the PD district is designed to:
a. Promote more efficient and economic uses of land, including bypassed lands.

b. Encourage more compatible and harmonious development of contiguous lands.

c. Promote home ownership opportunities for all residents of the community.

d. Provide flexibility to meet changing needs, technologies, economics, and consumer preferences.

e. Be totally controllable based on the needs of the city, in terms of the impact on the proposed site and surrounding neighborhoods.

f. Encourage uses of land, which reduce transportation needs and which conserve energy and natural resources.

g. Preserve to the greatest extent possible, and utilize in a harmonious fashion, existing landscaping features and amenities.

h. Provide for more usable and suitably located recreational facilities, open spaces and scenic areas, either commonly owned or publicly owned, than would otherwise be provided under conventional land-development procedures.

i. Lower development and building costs by permitting smaller networks of utilities and streets and the use of more economical building types and shared facilities.

j. Accomplish more desirable living and working environments than would be possible through the strict application of minimum requirements of the city's other zoning and subdivision regulations.

k. Permit the combining and coordinating of architectural styles, building forms, and building relationships within a Planned Development.

l. Provide an environment of stable character compatible with surrounding developments.

m. Permit specific limitations and requirements in excess of those included in other zoning districts, based on the unique characteristics of the individual site, where necessary to the public health, safety, or welfare, or for the protection of preservation of lands, either internal or external to the
planned development.

(C) Voluntary use: The PD district shall be a voluntary process commenced by an applicant for PD (zoning designation). The city shall not initiate a PD rezoning on privately owned property or designate specific lands for planned development in its adopted Comprehensive Plan.

(D) Minimum conditions for approval: The approval of planned development rezoning or development plan may not be approved unless the following minimum conditions are met:

1. The minimum size of the proposed development shall be five (5) acres for a residential development and two (2) acres for a nonresidential development.

2. Minimum setbacks at the perimeter of the development shall be equal to those of the abutting districts. Otherwise, there shall be no minimum lot size, setbacks, percentage of lot coverage, or lot width except as specified in the PD approval document.

(E) Permitted uses: Except where certain uses are specifically disallowed or restricted as part of the PD approval:

1. In a commercial PD, the uses allowed in Mulberry’s C-1 and C-2 zoning districts may be permitted as principal or accessory uses.

2. In an industrial PD, the uses allowed in Mulberry’s I-L and I-H zoning districts may be permitted as principal or accessory uses.

3. In a residential PD, the following uses shall be permitted:
   a. Dwelling, one-family;
   b. Dwelling, two-family;
   c. Dwelling, multifamily;
   d. Townhouses;
   e. Public and private recreation facilities;
   f. Churches and other houses of worship;
   g. Child and adult day care centers;
   h. Convenience, goods, retail and personal service stores primarily intended and designed to service the residents of the PD;
i. Essential services;

j. Foster home;

k. Adult family care home, family day care home, family foster care;

l. Special need housing and facilities, upon approval of a specific location and site plan within the PD;

m. Home occupations subject to the provisions contained herein.

(F) **Internal compatibility:** All land uses within the proposed development shall be compatible with other proposed uses. The planning commission and the city commission shall consider the following factors in judging internal compatibility:

1. The streetscape.

2. The existence or absence of, and the location of, open spaces, plazas, recreational areas and common areas.

3. The use of existing and proposed landscaping.

4. The treatment of pedestrian ways.

5. Focal points and vistas.

6. The use of the topography, physical environment and other natural features.

7. Traffic and pedestrian circulation pattern.

8. The use and variety of building setback lines, separations and buffering.

9. The use and variety of building groupings.

10. The use and variety of building sizes and architectural styles.

11. The use and variety of materials.

12. The separation and buffering of parking areas and sections of parking areas.

13. The variety and design of dwelling types.

14. The particular land uses proposed and the conditions and
15. The form of ownership proposed for various uses.

16. Any other factor deemed relevant to the privacy, safety, preservation, protection or welfare of any proposed use within the proposed development.

(G) External compatibility. All proposed land uses shall be compatible with existing and planned uses of properties surrounding the proposed development. The planning commission and the city commission shall consider the following factors in judging external compatibility:

1. All of those factors listed in the preceding section, with particular attention to those areas of the development located on or near its perimeter and the conditions and limitations thereon.

2. The particular uses proposed near the development perimeter and the conditions and limitations on those uses.

3. The type, number and location of surrounding external uses.

4. The Comprehensive Plan goals and objectives and zoning regulations for surrounding external uses.

5. Any other factor deemed relevant to the privacy, safety, preservation, protection or welfare of lands surrounding the proposed development and any existing or planned use of such lands.

(H) Intensity of development. The residential density and intensity of use of a development plan shall have no undue adverse impact upon the physical and environmental characteristics of the site and surrounding lands. Within the policy limitations of the Comprehensive Plan, the permitted residential density and intensity of use in a proposed development may be adjusted upward or downward in consideration of the following factors:

1. The location of various proposed uses within the development and the degree of compatibility of such uses with each other and with surrounding uses.

2. The amount and type of protection provided for the safety, habitability and privacy of land uses both internal and external to the development.

3. The existing residential density and intensity of use of surrounding lands.

4. The availability and location of utilities services and public...
facilities and services.

5. The amount and size of open spaces, plazas, common areas and recreation areas.

6. The use of energy-saving techniques and devices, including sun and wind orientation.

7. The existence and treatment of any environmental hazards to the development of surrounding lands.

8. The access to and suitability of transportation arteries proposed within the development and existing external transportation systems and arteries.

9. Any other factor deemed relevant to the limitation of the intensity of development for the benefit of the public health, welfare and safety.

(I) Open spaces, plazas and recreation. Open spaces, plazas and recreation areas provided within a development plan shall be evaluated based on conformance with the goals and objectives of the Comprehensive Plan and the sufficiency of such areas to provide appropriate recreational opportunities, protect sensitive natural areas, conserve areas of unique beauty or historical significance, provide structure to neighborhood design, and encourage compatible and cooperative relationships between adjoining land uses.

(J) Sidewalks, trails, bikeways. The design of a development plan should, whenever feasible, incorporate appropriate pedestrian and bicycle access ways to provide for a variety of transportation alternatives.

(K) Environmental constraints. The site of the proposed development shall be suitable for use without hazards to persons either on or off the site from the likelihood of increased flooding, erosion or other dangers, annoyances or inconveniences. The condition of the soil groundwater level, drainage and topography shall all be appropriate to the type, pattern and intensity of development intended.

(L) Internal access and circulation. Every dwelling unit or other use permitted in a development plan shall have access to a public street either directly or by way of a private road, pedestrian way, common area guaranteeing access. Private roads and other access ways shall be required to be constructed to ensure that they are safe and maintainable.

(M) External transportation access. The proposed development shall be located on, and provide access to, a major street as designated in the Comprehensive Plan unless, due to the size of the development and the type of uses proposed, it will not adversely affect the type or amount of
traffic adjoining local streets.

(N) **Off-street parking.** Sufficient off-street parking and loading facilities for bicycles and other vehicles as well as cars shall be provided. The requirements of section 3.03 of this chapter shall be used as a general guide in determining the needs for such facilities. Parking areas shall be constructed in accordance with such standards as are approved by the city commission to ensure that they are safe and maintainable and that they allow for sufficient privacy for adjoining uses.

(O) **Public facilities.** No development plan shall be approved without adequate on-site and off-site public facilities, including but not limited to storm drainage, sanitary sewers, roadway capacity, fire/rescue service, police service, water distribution system and recreational facilities, which shall serve the proposed development.

(P) **Unified control.** The applicant shall furnish the city with sufficient evidence to the satisfaction of the city attorney that the applicant is in complete and unified possession and control of the entire area of the proposed planned development, whether the applicant shall provide to the city all necessary documents and information that may be required by the city attorney to ensure that the development project may be lawfully completed according to the plans submitted. No application shall be considered until the requirements of this section have been fully complied with.

(Q) **Phasing.** The city commission may permit or require the phasing or staging of the proposed development. When provisions for phasing are included in the development plan, each phase of development must be planned and related to previous development, surrounding properties, and the available public facilities and services so that a failure to proceed with subsequent phases will not adversely affect public facilities or interests, or surrounding properties.

(R) **Development time limits.** The city commission shall establish reasonable periods of time for the completion of the total proposed development, any development phases. Any dedicated public facilities, which are part of the development; and facilities planned for common areas. These time limits may be extended by the city commission for reasonable periods upon the petition of an applicant for an amendment to the development plan and based upon good cause, as determined by the city commission. Any extension of time shall not automatically extend the normal expiration date of a building permit, site plan approval or other development order. If time limits contained in the approved development plan are not complied with and not extended for good cause, the city commission may rezone the property or any part of it or amend the approved development plan so as to best protect adjoining properties and the public health, safety and welfare.
Bonds. The city commission may include in the development plan requirements for bonds (or appropriate alternatives) conditioned upon the satisfactory and timely completion of facilities in the development plan, for the benefit of the city and purchasers from the applicant, when the development time limits and phasing schedule do not preclude the sale of individual units prior to the completion of such facilities. In the event that a requirement for bonds or appropriate alternative is not provided for in the plan, then the requirements for such bonds required in this chapter shall be complied with.

Applicability of other chapters. All building code, housing code and other land use regulations of the city are applicable to the PD district, except for those permitting special exceptions and variances and except to the extent that they conflict with a specific provision of the approved development plan. Analogous land use regulations applying to other areas of the development shall be as determined by the city commission as part of the approved development plan or, if not determined therein, during the site plan approval process set forth in this chapter, giving due regard to the purpose of each such regulation and the similarity of each area of the Planned Development to other zoning districts in terms of permitted uses.

Variances applicable to the planned development. A property within a Planned Development may apply for a variance provided that all of the following criteria are met:
1. The development order does not prohibit individual property owners from applying for variances.
2. The variance request is not contrary to the recorded covenants and deed restrictions.

Administrative procedures. A PD shall be adopted in the same manner as a rezoning ordinance, except that it shall contain a conceptual site plan demonstrating or requiring compliance with conditions set forth herein and generally depicting the nature, intensity and location of various uses. The PD Ordinance may provide that minor modifications to the conceptual site plan shall be permitted upon approval by the City Manager, or his/her designee.

2.05.00 General Regulations for Accessory Uses

Accessory uses are incidental and secondary to a principal use that is permitted in a given zoning district. It is the purpose of this Section to regulate the height, size, location, setback and use of accessory structures to ensure that they do not adversely affect nearby residents or surrounding properties.

Typical accessory structures associated with residential uses are detached garages and carports; storage buildings; swimming pools (see; 2.05.01 below); bath houses; yard structures, such as a gazebo; boat houses, dock, slips and piers (see; 2.05.02); satellite dish antennas (see; 2.05.03); and other similar structures.
Commercial and industrial uses also have accessory structures and uses, which include: garages, sheds, satellite dishes, antennas, security structures, special fencing and walls, solid waste pads and collection structures, and similar structures.

In addition to the standards provided below, accessory structures shall meet all requirements set forth in individual zoning districts and other applicable provisions of this Code. One or more accessory structures may be permitted on a development site, provided that the following requirements are met:

(A) Accessory structures shall not be constructed on a parcel of land on which there is not also a principal structure, except where approved by the City Commission on an individual basis, upon finding the following:

1. The height, size/scale, and location of the accessory structure does not adversely affect nearby residents or surrounding properties.

2. A description of the type and size of a proposed accessory structure has been presented to the City Commission, along with a diagram or plot plan showing the location of the structure and any other lot improvements.

3. The structure will meet the setback requirements for principal buildings within the zoning district in which the parcel is located.

4. The principal structure for which the accessory structure is intended shall be located on an adjacent parcel of land, or on a parcel in reasonable proximity, where both parcels are under the same ownership.

(B) All accessory structures shall comply with the Florida Building Code and all standards of this Code pertaining to the principal use.

(C) Accessory structures shall be located in the side or rear yard and shall not be located in a required landscape buffer.

(D) Accessory structures shall be included in all calculations of impervious surface and stormwater runoff.

(E) All accessory structures shall be shown on a Site Development Plan when one is required under Section 7.04.00 of this Code.

(F) No accessory structure shall be used for residential purposes and shall not be larger than the principle structure.

(G) Except where otherwise provided, accessory structures shall be separated from each other and from the principal structure by at least five (5) feet.

(H) Accessory structures shall be a minimum of five (5) feet from any interior lot line.

(I) No manufactured (mobile) home, trailer, or vehicle of any kind shall be permitted as an accessory structure on any development site except: as a caretaker’s residence in IL, IH, PI,
PR and CON zoning district; and except as classrooms on an existing school site zoned PI. Accessory structures shall be subject to the same setback requirements as principal structures. Minimum building spacing between manufactured buildings and any other accessory or permitted use or structure shall be 15 feet.

(J) When associated with a commercial or industrial use, the accessory use may not generate more than forty-nine (49) percent of the total revenue of the business.

2.05.01 Swimming Pools

Swimming Pools are permitted in all Residential districts as an accessory use. Pools located in any residential district shall meet the following requirements:

(A) Swimming pools shall be permitted accessory to a residential use only, and shall be at least 5 feet from any lot line or building, as measured from the edge of the water.

(B) Swimming pools, including all decking and screen enclosures, shall be located to the rear of the front building line, and shall not encroach into side street setback areas.

(C) Screen enclosures over and around swimming pools shall be erected so as to conform to setback requirements for accessory buildings; however, such enclosures may be attached to the principal building. Lighting for pools shall be located and installed such that no direct light nor reflected light is visible on adjoining property.

(D) Swimming pools shall not be located within public utility or drainage easements alongside and rear lot lines. For purposes of setback measurement, the term "swimming pool" shall include all surrounding decking and vertical supports for screen enclosures.

(E) All swimming pools shall be completely enclosed by a fence or a wall not less than four (4) feet high.

(F) No pool in residential districts may be used for commercial purposes.

2.05.02 Boat Slips/Ramps, Docks, Boat Houses and Fishing Piers

Boat slips/ramps, docks, boat houses and fishing piers are permitted as an accessory use. Private boat slips/ramps and docks may be constructed by the owner on any lot bordering a lake, providing they comply with the following:

(A) Docks shall not extend into the lake a distance greater than fifty (50) feet measured from the regulatory water line, which shall be established by the City Commission on any lake that is not a meandering lake.

(B) In residential districts, no boat house or permanent structure covering a dock, pier, boat slip or boat ramp is permitted beyond the regulatory water line. Permanent
accessory structures may be permitted landward of the regulatory water line, when permitted and constructed in accordance with all pertinent Codes of Mulberry.

(C) No permit shall be issued for a boat house, dock, pier, boat slip or boat ramp, except with the review and approval of the City Commission. The applicant shall provide to the Building Director complete plans, specifications and details, at least thirty (30) days prior to a regular meeting of the City Commission at which the proposed structure is to be considered. The Building Director shall determine if such plans meet all requirements of this Code, any state or other governmental rules or regulations and transmit his findings to the City Commission. The applicant shall post a cash or surety bond, as the City Commission may determine, to assure that the work proposed is completed in a manner fully consistent with an approved Development Order.

2.05.03 Satellite Dishes and Antennas

(A) A satellite dish or antenna shall be an accessory use only, and shall not be the principal use of the property.

(B) Antennas and dishes shall not exceed 30 feet in height.

(C) Antennas and dishes shall not be located forward of the front building line or within a required side street setback area.

(D) An antenna or dish not mounted on or affixed to a principal structure shall be set back from all property lines a distance equal to its height.

(E) An Antenna Installation Permit shall be required for all antennas and dishes exceeding 25 feet in height and four (4) feet in diameter. Applications for this permit shall include a site plan, sketch plan or other scaled drawing showing all structures on the property, and the location, height and size of the proposed antenna or dish.

(F) The following regulations apply to antennas or dishes in R-1L, R-1H, and MH districts:

(1) A satellite dish or antenna shall be permitted only as an accessory use to a single family detached dwelling unit, or for the common use of the residents of a multiple family structure or a manufactured (mobile) home park.

(2) Roof-mounted satellite dishes or antennas shall be permitted in single family developments, multiple family developments and manufactured (mobile) home parks. Roof-mounted dishes or antennas in manufactured (mobile) home parks shall be affixed only to buildings of conventional construction.
(G) The following regulations apply to antennas or dishes in C-1, C-2, I-L, I-H, and PI districts.

(1) A satellite dish or antenna shall be permitted either as an accessory use or, if permissible in the zoning district, a principal use. However, the dish or antenna shall not be installed prior to construction.

(2) More than one dish or antenna per lot is permitted in commercial and industrial districts but prohibited elsewhere.

2.05.04 Bulk Propane Gas Storage and Sales

Bulk storage of propane gas and sales of that gas is a permitted accessory use in manufactured (mobile) home parks and RV (recreational vehicle) parks. All storage must be a minimum of fifty feet (50') from any unit or building.
Unified Land Development Code Update

ARTICLE 3

Development Design and Improvement Standards
ARTICLE 3

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ARTICLE 3

DEVELOPMENT DESIGN AND IMPROVEMENT STANDARDS

3.01.00 General Provisions

3.01.01 Purpose

The purpose of this Article is to provide development design and improvement standards applicable to all development activity within the City of Mulberry.

3.01.02 Responsibility for Improvements

Unless otherwise specifically provided, all improvement required by this Article shall be designed, installed, and paid for by the Developer.

3.01.03 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 5 of this Code. All development shall be designed to avoid unnecessary impervious surface cover; to provide adequate access to lots and sites; and to avoid adverse effects of shadow, glare, noise, odor, traffic, drainage, and utilities on surrounding properties.

3.02.00 Transportation Systems

3.02.01 General Provisions

(A) Purpose. This Section establishes minimum requirements applicable to the development transportation system, including public and private streets, bikeways, pedestrian ways, parking and loading areas, and access control to and from public streets. The standards in this Section are intended to minimize the traffic impacts of development, and shall be construed and implemented to create an efficient, safe, and balanced system of traffic circulation accommodating vehicles, bicycles, and pedestrians consistent with good engineering and development design practices.

(B) Compliance with Technical Construction Standards. All required elements of the transportation system shall be provided in compliance with engineering design and construction standards adopted by the City of Mulberry.
3.02.02 Base Building Lines

(A) General. The general purposes and intent of the City in the establishment of base building lines are to provide an efficient and economical basis for acquisition of street rights-of-way; and to provide a convenient and adequate thoroughfare network to meet the present and future needs of residential, commercial and industrial traffic through and around the City.

(B) Base Building Lines Established. Base building lines are hereby established for all districts whereby no building or structure shall be constructed or erected closer than 15 feet from the street or road right-of-way line as shown on the Future Traffic Circulation Map of the City of Mulberry Comprehensive Plan. Base building lines shall run parallel to the right-of-way centerline. If a future right-of-way has been established and recorded, the recorded and proposed right-of-way shall be used for establishment of setbacks and base building lines.

No structure in any zoning district shall be placed forward of the base building line, regardless of the normal front or side street setback requirement for the district.

(C) Base Building Line On State Roads. Regardless of the provisions of Section 3.02.02(B) or any other provision of this Code, no structure shall be placed within 25 feet of the edge of the right-of-way of any state road located within the City.

3.02.03 Street Design Standards

(A) General Design Standards

(1) All streets in a new development shall be designed and constructed pursuant to all engineering design standards adopted by the City of Mulberry. The Polk TPO Complete Street Handbook shall also be used as a guide for the implementation of candidate Complete Street projects were appropriate. Streets shall be dedicated to the City upon completion, inspection, and acceptance by the City.

(2) The street system of the proposed development 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.

(4) No public streets shall be dedicated within 40 feet of the high water elevation of any lake, except where public access to the lake is to be provided.

(5) Private streets may be allowed within any development, provided they are designed and constructed pursuant all engineering standards applicable to
public roads of the same functional classification.

(6) Private ownership of streets may be permitted with approval by the City Commission, if the developer, in writing, assures the City that these private improvements shall be kept in a satisfactory state of repair and maintenance by the developer or by legally established homeowners association, which shall be clearly stated on the face of the final plat.

(7) The street layout in all new development shall be coordinated with and interconnected to the street system of the surrounding area.

(8) Streets in proposed subdivisions shall be connected to rights-of-way in adjacent areas to allow for proper inter-neighborhood traffic flow. If adjacent lands are unplatted, stub-outs in the new development shall be provided for future connection to the adjacent unplatted land.

(9) Residential streets shall be arranged to discourage through traffic, but not eliminate it.

(10) Streets shall intersect as nearly as possible at right angles and in no case shall be less than 75 degrees.

(B) Right of Way Requirements.

(1) Widths: Right-of-way requirements for road construction are as follows:

<table>
<thead>
<tr>
<th>Functional Classification</th>
<th>Right-of-Way Width</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal Arterial (multi-lane)</td>
<td>200 feet</td>
</tr>
<tr>
<td>Principal Arterial</td>
<td>150 feet</td>
</tr>
<tr>
<td>Minor Arterial</td>
<td>100 feet</td>
</tr>
<tr>
<td>Urban Collector</td>
<td>60 feet</td>
</tr>
<tr>
<td>Rural Major Collector</td>
<td>100 feet</td>
</tr>
<tr>
<td>Rural Minor Collector</td>
<td>80 feet</td>
</tr>
<tr>
<td>Local Street</td>
<td>60 feet</td>
</tr>
<tr>
<td>Marginal Access or Frontage Road</td>
<td>50 feet</td>
</tr>
<tr>
<td>Alley</td>
<td>40 feet</td>
</tr>
<tr>
<td>Manufactured Home Park roads (Private)</td>
<td>40 feet</td>
</tr>
<tr>
<td>Seasonal Park roads (Private)</td>
<td>40 feet</td>
</tr>
</tbody>
</table>

(2) Private road rights-of-way, when allowed within subdivisions, shall be the same width as public rights-of-way.

(3) Where one-way private streets are utilized in Manufactured Home Parks or Seasonal Parks, the minimum right-of-way width shall be 25 feet.

(4) Future right-of-way requirements are identified in the Traffic Circulation Element of the City of Mulberry Comprehensive Plan. Where roadway construction, improvement, or reconstruction is not required to serve the needs of the proposed development project, future rights-of-way shall
nevertheless be reserved for future acquisition. No part of the reserved area shall be used to satisfy minimum requirements of these regulations. Building setback shall be based on future right-of-way line.

(5) A proposed subdivision that encompasses an existing public street that does not conform to the minimum right-of-way requirements shall provide for the dedication of additional right-of-way along either one or both sides of said street so that the minimum right-of-way required by this can be established. If the proposed subdivision abuts only on one side of said street, then a minimum of one half the required right-of-way, shall be dedicated or reserved by the subdivision.

(C) **Pavement Widths.** Pavement widths for each street classification shall be as provided in the following table:

<table>
<thead>
<tr>
<th>Type of Street</th>
<th>Curb and Gutter</th>
<th>No Curb and Gutter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal Arterial (multilane)</td>
<td>DOT</td>
<td>DOT</td>
</tr>
<tr>
<td>Principal Arterial</td>
<td>DOT</td>
<td>DOT</td>
</tr>
<tr>
<td>Minor Arterial</td>
<td>DOT</td>
<td>DOT</td>
</tr>
<tr>
<td>Rural Major Collector</td>
<td>NA</td>
<td>12 feet</td>
</tr>
<tr>
<td>Rural Minor Collector</td>
<td>NA</td>
<td>12 feet</td>
</tr>
<tr>
<td>Urban Collector</td>
<td>12 feet</td>
<td></td>
</tr>
<tr>
<td>Local</td>
<td>30 feet</td>
<td></td>
</tr>
<tr>
<td>Marginal Access or Frontage Road</td>
<td></td>
<td>30 feet</td>
</tr>
<tr>
<td>Alley</td>
<td></td>
<td>20 feet</td>
</tr>
<tr>
<td>Manufactured Home Park Roads (Private)</td>
<td></td>
<td>20 feet</td>
</tr>
<tr>
<td>Seasonal Park Roads (Private)</td>
<td></td>
<td>20 feet</td>
</tr>
</tbody>
</table>

If a street is to be considered a Complete Street, pavement widths may be adjusted to accommodate multimodal amenities such as bike lanes and on-street parking. The Polk TPO Complete Street Handbook can be used a guide for the implementation of candidate Complete Street projects were appropriate.

(D) **Cul-de-sac Turnarounds**

(1) Permanent dead-end streets extending more than two (2) lots or more than 125 feet shall provide a cul-de-sac turnaround, the location and
specification of which shall be established by the City Engineer and the fire department.

(2) An unobstructed 12-foot wide moving lane with a minimum outside turning radius of 38 feet shall be provided at the terminus of every permanent cul-de-sac.

(E) **Clear Visibility Triangle.** In order to provide a clear view of intersecting streets to the motorist, there shall be a triangular area of clear visibility formed by two (2) 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 impede vision between a height of two (2) feet and 10 feet above the grade, measured at the centerline of the intersection.

(2) The clear visibility triangle shall be formed by extending a line from the back of the curb or the edge of pavement of two intersecting roadways to a point of intersection, measuring a prescribed distance from the point in both directions and drawing the hypotenuse of the triangle (see the following drawing).

(3) The distance from the intersection of the street center lines for the various road classifications (shown as "X" in the diagram) shall be as follows:

![Example of Clear Visibility Triangle](image-url)
(4) Where roads of different functional classifications intersect, the distance for each street shall be used. For example, when a principal arterial and an urban collector intersect, there shall be no obstructions 100 feet along the principal arterial and 60 feet along the urban collector, from the intersection of the two streets.

(F) **Signage and Signalization.** The developer shall deposit with the City sufficient funds to provide all necessary roadway signs and traffic signalization as may be required by the City, based upon City or state traffic standards. At least two street name signs shall be placed at each four-way street intersection, and one at each "T" intersection. Signs shall be installed under light standards and free of visual obstruction. The design of street name signs shall be consistent, of a style appropriate to the community, and of a uniform size and color.

(G) **Blocks**

(1) Where a tract of land is bounded by streets forming a block, said block shall have sufficient width to provide for two (2) tiers of lots of appropriate depths.

(2) The lengths, widths, and shapes of blocks shall be consistent with adjacent areas.

### 3.02.04 Sidewalks

(A) **When Required**

(1) Projects abutting Principal or Minor Arterial facilities shall provide sidewalks adjacent to such roadways. Location of sidewalks shall be consistent with planned roadway improvements.

(2) Sidewalks shall be provided on both sides of all residential streets where the average lot width at the street is 60 feet or less.
(3) Sidewalks shall be provided on one side of all residential streets where the average lot width at the street is greater than 60 feet but less than 150 feet.

(4) Where a proposed development includes improvements or new construction of collector or arterial facilities, facility designs shall include provision for sidewalks and bikeways within the right-of-way.

(5) Residential projects adjacent to or in the immediate vicinity of commercial, office, service, or recreation activities shall provide pedestrian and bicycle access from the development to the activity center.

(6) Pedestrian-ways or crosswalks, not less than 10 feet wide with a sidewalk meeting the requirements of this Section, may be required to be placed in the center of blocks more than 800 feet long where deemed necessary to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.

(B) Design and Construction Standards. Design and construction of sidewalks, bikeways, or other footpaths shall conform to all applicable engineering requirements adopted by the City of Mulberry, including provisions for access by physically handicapped persons. Standards shall be consistent with those adopted by the American Association of State Highway and Transportation Officials (AASHTO) and the American with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG).

3.02.05 Access Points onto Streets

All proposed development shall meet the following standards for vehicular access and circulation:

(A) Number of Access Points

(1) Every project shall have access to either a public County or State right-of-way (or both). Access to a state road is controlled and permitted by the Florida Department of Transportation in compliance with Chapter 14-97, F.A.C., State Highway System Access Management Classification System and Standards. The maximum number of points of access permitted onto any one (1) road shall be as follows:

<table>
<thead>
<tr>
<th>Lot Width Abutting Road</th>
<th>Number Of Points Of Access</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 65 feet</td>
<td>1</td>
</tr>
<tr>
<td>65 feet to 200 feet</td>
<td>2</td>
</tr>
<tr>
<td>Over 200 feet</td>
<td>2, plus 1 for each additional 200 feet</td>
</tr>
</tbody>
</table>
(2) In lieu of any two (2) openings onto any one (1) road, there may be permitted a single point of access up to 35 feet in width.

(3) Adjacent uses may share a common driveway provided that appropriate access easements are granted between or among the property owners.

(4) Schools and/or uses requiring emergency vehicle access may have one additional access provided that the additional access drive is limited to school bus or emergency vehicle use only.

(5) The City Engineer may approve additional access points, or limit access points where transportation circulation and safety conditions permit.

(B) Separation of Access Points

(1) There shall be a minimum distance of 12 feet between any two openings onto the same street.

(2) No point of access shall be allowed within 10 feet of the intersection of the right-of-way lines of any public road.

(3) The distance between access points shall be measured from the centerline of the proposed driveway or roadway to the centerline of the nearest adjacent driveway or roadway.

(C) Access to Residential Lots

(1) No residential lots having a width less than 125 feet shall abut a Principal Arterial without also directly abutting a local or Minor Arterial street.

(2) No lot in a subdivision shall be approved with less than 20 feet of frontage on a public street right-of-way.

(D) Paving. All driveways in all zoning districts must be paved with all-weather pavement of asphalt or concrete, and shall be so graded and drained as to provide for the adequate runoff and disposal of surface water, and shall be constructed in accordance with standards of the City.

3.02.06 Standards for Drive-in Facilities

All facilities providing drive-up or drive-through service shall provide on-site stacking lanes in accordance with the following standards:

(A) The facilities and stacking lanes shall be located and designed to minimize turning movements in relation to driveway access to streets and intersections.

(B) The facilities and stacking lanes shall be located and designed to minimize or avoid conflicts between vehicular traffic and pedestrian areas such as sidewalks, crosswalks, or other pedestrian access ways.
(C) A by-pass lane shall be provided.

(D) Stacking lane distance shall be measured from the service window to the property line bordering the furthest street providing access to the facility, as measured along the centerline of the stacking lane.

(E) Minimum stacking lane distance shall be as follows:

   (1) Financial institutions shall have a minimum distance of 200 feet. Two or more stacking lanes may be provided that together total 200 feet.

   (2) All other uses shall have a minimum distance of 120 feet.

(F) Alleys or driveways in or abutting areas designed, approved, or developed for residential use shall not be used for circulation of traffic for drive-in facilities.

(G) Where turns are required in the exit lane, the minimum distance from any drive-in station to the beginning point of the curve shall be 34 feet. The minimum inside turning radius shall be 25 feet.

(H) Construction of stacking lanes shall conform to all engineering design standards adopted by the City of Mulberry.

[RESERVED]
3.03.00 Off-Street Parking and Loading

3.03.01 Applicability

This Section shall apply to all new construction requiring off-street parking, and existing nonconforming parking facilities if on-site renovation, construction or repair exceeds 50 percent of the assessed value of the property.

3.03.02 Off-Street Parking

(A) **Number Of Required Spaces.** In all districts, off-street parking shall be provided as set forth in the following table and as may be modified by the provisions following the table.

<table>
<thead>
<tr>
<th>Land Use and/or Building Type</th>
<th>Per Unit</th>
<th>Per 1,000 SFGFA* or SFGLA**</th>
<th>Per Student/Member Seat/Employee/Etc</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single family dwelling unit</td>
<td>2.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Duplex</td>
<td>2.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Multi-family</td>
<td>1.7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adult congregate living facility</td>
<td>0.7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hotel and motel</td>
<td>1.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Office and banks without drive-through</td>
<td>2.5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Small office (less than 3,000 SFGFA)</td>
<td>3.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bank with drive-through</td>
<td>3.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medical, dental, optical, chiropractor office</td>
<td>3.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medical clinic and professional buildings</td>
<td>4.5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shopping center</td>
<td>4.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>General retail sales</td>
<td>4.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Supermarket and discount store</td>
<td>3.5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Furniture store</td>
<td>1.5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bowling alley, per lane</td>
<td></td>
<td>4.5</td>
<td></td>
</tr>
<tr>
<td>Day care center/school, per employee</td>
<td>1.3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Putt-putt golf, per hole</td>
<td></td>
<td>1.0</td>
<td></td>
</tr>
<tr>
<td>Theaters, freestanding, per seat</td>
<td>0.3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Restaurant, per seat</td>
<td></td>
<td>0.4</td>
<td></td>
</tr>
<tr>
<td>Restaurant with lounge, per seat</td>
<td>0.5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fast food restaurant with drive-in, per seat</td>
<td>0.5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Senior high school, per student</td>
<td>0.4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Elementary and junior high school, per teacher</td>
<td>1.2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>University or college, per daytime student</td>
<td>1.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Table

<table>
<thead>
<tr>
<th>Land Use and/or Building Type</th>
<th>Per Unit</th>
<th>Per 1,000 SFGFA* or SFGLA**</th>
<th>Per Student/Member Seat/Employee/Etc</th>
</tr>
</thead>
<tbody>
<tr>
<td>Church, per seat in sanctuary</td>
<td></td>
<td></td>
<td>0.3</td>
</tr>
<tr>
<td>Hospital, per bed</td>
<td></td>
<td></td>
<td>2.0</td>
</tr>
<tr>
<td>Nursing home, per room</td>
<td></td>
<td></td>
<td>0.5</td>
</tr>
<tr>
<td>Industrial park with offices</td>
<td></td>
<td>1.8</td>
<td></td>
</tr>
<tr>
<td>Light industry</td>
<td></td>
<td>1.8</td>
<td></td>
</tr>
<tr>
<td>Manufacturing</td>
<td></td>
<td>1.0</td>
<td></td>
</tr>
<tr>
<td>Warehousing and distribution centers</td>
<td></td>
<td>0.4</td>
<td></td>
</tr>
<tr>
<td>Recreation clubs (golf, yacht, etc.), per member</td>
<td></td>
<td></td>
<td>0.2</td>
</tr>
<tr>
<td>Lodges and assembly, per seat</td>
<td></td>
<td></td>
<td>0.2</td>
</tr>
</tbody>
</table>

*Square Feet, Gross Floor Area (SFGFA) is defined as the total floor area of a building from its outside dimensions.

**Square Feet, Gross Leasable Area (SFGLA) is defined as the floor area of a building, less administrative, public and similar areas.

### (B) Off-Street Parking for the Physically Disabled.

All development covered by §316.1955 - 1956, Florida Statutes, shall provide parking for the physically disabled pursuant to the requirements of those sections. In addition, all residential developments with greater than 25 required parking spaces shall comply with the requirements of §316.1956, Florida Statutes.

### (C) Required Parking Lot Improvements.

Any off-street parking lot serving any use other than dwellings of two units per building or less shall meet the following requirements for off-street parking lot improvements:

1. The parking area will be buffered and canopy provided pursuant to Section 3.07.00.

2. For all retail sales and services, business services, and professional services serving the general public and having access to and abutting a paved street, the off-street parking area shall be provided with a hard surface of all-weather pavement of asphalt or concrete, and shall be so graded and drained as to provide for the adequate runoff and disposal of surface water, and shall be constructed in accordance with standards of the City.

3. All off-street parking areas shall be constructed of dust free surfaces, be well maintained; free of potholes, debris, weeds, broken curbs, and broken wheel stops; clearly striped; and with all area lighting in working condition. Off-street parking areas may utilize porous paver blocks over a compacted subbase, with the approval of the City Engineer, in lieu of asphaltic or concrete paving.
(4) Where lighting facilities are provided for the parking area, they shall be designed and installed so as to direct the light away from any contiguous residential property.

### 3.03.03 Off-Street Loading Requirements

Off-street loading spaces shall be provided in accordance with the following standards:

(1) Every hospital, institution, commercial or industrial building or similar use shall be provided with one (1) loading space for each 20,000 square feet or more of floor area, and requiring the receipt or distribution by vehicles of materials or merchandise shall have at least one (1) permanent off-street loading space for each 20,000 square feet of gross floor area, or fraction thereof, immediately adjacent to the principal building.

(2) Retail operations, wholesale operations, and industrial operations, with a gross floor area of less than 20,000 square feet shall provide sufficient space for loading and unloading operations in order that the free movement of vehicles and pedestrians over a sidewalk, street or alley shall not be impaired.

(3) Every off-street loading and unloading space shall have a direct access to a public street or alley, and shall have the following minimum dimensions:

- a. Length: 30 feet;
- b. Width: 12 feet;
- c. Height: 14 feet.

(4) Manufactured (mobile) home and trailer sales establishments shall provide adequate space off the public right-of-way for the maneuvering of manufactured (mobile) homes and trailers into position on the property without blocking traffic on the abutting street or road.

### 3.03.04 Design Standards for Off-Street Parking and Loading Areas

(A) **Location.** All required off-street parking spaces shall be located on the same parcel as the use which they serve.

(B) **Size**

(1) Standard and compact parking spaces shall be sized according to Figure A below.

(2) Parallel parking spaces shall be a minimum of eight (8) feet wide and 22 feet long. If a parallel space abuts no more than one (1) other parallel space, and adequate access room is available, then the length may be reduced to 20 feet.
(3) Tandem parking spaces must be a minimum of nine (9) feet wide and 20 feet long.

(4) A standard motorcycle parking space shall be four (4) feet wide and nine (9) feet long.

(5) The standard off-street loading space shall be 10 feet wide, 25 feet long, provide vertical clearance of 15 feet, and provide adequate area for maneuvering, ingress and egress. The length of one or more of the loading spaces may be increased up to 55 feet if full-length tractor-trailers must be accommodated.

Figure A

<table>
<thead>
<tr>
<th>A (Degrees)</th>
<th>B (Feet)</th>
<th>C (Feet)</th>
<th>D (Feet)</th>
<th>E (Feet)</th>
<th>F (Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>9.5</td>
<td>10.0</td>
<td>12.0</td>
<td>23.0</td>
<td>32.0</td>
</tr>
<tr>
<td>20</td>
<td>9.5</td>
<td>16.2</td>
<td>12.0</td>
<td>29.2</td>
<td>44.4</td>
</tr>
<tr>
<td>30</td>
<td>9.5</td>
<td>18.7</td>
<td>12.0</td>
<td>20.0</td>
<td>49.4</td>
</tr>
<tr>
<td>40</td>
<td>9.5</td>
<td>20.5</td>
<td>12.0</td>
<td>15.6</td>
<td>53.0</td>
</tr>
<tr>
<td>45</td>
<td>9.5</td>
<td>21.2</td>
<td>12.0</td>
<td>14.1</td>
<td>54.4</td>
</tr>
<tr>
<td>50</td>
<td>9.5</td>
<td>21.7</td>
<td>16.0</td>
<td>13.1</td>
<td>59.4</td>
</tr>
<tr>
<td>60</td>
<td>9.5</td>
<td>22.3</td>
<td>18.0</td>
<td>11.5</td>
<td>62.6</td>
</tr>
<tr>
<td>70</td>
<td>9.5</td>
<td>22.2</td>
<td>20.0</td>
<td>10.6</td>
<td>64.4</td>
</tr>
<tr>
<td>80</td>
<td>10.0</td>
<td>21.4</td>
<td>24.0</td>
<td>10.2</td>
<td>66.8</td>
</tr>
<tr>
<td>90</td>
<td>10.0</td>
<td>20.0</td>
<td>24.0</td>
<td>10.0</td>
<td>64.0</td>
</tr>
</tbody>
</table>

A = Parking Angle  
B = Stall Width  
C = Stall Depth  
D = Aisle Width  
E = Curb Length Per Car  
F = Lot Width

(6) Up to 20 percent of the required parking spaces may be designated as compact spaces with minimum dimensions of 8 feet by 16 feet. Compact spaces will only be allowed in projects requiring 20 or more parking spaces. The compact spaces shall be clustered in one or more groups of spaces and dispersed throughout the site so that drivers using either compact or full-
sized spaces have equal access to the most convenient parking locations. Compact spaces shall be designated by signs on every third space, painted Compact on each pavement space and double striped to indicate their status. Spaces provided in excess of the required number of spaces may all be compact spaces provided that compact spaces shall never exceed 33 percent of the total number of spaces provided.

(C) Layout

(1) Pedestrian circulation facilities, roadways, driveways, and off-street parking and loading areas shall be designed to be safe and convenient.

(2) Each off-street parking space shall open directly onto an aisle or driveway that, except for single-family and two-family residences, is not a public street.

(3) Aisles and driveways shall not be used for parking vehicles, except that the driveway of a single-family or two-family residence may be counted as meeting the parking space requirements for the dwelling unit, provided it is at least 20 feet in length.

(4) The design shall be based on a definite and logical system of drive lanes to serve the parking and loading spaces.

(5) Parking spaces for all uses, except single-family and two-family residences, shall be designed to permit entry and exit without moving any other motor vehicle.

(6) No parking space shall be located so as to block access by emergency vehicles.

(D) Exceptions

(1) Parking lot specifications shall be at a minimum six (6) inches of shellrock base compacted to 95 percent density as per AASHTO T-180 with a one and one-half (1 ½) inch S-I asphalt surface course, except as listed below:

(a) Six (6) inches of 3,000 psi concrete over well compacted soil may be substituted for shellrock and asphalt.

(b) For churches where parking needs are limited to one or two days per week, parking spaces may be grass. Aisles and circulation areas shall be paved. This exemption may be approved upon a finding by the City Engineer that there would be no detrimental effect due to erosion or other degrading of the natural environment.
(2) Parking lots that have grass parking spaces shall not use such areas in calculations to meet minimum requirements for buffers, landscaping, or retention. However, retention area requirements shall be calculated based on the assumption that all spaces are paved. An allowable alternative is reservation of an area to accommodate additional retention capacity in the event of paving.

(3) Where grass parking spaces are allowed, all required handicap spaces shall be paved and meet the requirements of Section 3.03.03 (E) below.

(E) Handicap Access

(1) All uses shall be required to provide off street parking for handicapped persons in accordance with Florida Accessibility Code for Building Construction et. Seq., or the following if more restrictive:

(a) Level parking spaces shall be reserved for physically handicapped persons according to the following requirements:

<table>
<thead>
<tr>
<th>Total Spaces</th>
<th>Provided Spaces Required to be Reserved</th>
</tr>
</thead>
<tbody>
<tr>
<td>up to 25</td>
<td>1</td>
</tr>
<tr>
<td>26 to 50</td>
<td>2</td>
</tr>
<tr>
<td>51 to 75</td>
<td>3</td>
</tr>
<tr>
<td>76 to 100</td>
<td>4</td>
</tr>
<tr>
<td>101 to 150</td>
<td>5</td>
</tr>
<tr>
<td>151 to 200</td>
<td>6</td>
</tr>
<tr>
<td>201 to 300</td>
<td>7</td>
</tr>
<tr>
<td>301 to 400</td>
<td>8</td>
</tr>
<tr>
<td>401 to 500</td>
<td>9</td>
</tr>
<tr>
<td>501 to 1,000</td>
<td>2 percent of Total</td>
</tr>
<tr>
<td>over 1,000</td>
<td>20 plus 1 for each 100 over 1,000</td>
</tr>
</tbody>
</table>

(2) Parking spaces reserved for physically handicapped persons shall meet the following design and location requirements as listed herein.

(a) All spaces shall be accessible to curb ramp or curb cut, when necessary to allow access to building, structure, or use served, and shall be so located that users are not compelled to wheel behind parked vehicles.

(b) Diagonal or perpendicular parking spaces shall be a minimum of 12 feet wide. All spaces shall have an adjacent access aisle 60 inches wide at a minimum. Parking access aisles shall be immediately accessible to the building or facility entrance.

(c) Parallel parking spaces shall be located either at the beginning or end of a block or adjacent to an alley entrance. Curbs adjacent to such premises shall be of a height that will not interfere with opening and closing of motor vehicle doors.
(d) Each such parking space shall be prominently outlined with blue
paint and posted with a nonmovable, above grade, fixed sign of a
color and design approved by the FDOT bearing the internationally
accepted wheelchair symbol and the caption "PARKING BY
DISABLED PERMIT ONLY" on two separate signs, or bearing both
such symbol and caption on one sign. Such signs shall not be
obscured by a vehicle parked in the space.

(3) Curb cuts and ramps must meet the following design and location
requirements as listed herein.

(a) Ramps or curb cuts from parking areas to the walkway level shall be
provided and shall be spaced at intervals of no more than 100 feet
and shall be located as close as practical to main entrances and exits.

(b) The least possible slope shall be used for any ramp. The maximum
slope of a ramp in new construction shall be 1:12. Ramps 30 feet in
length or longer shall have a maximum gradient of 1:20 or the ramps
shall have a level platform at least 60 inches deep in the direction of
the ramps at 30-foot intervals and at changes in direction over 15
degrees and shall be of a slope of no more than 1:12.

(c) The minimum width of a curb ramp shall be 44 inches, exclusive of
flared sides. Ramps shall have a slip-resistant surface.

(4) In addition to the requirements of this section, all handicap spaces shall meet
the requirements of the Florida Accessibility Code for Building Construction
et. Seq. Where a conflict exists between these regulations and the
Accessibility Code, the Accessibility Code shall prevail. The following
statement shall be placed on all final site plans and, where applicable,
improvement plans: “I hereby certify that the details of the handicap
accessibility plan shown hereon are to the best of my knowledge and belief
in full and complete compliance with the Florida Accessibility Code for
Building Construction et. Seq.”

3.03.05 Bicycle Parking

(A) Number of Spaces Required. One (1) bicycle parking space shall be provided for every
10 automobile parking spaces, or fraction thereof, required for the use, except as
provided below:
Table 3.7
Bicycle Parking Spaces

<table>
<thead>
<tr>
<th>Use</th>
<th>Required Bicycle Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Residential</strong></td>
<td></td>
</tr>
<tr>
<td>Conventional detached</td>
<td>None</td>
</tr>
<tr>
<td>Model home</td>
<td>None</td>
</tr>
<tr>
<td><strong>Educational</strong></td>
<td></td>
</tr>
<tr>
<td>Elementary and Junior High</td>
<td>5.0 per required auto space</td>
</tr>
<tr>
<td>Senior High Schools</td>
<td>1.0 per required auto space</td>
</tr>
<tr>
<td>Colleges</td>
<td>.5 per required auto space</td>
</tr>
<tr>
<td><strong>Entertainment and Recreation</strong></td>
<td></td>
</tr>
<tr>
<td>Arcades, games, skating, tennis, handball, racquetball, swimming pool</td>
<td>.25 per required auto space</td>
</tr>
</tbody>
</table>

(B) Design Standards

(1) The Building and Zoning Department shall maintain a list of approved bicycle parking facilities.

(2) Other bicycle parking devices may be used if it is established to the satisfaction of the Department that the standards below are met.

(3) The rack or other facility shall:

a. Be designed to allow each bicycle to be supported by its frame.

b. Be designed to allow the frame and wheels of each bicycle to be secured against theft.

c. Be designed to avoid damage to the bicycles.

d. Be anchored to resist removal and solidly constructed to resist damage by rust, corrosion, and vandalism.

e. Accommodate a range of bicycle shapes and sizes and to facilitate easy locking without interfering with adjacent bicycles.

f. Be located to prevent damage to bicycles by cars.

g. Be consistent with the surroundings in color and design and be incorporated whenever possible into building or street furniture design.
h. Be located in convenient, highly-visible, active, well-lighted areas.
i. Be located so as not to interfere with pedestrian movements.
j. Be located as near the principal entrance of the building as practicable.
k. Provide safe access from the spaces to the right of way or bicycle lane.

3.04.00 Utilities

3.04.01 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 such 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 Comprehensive Plan and where the topography permits the connection to a City or county water or sewer line by running a connecting line no more than 200 feet from the lot to such line.

(D) **Illumination.** All streets, driveways, sidewalks, bikeways, parking lots and other common areas and facilities in developments shall provide illumination meeting design standards adopted by the City of Mulberry.

(E) **Fire Hydrants.** All developments served by a central water system shall include a system of fire hydrants consistent with design standards adopted by the City of Mulberry.

3.04.02 Design Standards

(A) **Compliance With Technical Construction Standards.** All utilities required by this Chapter shall meet or exceed minimum design standards adopted by the City of Mulberry.

(B) **Placement of Utilities Underground**

(1) All electric, telephone, cable television, and other communication lines (exclusive of transformers or enclosures containing electrical equipment, including but not limited to switches, meters, or capacitors which may be
pad mounted), and gas distribution lines shall be placed underground within easements or dedicated public rights-of-way, installed in accordance with the City's adopted design standards.

(2) Lots abutting existing easements or public rights-of-way where overhead electric, telephone, or cable television distribution supply lines and service connections have previously been installed may be supplied with such services from the utility's overhead facilities provided the service connection to the site or lot are placed underground.

(3) Screening of any utility apparatus placed above ground shall be required.

3.04.03 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.

[RESERVED]
Treatment of stormwater runoff shall be required for all development, redevelopment and, when expansion occurs, existing developed areas. The stormwater treatment system or systems can be project specific, or serve sub-areas within the City. The design and performance of all stormwater management systems shall comply with applicable State Regulations (Chapter 17-25 and Chapter 17-302, F.A.C.) and the rules of the Southwest Florida Water Management District (SWFWMD) stated in Chapter 40D-4, F.A.C. Stormwater discharge facilities shall be designed so as to not lower the receiving water quality or degrade the receiving water body below the minimum conditions necessary to maintain their classifications as established in Chapter 17-302, F.A.C. Steps to control erosion and sedimentation shall be taken for all development.

3.05.01 Stormwater Management Requirements

(A) Performance Standards. All development must be designed, constructed and maintained to meet the following performance standards:

(1) While development activity is underway and after it is completed, the characteristics of stormwater runoff shall approximate the rate, volume, quality, and timing of stormwater runoff that occurred under the site's natural unimproved or existing state, except that the first one (1) inch of stormwater runoff shall be treated in an off-line retention system or according to FDER's Best Management Practices.

(2) The proposed development and development activity shall not violate water quality standards set forth in Chapter 17-3, F.A.C.

(3) Maintenance activity that does not change or affect the quality, rate, volume or location of stormwater flows on the site or of stormwater runoff.

(4) Action taken under emergency conditions to prevent imminent harm or danger, or to protect property from fire, violent storms, hurricanes or other hazards.

(5) Agricultural activity, provided farming activities are conducted in accordance with the requirements set forth in an approved Soil Conservation Service Conservation Plan. If the Conservation Plan is not implemented accordingly, this exemption shall become void and a stormwater permit shall be required.

(B) Residential Performance Standards. It is intended that all of the standards in the citations from the F.A.C. are to apply to all development and redevelopment and that exemptions based on project size thresholds and individual structures do not apply for concurrency determinations. All development must meet F.A.C. and subsequently meet the following performance standards.

(1) New Construction. For the purposes of determining whether residential development of 1-4 units on an individual lot requires retention, all the following standards must be met.
a. Structure and all impervious surface can be placed less than 100 feet from the receiving water body; and,

b. The topography of the lot is greater than a 6% slope; and

c. the total of all impervious surface is 10% or more of the total lot area.

(2) Infill development. Infill development within an existing subdivision or a developed residential area is exempt from a retention area, when the following condition has been met. Infill residential development shall be designed so as to not lower the receiving water quality or degrade the receiving water body below the minimum conditions necessary to maintain their classifications as established in Chapter 17-302, F.A.C.

3.05.02 Design Standards

To comply with the foregoing performance standards, the proposed stormwater management system shall conform to the following design standards:

(A) Detention and retention systems shall be designed to comply with the FDER's Best Management Practices.

(B) To the maximum extent practicable, natural systems shall be used to accommodate stormwater.

(C) The proposed stormwater management system shall be designed to accommodate the stormwater that originates within the development and stormwater that flows onto or across the development from adjacent lands.

(D) The proposed stormwater management system shall be designed to function properly for a minimum 20-year life.

(E) The design and construction of the proposed stormwater management system shall be certified as meeting applicable requirements, by a professional engineer registered in the State of Florida.

(F) No surface water may be channeled or directed into a sanitary sewer.

(G) The proposed stormwater management system shall be compatible with the stormwater management facilities on surrounding properties or streets, taking into account the possibility that substandard systems may be improved in the future.

(H) The banks of detention and retention areas shall be sloped at no less than a 3:1 ratio and shall be planted with appropriate vegetation.

(I) Dredging, clearing of vegetation, deepening, widening, straightening, stabilizing or otherwise altering natural surface waters shall be minimized.

(J) Natural surface waters shall not be used as sediment traps during or after development.
(K) Water reuse and conservation shall, to the maximum extent practicable, be achieved by incorporating the stormwater management system into irrigation systems serving the development.

(L) Vegetated buffers of sufficient width to prevent erosion shall be retained or created along the shores, banks or edges of all natural or man-made surface waters.

(M) In phased developments, the stormwater management system for each integrated stage of completion shall be capable of functioning independently.

(N) All detention and retention basins, except natural water bodies used for this purpose, shall be accessible for maintenance from streets or public rights-of-way.

3.05.03 Special Considerations

Special consideration shall be given in the layout of streets, lots, blocks, buildings, and easements to the preservation of resource and specimen individual trees. Special consideration shall also be given to preserving natural drainage methods and natural topography and landscape. Special consideration shall be given to providing special screening, buffers, or berms where developments abut incompatible land uses.

3.05.04 Dedication or Maintenance of Stormwater Management Systems

If a stormwater management system approved under this Code will function as an integral part of a City-maintained drainage system, as determined by the City Engineer, the facilities shall be dedicated to the City. The applicant shall be an acceptable entity and shall be responsible for the operation and maintenance of the stormwater management system from the time construction begins until the stormwater management system is dedicated to and accepted by another acceptable entity. All stormwater management systems that are not dedicated to Polk County, shall be operated and maintained by one of the following entities:

(A) The City of Mulberry.

(B) An active water control district created pursuant to Chapter 298, F.S., or drainage district created by special act, or Community Development District created pursuant to Chapter 190, F.S., or Special Assessment District created pursuant to Chapter 170, F.S.

(C) A State or Federal agency.

(D) An officially franchised, licensed or approved communication, water, sewer, electrical or other public utility.
(E) The property owner or developer if:

(1) Written proof is submitted in the appropriate form by either letter or resolution, that a governmental entity or such other acceptable entity as set forth in paragraphs A-D above, will accept the operation and maintenance of the stormwater management and discharge facility at a time certain in the future.

(2) A bond or other assurance of continued financial capacity to operate and maintain the system is submitted.

(F) For-profit or non-profit corporations including homeowners associations, property owners associations, condominium owners associations or master associations if:

(1) The owner or developer submits documents constituting legal capacity and a binding legal obligation between the entity and the City affirmatively taking responsibility for the operation and maintenance of the stormwater management facility.

(2) The association has sufficient powers reflected in its organizational or operational documents to operate and maintain the stormwater management system as permitted by the City, establish rules and regulations, assess members, contract for services and exist perpetually, with the Articles of Incorporation providing that if the association is dissolved, the stormwater management system will be maintained by an acceptable entity as described above.

If a project is to be constructed in phases, and subsequent phases will use the same stormwater management facilities as the initial phase or phases, the operation and maintenance entity shall have the ability to accept responsibility for the operation and maintenance of the stormwater management systems of future phases of the project.

In phased developments that have an integrated stormwater management system, but employ independent operation and maintenance entities for different phases, such entities, either separately or collectively, shall have the responsibility and authority to operate and maintain the stormwater management system for the entire project. That authority shall include cross easements for stormwater management and the authority and ability of each entity to enter and maintain all facilities, should any entity fail to maintain a portion of the stormwater management system within the project.

3.06.00 Performance Standards

3.06.01 General Provisions

All uses shall conform to the standards of performance described within this Article and shall be constructed, maintained and operated so as not to be injurious or offensive to the occupants of adjacent premises by reason of the emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic or noxious waste materials, odors, fire and
explosive hazard or glare. Within 100 feet of a residential district, all processes and storage, except for vehicle parking, shall be in completely closed buildings. Processes and storage located at a greater distance shall be effectively screened by a solid wall or fence at least six (6) feet in height. Where other ordinances or regulations (whether federal, state, or local) that may be adopted hereinafter impose greater restrictions than those specified herein, compliance with such other ordinances and regulations is mandatory.

3.06.02 Specific Standards

3.06.02.01 Vibration

Every use shall be so operated that ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on the property line of the property on which the use is located. No vibration at any time shall produce an acceleration of more than 0.1g or shall result in any combination of amplitudes and frequencies beyond the "safe" range of Table 7, U.S. Bureau of Mines Bulletin No. 442. The equations of such bulletin shall be used to determine the values of enforcement.

3.06.02.02 Smoke

Every use shall be so operated as to prevent the emission of smoke, from any source whatever, to a density greater than described as Number 1 on the Ringelmann Smoke Chart; provided, however, that smoke equal to, but not in excess of, that shade of appearance described as Number 2 on the Ringelmann Chart may be emitted for a period or periods totaling four (4) minutes in any 30 minutes. For the purpose of grading the density of smoke, the Ringelmann Chart as published and used by the United States Bureau of Mines, and which is hereby made, by reference, shall be standard. All measurements shall be at the point of emission. Smoke emission must comply with applicable rules of the Florida Department of Environmental Protection (FDEP).

3.06.02.03 Noise

Every use shall be so operated as to comply with the maximum performance standards governing noise described below. Objectionable noises due to intermittence, beat frequency or shrillness shall be muffled or eliminated so as not to become a nuisance to adjacent uses. Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association.
### Maximum Permitted Sound Level In Decibels

<table>
<thead>
<tr>
<th>Octave bands in cycles per second</th>
<th>Along property line abutting a residential district</th>
<th>Along property line abutting an industrial or commercial district</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>8:00 am to 6:00 pm</td>
<td>6:00 pm to 8:00 am</td>
</tr>
<tr>
<td>0-75</td>
<td>70</td>
<td>65</td>
</tr>
<tr>
<td>75-150</td>
<td>65</td>
<td>50</td>
</tr>
<tr>
<td>150-300</td>
<td>57</td>
<td>43</td>
</tr>
<tr>
<td>300-600</td>
<td>50</td>
<td>38</td>
</tr>
<tr>
<td>600-1200</td>
<td>44</td>
<td>33</td>
</tr>
<tr>
<td>1200-2400</td>
<td>38</td>
<td>30</td>
</tr>
<tr>
<td>2400-4800</td>
<td>32</td>
<td>28</td>
</tr>
<tr>
<td>Over-4800</td>
<td>30</td>
<td>26</td>
</tr>
</tbody>
</table>

#### 3.06.02.04 Dust and Dirt

Every use shall be so operated as to prevent the emission into the air of dust or other solid matter that may cause damage to property and health of persons or animals at or beyond the lot line of the property on which the use is located. Emissions must comply with applicable rules of the FDEP.

#### 3.06.02.05 Industrial Sewage and Waste

Every use shall be so operated as to prevent the discharge into any stream or the ground of any waste that will be dangerous or discomforting to persons or animals or that will damage plants or crops beyond the lot line of the property on which the use is located. Industries shall comply with applicable rules of the FDEP.

#### 3.06.02.06 Hazardous Wastes

The handling and discharge of all hazardous waste shall follow all applicable standards established by the county health department, state legislature and the U.S. Congress. Appropriate City officials shall review all procedures involving the handling and discharge of all hazardous waste to ensure that it does not create any safety or health problems.
3.06.02.07 Odors

Every use shall be so operated as to prevent the emission of objectionable or offensive odors in such concentration as to be readily perceptible at any point at or beyond the lot line of the property on which the use is located. There is hereby established, as a guide in determining the quantities of offensive odors, table III, chapter 5, Air Pollution Abatement Manual of the Manufacturing Chemists Association, Inc., Washington, D.C.

3.06.02.08 Glare

Every use shall be so operated as to prevent the emission of glare of such intensity as to be readily perceptible at any point on the lot line of the property on which the use is located.

3.06.02.09 Fumes, Vapors and Gases

There shall be no emission of fumes, vapors, or gases of a noxious, toxic or corrosive nature that can cause any danger or irritation to health, animals, vegetation, or to any form of property.

3.06.02.10 Heat, Cold, Dampness, or Movement of Air

Activities that shall produce any adverse effects on the temperature, motion or humidity of the atmosphere beyond the lot line shall not be permitted.

3.06.02.11 Fire and Safety Hazard

Each use shall be operated so as to minimize the danger from fire and explosion. The specific regulations to be met are set forth in the building code and the fire prevention code of the City.

3.06.02.12 Radioactive Emission

There shall be no radiation emitted from radioactive materials or by-products exceeding a dangerous level of radioactive emissions at any point. Radiation limitations shall not exceed quantities established as safe by the U.S. Bureau of Standards.

3.06.02.13 Electromagnetic Radiation

(A) No person shall operate or cause to be operated, any planned or intentional source of electromagnetic radiation for such purposes as communication, experimentation, entertainment, broadcasting, heating, navigation, therapy, vehicle velocity measurement, weather survey, aircraft detection, topographical survey, personal pleasure, or any other use directly or indirectly associated with these purposes that does not comply with the current regulations of the Federal Communications Commission regarding such sources of electromagnetic radiation. Further, such operation in
compliance with the Federal Communications Commission regulations shall be unlawful if such radiation causes an abnormal degradation in the performance of other electromagnetic receptors or radiators of quality and proper design because of proximity, primary field, blanketing, spurious re-radiation, conducted energy in power or telephone systems or harmonic content.

(B) The determination of abnormal degradation in performance and of good quality and proper design shall be made in accordance with good engineering practices as defined in the principles and standards of the American Institute of Electrical Engineers, the Institute of Radio Engineers, and the Radio Manufacturer's Association. In case of any conflict between the latest standards and principles of the above groups, the following precedence in the interpretation of the standards and principles shall apply: (1) American Institute of Electrical Engineers; (2) Institute of Radio Engineers; (3) Radio Manufacturer's Association.

Recognizing the special nature of many of the operations that will be conducted because of the research and educational activities, it shall be unlawful for any person, firm, or corporation to operate or cause to be operated, to maintain or cause to be maintained any planned or intentional source of electromagnetic energy, the radiated power from that exceeds 1000 watts.

3.07.00 Compatibility, Landscaping and Buffering Standards

3.07.01 Purpose and Intent

The City Commission finds that landscaping makes important contributions to the public safety and the general welfare of the City. The purpose and intent of this Section is to set forth requirements and standards for the provision of canopy trees and buffer yards, the conservation of native plants and trees, and the conservation of water resources in the City. Specifically, it is intended that buffer yards will aid in reducing the potential negative impacts caused by glare, noise, dust, dirt, litter, odors and view of various land uses on adjacent properties. It is further intended that the planting of canopy trees will aid in lowering the ambient temperature of the air through increased shading; in conserving water; in enhancing the appearance of properties; in improving property values; and generally in protecting the health, safety and welfare of the public through the improvement of the quality of the human environment. As part of the development approval process, the City of Mulberry shall ensure that all new development is properly buffered to prevent adverse impacts on surrounding land uses.

3.07.02. Applicability and Exemptions

A. Applicability.

Except as specifically excluded in the exemptions below, the requirements and regulations of this Section shall apply to the following:
1. The construction of any new building or improvements that require off-street parking and other impervious surfaces to be constructed on the site;

2. The alteration of existing structures or improvements where the alteration adds usable floor area that requires additional off-street parking and other impervious surfaces to be constructed on the site;

3. The construction or expansion of off-street parking and loading areas;

4. The paving of any existing unpaved off-street parking and/or loading areas; and

5. Any change of use which results in the property becoming a higher impact/higher intensity use.

B. Exemptions.

The development, redevelopment, reconfiguration, expansion or change of use of any site requiring review by the City must comply with all elements of this Section, unless any of the following exemptions apply:

1. Enlargement or repair of a single family or duplex residence unless specifically stated otherwise.

2. New single family and duplex development on individual residential lots are exempt from all provisions of this Section, except the requirement of two (2) large or medium sized trees per residential lot, or one (1) tree per attached unit.

3. Bona fide agriculture.

4. Buildings and structures are not counted as impervious surface for the purpose of calculating the areas that must be shaded with canopy trees.

5. Swimming pools and the area specifically designed to be the deck or pool apron abutting the pool are exempt from canopy requirements.

6. Docks, piers, seawalls, boardwalks and other improvements designed to serve pedestrians near the water or in the use of boats are exempt from canopy requirements. Paved areas abutting a seawall, dock or pier are exempt to a maximum width of ten feet (10’).

7. Paved surfaces within the supporting cables of a radio, television or microwave tower or a cable television satellite receiver, are exempt from canopy requirements.

8. Land developed in the Central Business District or other properties where existing buildings have reduced or no setbacks from property lines, which are physically unable to comply with buffer yard and/or canopy requirements.
3.07.03. Landscape Plans and Permits

Prior to issuance of a development permit, a landscape plan shall be submitted to the City Manager, or his or her designee, showing canopy tree and buffer yard information required by this Section. The landscape plan shall be prepared consistent with the requirements provided in Article 7 of this Code. The landscape plan may be submitted separately, but shall be a part of a site development plan submission, where site development plan submission is required.

When landscaping is required under this Section, no building, grading or site preparation shall be allowed until the landscape plan has been approved by the City Manager, or his or her designee. The plan shall be dated and stamped approved by the City and only these plans and the requirements of this Section shall govern the construction of the site landscaping and subsequent maintenance inspections. A permit shall be obtained for the project within twelve (12) months of the approval date of the approved landscape plan or the plan shall become invalid, unless granted an extension.

3.07.04. Landscaping

Landscaping shall include the conservation of native plants and trees; the selection and planting of trees to shade vehicular use areas, sidewalks and other paved surfaces; and the design, selection of trees and shrubbery, and the planting of landscape materials to establish buffer yards.

3.07.04.01. Selection of New Trees and Shrubs; Site Conditions

All plants identified in this Section are “Florida Friendly” plants for Polk County, and are well suited to the environment in the City. A Florida Friendly Landscape is designed to reduce impacts to the environment through the selection of the right plant for the right location, thereby reducing the need for greater landscape maintenance and irrigation.

All new living plant material to be installed shall be nursery grown and root pruned stock, free of insects, disease and defects, and shall satisfy the requirements of this Section and be Florida Grade No. 1 or better as defined in the most current edition of Grades and Standards for Nursery Plants, Florida Department of Agriculture and Consumer Services, Florida Division of Plant Industry. All plants installed on the site shall be in accordance with the plans stamped approved by the City.

3.07.04.02. Preservation of Existing Trees and Shrubs

Existing trees and shrubs shall be preserved whenever possible provided the plants are all healthy species and are not listed as an exotic and/or nuisance plant in the most recent Invasive Plant List of the Florida Exotic Pest Plant Council. In these instances the plant material shall be acceptable to the City and may be maintained in its natural setting and incorporated into the required landscaping areas to fulfill the intent of this Article. Landscape plans shall identify those existing plant materials credited toward the City landscape requirements.
Areas of existing vegetation to remain on site and as noted on landscape plans shall not be encroached upon or damaged during construction by any or all activities above or below ground. Visible barricades shall be placed around these areas and shall be kept clear of all construction materials, traffic and debris. Areas that have been damaged or removed shall be replanted and refurbished to restore the area as much as possible to its original condition.

The following methods and procedures shall be followed when preserving trees:

1. The use of hand labor may be necessary to clear vegetation within the drip line of those trees to be preserved.

2. The area within the drip line of any tree to be preserved shall remain undisturbed; no materials, machinery, and soil shall be placed within the drip line.

3. Materials, wires, signs or nails shall not be attached to any tree unless such materials are used to preserve the tree.

4. All felled material shall be promptly and carefully removed from the site in order to avoid potential damage to remaining trees and vegetation.

5. Visible barricades shall be erected around those trees to be preserved. These barricades shall be at the drip line of the tree(s) and no closer than ten (10) feet to the trunk of the tree.

6. All efforts shall be made through the grading and drainage plan to maintain the natural drainage to those trees to be preserved.

3.07.04.03. Exotic and Nuisance Plants

The use of exotic and nuisance plants is prohibited and shall not be accepted as part of an approved landscape plan. For purposes of this Section, exotic and nuisance plants shall be those provided in the most recent Invasive Plant List of the Florida Exotic Pest Plant Council.
3.07.04.04. Minimum Tree Planting Height, Planting Area and Distance from Pavement

<table>
<thead>
<tr>
<th>Maximum Tree Size at Maturity</th>
<th>Minimum Planting Height</th>
<th>Planting Area</th>
<th>Minimum Distance from Pavement</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Small) Less than 30 feet tall</td>
<td>6 feet</td>
<td>50-150 square feet</td>
<td>2 feet</td>
</tr>
<tr>
<td>(Medium) Less than 50 feet tall</td>
<td>8 feet</td>
<td>150-300 square feet</td>
<td>4 feet</td>
</tr>
<tr>
<td>(Large) Taller than 50 feet</td>
<td>10 feet</td>
<td>More than 300 square feet</td>
<td>More than 6 feet</td>
</tr>
</tbody>
</table>

(Source: University of Florida “Planting Area Guidelines,” 2011; planting area and distance from pavement; based on minimum 3’ soil depth).

All newly planted trees shall be staked and guyed immediately after installation and shall remain supported until the root systems have established themselves to adequately support the tree.

3.07.04.05. Minimum Shrub Planting Requirements

Shrubs shall be a minimum of one (1) foot tall at the time of planting, except where they are to act as required screening for residential uses and districts, in which case they shall be a minimum of three (3) feet in height at the time of planting and maintained at a minimum height of five (5) feet at maturity. One (1) foot high shrubs shall be spaced no greater than thirty (30) inches on center and three (3) foot high shrubs shall be spaced no greater than thirty-six (36) inches on center. The City may authorize alternate spacing for species which have especially broad coverage.

3.07.04.06. Ground Covers

Ground covers shall be spaced no greater than eighteen (18) inches on center and may be planted in lieu of lawn grass. A list of recommended ground cover species is provided in Table 3.07.09. E of this Section.

3.07.04.07. Lawn Grass

Grass may be sodded, plugged, sprigged or seeded except that solid sod shall be used in swales or other areas subject to erosion (generally slopes steeper than 10:1). Grassed areas that are installed by methods other than sod shall attain a full grassed coverage within three (3) months of the date of installation. A list of lawn grass species and their characteristics, including drought tolerance level, soil type, light requirements, wear tolerance and plant maintenance, are provided in Table 3.07.09. F. The selection of lawn grasses shall be based upon the species and characteristics which are most appropriate for the site.

3.07.04.08. Mulch

Planting beds shall be mulched with standard accepted mulch materials to 1) prevent the invasion of other plant species; 2) to absorb moisture for the benefit of
the plants; and 3) to present a neat and orderly appearance of the landscaped area. The mulched bed shall have a uniform coverage and a minimum depth of two inches (2”). Mulched areas around trees should be at least 8 feet in diameter. The use of cypress mulch is discouraged.

3.07.04.09. Planting Beds

The planting bed for all landscaping materials shall be free of weeds, debris, and nuisance/invasive materials and shall consist of a healthy plant growth medium. The planting bed soil shall provide adequate support, drainage, and nutrients for the plants.

3.07.04.10. Landscaping for Decorative and Masonry Walls

Residential subdivisions and commercial and industrial developments may have decorative entrance and screening walls. Landscaping (a combination of trees and shrubbery) shall be installed within the property setback/buffer yard area. If there are no specific buffer yard requirements for the development, one (1) tree shall be planted for each fifty (50) linear feet of wall. Buffer yard trees and shrubs required by this Section shall be planted on the street side of the wall.

3.07.04.11. Tree Requirements for Residential Properties

Trees for new residential development shall be provided at a rate of two (2) large or medium sized trees per residential lot or one (1) tree per attached unit. Existing trees may be used to satisfy this requirement on individual development parcels provided they are not specifically listed as an invasive species in the most recent Invasive Plant List of the Florida Exotic Pest Plant Council.

3.07.04.12. Encroachments

A. Structures.

Accessory uses, buildings, and dumpster pads shall not encroach upon or conflict with required landscaped areas.

B. Parking Stalls.

No more than two (2) feet of vehicular overhang shall be allowed into a landscape area and no trees and shrubs shall be planted within the area of encroachment.

3.07.05. Canopy Coverage and Tree Species

Trees providing canopy coverage shall be required for the purpose of shading vehicular use areas, sidewalks and other paved surfaces associated with all development in the City, thereby lowering the ambient temperature of the air through increased shading; conserving water; enhancing the appearance of properties; improving property values; and protecting the general health, safety and welfare of the public through the
improvement of the quality of the human environment. Buildings and structures shall not be counted as impervious surface for the purpose of calculating the areas that must be shaded with canopy trees.

A. Canopy trees shall be selected from Table 3.07.09. A

B. Canopy coverage trees shall be interspersed throughout all vehicular use areas rather than restricted in any way to only a portion of the site. This allows for flexibility and creative design opportunities.

C. Trees located in buffer yards may receive partial credit in meeting vehicular use areas interior landscaping canopy requirements.

D. Planting areas under trees shall be planted with shrubs and/or ground covers which are compatible with site conditions.

3.07.05.01. Vehicular Use Areas Interior Landscaping and Canopy Requirements

The standard for canopy is thirty-five percent (35%) coverage over all vehicular use areas associated with all land uses subject to these requirements.

3.07.06. Buffer Yards

A buffer yard is an area containing plant material, fences, walls and/or berms which provide a visual screen and physical separation between incompatible land uses. The purpose of this Section is to establish minimum buffer yard widths and landscaping requirements, in order to ensure compatibility between adjacent properties and land uses. The minimum required width of the buffer yard is therefore based on the potential degree of incompatibility between two abutting land uses.

3.07.06.01. Buffer Yards Between Proposed and Abutting Land Uses and Vacant Property

The City provides four (4) different category types of buffer yards, identified as types A, B, C and D. Table 3.07.06. A, establishes the type of buffer yard required between proposed and existing land uses. When property adjacent to a proposed development is vacant, the need for a buffer yard is determined by the principal use permitted by the zoning classification of the vacant site as provided in Table 3.07.06. B.

3.07.06.02. Buffer Yards along Rights-Of-Way

In addition to the standards set forth in this Section regarding landscape requirements between proposed and abutting land uses and vacant property, provisions shall also be made to buffer land uses from adjacent public streets or rights-of-way as follows:
A. Arterial Roadways.

Land uses, excluding agriculture, located along arterial roadways are required to provide a landscape strip at least ten (10) feet wide with a minimum of five (5) trees for each one hundred (100) linear feet of right-of-way frontage, or fraction thereof. In addition, seven (7) shrubs per tree shall be planted within the landscape strip.

B. Collector Roadways.

Land uses, excluding agriculture, located along collector roadways are required to provide a landscape strip at least ten (10) feet wide with a minimum of one (1) tree and seven (7) shrubs for each fifty (50) linear feet of right-of-way frontage, or fraction thereof.

C. Railroad Rights-Of-Way.

Commercial and industrial land uses located along railroad rights-of-way shall not be required to provide buffering between the use and the right-of-way. New residential developments, excluding individual single-family home sites, individual duplex units and individual infill lot development shall meet the requirements of a “D” buffer yard as specified under Section 3.07.06.04 of this Section.

D. Residential Street.

New residential developments, excluding individual single-family home sites, individual duplex units and individual infill lot development, located along a residential street, shall provide a landscape strip at least five (5) feet wide with at least one tree per lot. Any trees within this buffer yard may count towards the two (2) tree requirement per Section 3.07.04.11 of this Section.

E. Setbacks for Vision Clearance.

Buffer yards shall comply with Section 3.02.03(D), *Clear Visibility Triangle*.

**3.07.06.03. Buffer Yards for Free Standing or Satellite Parking Lots**

Buffer yards for free standing or satellite parking lots shall meet the following requirements:

A. *Residential Zoning Districts*: Standing or satellite parking lots located in residential zoning districts, which serve adjacent zoned businesses, shall meet the following requirements.

1. Site plan approval by the City Commission is required;
2. Where the parking lot is contiguous to side lot lines of residentially zoned property, a side yard at least ten feet (10’) in width shall be provided;

3. The parking area shall be provided with a continuous, unpierced masonry wall six feet (6’) in height adjacent to all required yards. All such walls shall be smoothly finished and shall not be used for any sign;

4. All yard spaces between the required wall and lot lines shall be landscaped with at least one hedgerow of hardy shrubs, not less than five feet (5’) in height, placed next to the walls, and the remainder of the yard spaces shall be lawn. All such landscaping shall be maintained in a healthy, growing condition, neat and orderly in appearance, and yard spaces shall be kept free of refuse or debris;

5. Where the parking lot is separated from residentially zoned property by a street, a buffer yard at least ten feet (10’) in width shall be provided along the street frontage;

6. Where the parking is located upon a street upon which residentially zoned properties front and abut in the same block, a front yard shall be provided at least 25 feet (25’) in depth. Where one or both of the lots contiguous to and on each side of the parking lot are developed with residential structures having front yards greater than 25 feet (25’) in depth, the front yard on the parking lot shall be not less in depth than the deeper of these existing front yards.

B. All Other Zoning Districts: With the exception of letter A above, standing or satellite parking lots located in all other zoning districts shall be designed in accordance with the following requirements.

1. The parking area shall be provided with a buffer yard at least ten feet (10’) in width along all property lines and streets on which the off-street parking area is located.

2. See Section 3.07.06.01, Buffer Yards along Rights-Of-Way, for landscape buffer requirements adjacent to public rights-of-way.

3. Relief of the buffer yard requirements may be granted by the City Commission along property lines where adjoining businesses wish to share a common lot. Where this is the case, site plan approval by the City Commission is required.

C. Site Plan Review: The City Commission may consider specific site plan requests under this Section. The Commission may accept or reject the original request, or it may impose conditions or safeguards on the request which is finds necessary to uphold the public purpose and the intent of the City Code. Approval shall be in the form of a resolution.
### Table 3.07.06.A.
Buffer Yard Requirements between Proposed and Abutting Land Uses

<table>
<thead>
<tr>
<th>PROPOSED LAND USE</th>
<th>ABUTTING LAND USE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single family detached dwellings</td>
<td>N</td>
</tr>
<tr>
<td>Duplex; Single family attached; multi-family up to 4 units per acre; outdoor recreation facilities; cemeteries</td>
<td>A</td>
</tr>
<tr>
<td>Professional office with up to 8 parking spaces; child care centers in converted residential structures</td>
<td>B</td>
</tr>
<tr>
<td>Duplex, single family attached, mobile home parks &amp; multi-family at 4-8 units per acre</td>
<td>A</td>
</tr>
<tr>
<td>Mobile home parks, single family attached, multi-family at 8+ units per acre up to &amp; including 12 units per acre; Utility substations, switching stations, etc.</td>
<td>B</td>
</tr>
<tr>
<td>Professional office with 9+ parking spaces; Churches; Schools; Government facilities; Commercial development sites with up to 10 parking spaces</td>
<td>B</td>
</tr>
<tr>
<td>Other retail, wholesale, service businesses; Self-storage; Automobile service stations; Shopping centers; Hotels, motels; Hospitals; Multi-family over 12 units per acre</td>
<td>C</td>
</tr>
<tr>
<td>Light Industry; PWS; Governmental public works storage/equipment facilities</td>
<td>D</td>
</tr>
<tr>
<td>Heavy industry; Water &amp; wastewater treatment facilities</td>
<td>D</td>
</tr>
</tbody>
</table>

N = No Buffer Yard Required.
A through D = Type of Buffer Yard Required (See Section 3.07.06.04 for Illustrated Examples of Buffer Yard Designs).
### Table 3.07.06.B.
Buffer Yard Requirements between Proposed Land Use and Vacant Property

<table>
<thead>
<tr>
<th>PROPOSED LAND USE</th>
<th>PRINCIPAL USE PERMITTED BY ZONING DISTRICT ON ADJACENT VACANT PROPERTY</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Single family detached dwellings</td>
</tr>
<tr>
<td></td>
<td>N</td>
</tr>
<tr>
<td>Single family detached dwellings</td>
<td>N</td>
</tr>
<tr>
<td>Duplex; single family attached; multi-family up to 4 units per acre; outdoor recreation facilities; cemeteries</td>
<td>A</td>
</tr>
<tr>
<td>Professional office with up to 8 parking spaces; child care centers in converted residential structures</td>
<td>B</td>
</tr>
<tr>
<td>Duplex, single family attached, mobile home parks &amp; multi-family at 4-8 units per acre</td>
<td>B</td>
</tr>
<tr>
<td>Mobile home parks, single family attached, multi-family at 8+ units per acre up to &amp; including 12 units per acre; Utility substations, switching stations, etc.</td>
<td>C</td>
</tr>
<tr>
<td>Professional office with 9+ parking spaces; Churches; Schools; Commercial development sites with up to 10 parking spaces</td>
<td>C</td>
</tr>
<tr>
<td>Other retail, wholesale, service businesses; Self-storage; Automobile service stations; Shopping centers; Hotels, motels; Hospitals; Multi-family over 12 units per acre</td>
<td>C</td>
</tr>
<tr>
<td>Light Industry; PWS; Governmental public works storage/equipment facilities</td>
<td>D</td>
</tr>
<tr>
<td>Heavy industry; Water &amp; wastewater treatment facilities</td>
<td>D</td>
</tr>
</tbody>
</table>

N = No Buffer Yard Required.
A through D = Type of Buffer Yard Required (See Section 3.07.06.04 for Illustrated Examples of Buffer Yard Designs).
3.07.06.04. **Buffer Yard Diagrams**

Upon determining the type of buffer yard required for a property (type A, B, C, or D), the yard width and number of plantings shall be calculated. Three options are offered within each buffer yard type, allowing a buffer yard which best fits the constraints and features of the site. Any of the options within a particular buffer yard type will fulfill the buffer yard requirement. For example, if a Buffer Yard A is required, there are three options to choose from; a ten (10) foot wide buffer, a fifteen (15) foot wide buffer or a twenty (20) foot wide buffer. The number of trees and shrubs to be planted within the buffer yard area is dependent upon the buffer yard width chosen; a wider buffer yard requires less plant material.

The diagrams specify the number of each type of plant required per 100 linear feet, excluding any driveway access. The plant material does not need to be equally spaced and may be placed in any configuration, or grouped to best display the plant material within the required buffer yard area. When natural plant material is present, it may be counted towards the total buffer yard requirement for trees and shrubs provided the existing material is generally consistent with the intent of this Article.
Buffer Yard

Width 20’
2 Trees
6 Shrubs

Width 15’
3 Trees
8 Shrubs

Width 10’
4 Trees
12 Shrubs

○ = Shrub
○ = Tree
Buffer Yard

Width 25’
2 Trees
8 Shrubs

Width 20’
3 Trees
10 Shrubs

Width 15’
4 Trees
10 Shrubs

Plant Material / 100 Linear Feet

= Shrub
= Tree

Amended November 11, 2016
Buffer Yard

Plant Material / 100 Linear Feet

**Width 30’**
3 Trees
10 Shrubs

**Width 20’**
4 Trees
12 Shrubs

**Width 15’**
5 Trees
15 Shrubs

= Shrub
= Tree
Buffer Yard

Plant Material / 100 Linear Feet

| Width 40’ | 6 Trees  
| 15 Shrubs |

| Width 30’ | 8 Trees  
| 20 Shrubs |

| Width 20’ | 10 Trees  
| 25 Shrubs |

○ = Shrub  
○○ = Tree
Utility easements in a buffer yard do not prohibit the planting of shrubs in the area of the easement of an underground utility, but no tree shall be planted within twelve feet (12’) of a buried utility. Tree planting restrictions in relation to overhead power lines are identified in Tables 3.07.09. A, and 3.07.09. B, of this Section. Large and medium sized trees should not be planted closer than fifteen feet (15’) to any light pole.

3.07.06. Buffer Yards, Utilities and Utility Easements

3.07.07. Installation, Irrigation, Inspection, Certificate of Occupancy/Completion and Maintenance

All plants shall be "Florida Grade No. 1" or better, shall be healthy and free of diseases and pests, and shall be of nursery stock in two (2) gallon containers.

A. Installation.

1. The developer shall provide an appropriate planting soil medium for required plants and shall irrigate plant materials to sustain healthy growth of all plants to maturity.

2. Areas on any development site not used for buildings, including single family and duplex development on individual lots, paved surfaces, or other landscape improvements shall be sodded or seeded prior to the issuance of a Certificate of Occupancy/Completion.

3. Areas within public rights-of-way, and areas off-site which have been disturbed by construction activity, shall be cleaned of all debris, re-graded to the proper elevations, and sodded so as to restore the area to a stabilized and planted state.

B. Irrigation.

1. No irrigation system shall be required where existing natural plant communities are maintained.

2. All new landscaped areas shall be provided with an appropriate irrigation system, consistent with the needs of the plants contained therein and water conservation efficient.

3. An irrigation system shall be designed to provide full coverage of all landscape areas without over spraying onto impervious surfaces including pavement, vehicular or pedestrian areas and/or adjacent properties.

4. The irrigation system shall be operational prior to the issuance of any Certificate of Occupancy/Completion for the property.
C. Inspection and Certificate of Occupancy/Completion.

The City Manager, or Building Director, shall inspect the landscaping installation to ensure that it is in conformance with the requirements set forth in this Section and with the approved landscape plan.

D. Maintenance.

Landscape areas shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris.

**3.07.08. Violations and Penalties**

A. All plant material which dies shall be replaced with plant material of required variety and size within thirty (30) days from the date of official notification.

B. Consistent with letter A above, if a restoration plan is presented and differs from the original approved plan, three (3) copies of such restoration plan shall be submitted and approved by the City Manager, or his or her designee. The City Manager, or his or her designee, shall re-inspect the property for compliance after the restoration is complete.

C. Each failure to comply with any of the provisions of this Article shall constitute an individual violation. Failure to maintain viable landscaping consistent with the approved landscape plan shall constitute a violation subject to penalties and shall be subject to code enforcement action by the City.

**3.07.09. Plant Species List**

Plants species identified in this Section include “Florida Friendly” native and non-native plants. Any new plant material, which will serve to meet the City’s minimum landscape requirements, shall be selected from the following plant species tables.

In calculating canopy requirements, each existing tree to be preserved, and each new tree to be planted shall be credited with its mature canopy, as provided in this Section. If an on-site preserved tree is not listed as an invasive plant in the most recent Invasive Plant List of the Florida Exotic Pest Plant Council, and its actual canopy exceeds the canopy area identified in this Article, the greater canopy area may be used in calculating canopy coverage.
### Table 3.07.09. A
**Large Trees**

<table>
<thead>
<tr>
<th>Species</th>
<th>Common Name</th>
<th>Type</th>
<th>Soil</th>
<th>Light</th>
<th>Drought Tolerance</th>
<th>Mature Height (feet)</th>
<th>Mature Crown Spread (feet)</th>
<th>Mature Canopy Area (sq. ft.)</th>
<th>P/L (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Acer barbatum</em></td>
<td>Florida Maple</td>
<td>D</td>
<td>A</td>
<td>F, P</td>
<td>High</td>
<td>35-50</td>
<td>25</td>
<td>491</td>
<td>15-30</td>
</tr>
<tr>
<td><em>Acer rubrum</em></td>
<td>Red Maple</td>
<td>D</td>
<td>A</td>
<td>F, P</td>
<td>Medium</td>
<td>35-50</td>
<td>25</td>
<td>491</td>
<td>15-30</td>
</tr>
<tr>
<td><em>Betula nigra</em></td>
<td>River Birch</td>
<td>D</td>
<td>A</td>
<td>F, P</td>
<td>Low</td>
<td>40-50</td>
<td>25</td>
<td>491</td>
<td>15-30</td>
</tr>
<tr>
<td><em>Carya spp.</em></td>
<td>Hickory, Pecan</td>
<td>D</td>
<td>WD-M</td>
<td>F, P, S</td>
<td>High</td>
<td>50-100</td>
<td>30</td>
<td>707</td>
<td>30+</td>
</tr>
<tr>
<td><em>Carya</em></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Fraxinus caroliniana</em></td>
<td>Pop Ash</td>
<td>D</td>
<td>W</td>
<td>P, F</td>
<td>Medium</td>
<td>30-50</td>
<td>30</td>
<td>707</td>
<td>15-30</td>
</tr>
<tr>
<td><em>Fraxinus pennsylvanica</em></td>
<td>Green Ash</td>
<td>D</td>
<td>M-W</td>
<td>P, F, S</td>
<td>Medium</td>
<td>50-100</td>
<td>50</td>
<td>1964</td>
<td>30+</td>
</tr>
<tr>
<td><em>Gordonia lasianthus</em></td>
<td>Loblolly Bay</td>
<td>E</td>
<td>WD-M</td>
<td>P, F</td>
<td>Low</td>
<td>30-40</td>
<td>16</td>
<td>201</td>
<td>15-30</td>
</tr>
<tr>
<td><em>Liquidambar styaciflua</em></td>
<td>Sweetgum</td>
<td>D</td>
<td>WD-M</td>
<td>F,P</td>
<td>Medium</td>
<td>40-100</td>
<td>30</td>
<td>707</td>
<td>30+</td>
</tr>
<tr>
<td><em>Magnolia grandiflora</em></td>
<td>Southern Magnolia</td>
<td>E</td>
<td>WD-M</td>
<td>F,P</td>
<td>Medium</td>
<td>40-80</td>
<td>25</td>
<td>491</td>
<td>30+</td>
</tr>
<tr>
<td><em>Magnolia virginiana</em></td>
<td>Sweet Bay Magnolia</td>
<td>E</td>
<td>M-W</td>
<td>P, F</td>
<td>None</td>
<td>30-60</td>
<td>16</td>
<td>201</td>
<td>15-30</td>
</tr>
<tr>
<td><em>Pinus elliottii densa</em></td>
<td>Southern Slash Pine</td>
<td>E</td>
<td>WD-M</td>
<td>F, P</td>
<td>High</td>
<td>75-100</td>
<td>25</td>
<td>491</td>
<td>15-30</td>
</tr>
<tr>
<td><em>Pinus palustris</em></td>
<td>Longleaf Pine</td>
<td>E</td>
<td>WD-M</td>
<td>F</td>
<td>High</td>
<td>60-80</td>
<td>25</td>
<td>491</td>
<td>15-30</td>
</tr>
</tbody>
</table>

**Key**

*Type:*  
*D* = Deciduous,  
*E* = Evergreen

*Soil Type:*  
*WD* = Well Drained,  
*M* = Medium Drained  
*W* = Wet,  
*A* = All Types

*Light:*  
*S* = Shade,  
*P* = Partial Shade,  
*F* = Full Sun

*P/L:* Distance from Power Lines
### Table 3.07.09. A
Large Trees

<table>
<thead>
<tr>
<th>Species</th>
<th>Common Name</th>
<th>Type</th>
<th>Soil</th>
<th>Light</th>
<th>Drought Tolerance</th>
<th>Mature Height (feet)</th>
<th>Mature Crown Spread (feet)</th>
<th>Mature Canopy Area (sq. ft.)</th>
<th>P/L (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Platanus occidentalis</em></td>
<td>Sycamore</td>
<td>D</td>
<td>A</td>
<td>F, P</td>
<td>Medium</td>
<td>75-90</td>
<td>30</td>
<td>707</td>
<td>30+</td>
</tr>
<tr>
<td><em>Quercus alba</em></td>
<td>White Oak</td>
<td>D</td>
<td>WD-M</td>
<td>F, P</td>
<td>Medium</td>
<td>60-100</td>
<td>35</td>
<td>962</td>
<td>30+</td>
</tr>
<tr>
<td><em>Quercus austrina</em></td>
<td>Bluff Oak</td>
<td>D</td>
<td>WD-M</td>
<td>F</td>
<td>High</td>
<td>40-80</td>
<td>35</td>
<td>962</td>
<td>30+</td>
</tr>
<tr>
<td><em>Quercus falcata</em></td>
<td>Turkey Oak</td>
<td>D</td>
<td>WD</td>
<td>F</td>
<td>High</td>
<td>40-50</td>
<td>25</td>
<td>431</td>
<td>30+</td>
</tr>
<tr>
<td><em>Quercus laurifolia</em></td>
<td>Laurel Oak</td>
<td>Semi D</td>
<td>M</td>
<td>F, P</td>
<td>Medium</td>
<td>60-100</td>
<td>35</td>
<td>962</td>
<td>30+</td>
</tr>
<tr>
<td><em>Quercus muehlenber</em></td>
<td>Pin Oak</td>
<td>D</td>
<td>M-W</td>
<td>F</td>
<td>Medium</td>
<td>90</td>
<td>35</td>
<td>962</td>
<td>30+</td>
</tr>
<tr>
<td><em>Quercus nigra</em></td>
<td>Water Oak</td>
<td>Semi D</td>
<td>M-W</td>
<td>F, P</td>
<td>High</td>
<td>60-100</td>
<td>30</td>
<td>707</td>
<td>30+</td>
</tr>
<tr>
<td><em>Quercus shumardii</em></td>
<td>Shumard Oak</td>
<td>D</td>
<td>WD-M</td>
<td>F</td>
<td>High</td>
<td>60</td>
<td>40</td>
<td>1256</td>
<td>30+</td>
</tr>
<tr>
<td><em>Quercus virginiana</em></td>
<td>Live Oak</td>
<td>E</td>
<td>M-W</td>
<td>F, P</td>
<td>High</td>
<td>50-60</td>
<td>50</td>
<td>1964</td>
<td>30+</td>
</tr>
<tr>
<td><em>Taxodium distichum</em></td>
<td>Bald Cypress</td>
<td>D</td>
<td>A</td>
<td>F, P</td>
<td>High</td>
<td>60-100</td>
<td>20</td>
<td>314</td>
<td>15-30</td>
</tr>
<tr>
<td><em>Ulmus Americana</em></td>
<td>American Elm</td>
<td>D</td>
<td>A</td>
<td>F, P</td>
<td>High</td>
<td>80-100</td>
<td>30</td>
<td>707</td>
<td>30+</td>
</tr>
<tr>
<td><em>Ulmus parvifolia</em></td>
<td>Drake Elm</td>
<td>D</td>
<td>WD-M</td>
<td>F, P</td>
<td>High</td>
<td>30-40</td>
<td>16</td>
<td>201</td>
<td>15-30</td>
</tr>
</tbody>
</table>

**Key**

Type: D = Deciduous, E = Evergreen  
Soil Type: WD = Well Drained, M = Medium Drained, W = Wet, A = All Types  
Light: S = Shade, P = Partial Shade, F = Full Sun  
P/L: Distance from Power Lines
### Table 3.07.09. B
Medium and Small Trees

#### MEDIUM SIZED TREES

<table>
<thead>
<tr>
<th>Species</th>
<th>Common Name</th>
<th>Type</th>
<th>Soil</th>
<th>Light</th>
<th>Drought Tolerance</th>
<th>Mature Height</th>
<th>Mature Crown Spread</th>
<th>Mature Canopy Area (sq. ft.)</th>
<th>P/L</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Cercis canadensis</em></td>
<td>Eastern Redbud</td>
<td>D</td>
<td>WD</td>
<td>F, P, S</td>
<td>High</td>
<td>20-30'</td>
<td>10'</td>
<td>201</td>
<td>0</td>
</tr>
<tr>
<td><em>Crataegus spp.</em></td>
<td>Hawthorn</td>
<td>D</td>
<td>A</td>
<td>F, P</td>
<td>High</td>
<td>15-20'</td>
<td>12'</td>
<td>113</td>
<td>0</td>
</tr>
<tr>
<td><em>Cupressus arizonica</em></td>
<td>Arizona Cypress</td>
<td>E</td>
<td>WD</td>
<td>F</td>
<td>High</td>
<td>30-40'</td>
<td>15'</td>
<td>177</td>
<td>15-30</td>
</tr>
<tr>
<td><em>Elaeocarpus decipiens</em></td>
<td>Japanese Blueberry</td>
<td>E</td>
<td>WD</td>
<td>F, P</td>
<td>High</td>
<td>30-40'</td>
<td>30'</td>
<td>707</td>
<td>30+</td>
</tr>
<tr>
<td><em>Ilex attenuata</em></td>
<td>East Palatka Holly</td>
<td>E</td>
<td>WD</td>
<td>F, P</td>
<td>Medium</td>
<td>25-30'</td>
<td>16'</td>
<td>201</td>
<td>15-30</td>
</tr>
<tr>
<td><em>Ilex opaca</em></td>
<td>American Holly</td>
<td>E</td>
<td>A</td>
<td>F, P, S</td>
<td>High</td>
<td>30-45'</td>
<td>16'</td>
<td>201</td>
<td>15-30</td>
</tr>
<tr>
<td><em>Ilex rotunda</em></td>
<td>Rotund Holly</td>
<td>E</td>
<td>WD</td>
<td>F, P</td>
<td>Medium</td>
<td>20-30'</td>
<td>20'</td>
<td>315</td>
<td>15-30</td>
</tr>
<tr>
<td><em>Juniperus silicicola</em></td>
<td>Southern Red Cedar</td>
<td>E</td>
<td>WD</td>
<td>F, P</td>
<td>Medium</td>
<td>25-30'</td>
<td>12'</td>
<td>113</td>
<td>15-30</td>
</tr>
<tr>
<td><em>Lagerstroemia indica</em></td>
<td>Crape Myrtle</td>
<td>D</td>
<td>WD-M</td>
<td>F</td>
<td>High</td>
<td>15-25'</td>
<td>12'</td>
<td>113</td>
<td>0</td>
</tr>
<tr>
<td><em>Persea borbonia</em></td>
<td>Red Bay</td>
<td>E</td>
<td>A</td>
<td>F, P</td>
<td>High</td>
<td>20-60'</td>
<td>12'</td>
<td>113</td>
<td>15-30</td>
</tr>
<tr>
<td><em>Quercus lyrata</em></td>
<td>Overcup Oak</td>
<td>D</td>
<td>WD-M</td>
<td>F, P</td>
<td>Medium</td>
<td>30-40'</td>
<td>35'</td>
<td>962</td>
<td>30+</td>
</tr>
<tr>
<td><em>Tabebuia chrysotricha</em></td>
<td>Yellow Trumpet Tree</td>
<td>Semi E</td>
<td>WD</td>
<td>F</td>
<td>Medium</td>
<td>25-35'</td>
<td>25'</td>
<td>0</td>
<td>15-30</td>
</tr>
<tr>
<td><em>Tabebuia heterophylla</em></td>
<td>Pink Trumpet Tree</td>
<td>D</td>
<td>WD</td>
<td>F</td>
<td>High</td>
<td>20-30'</td>
<td>20'</td>
<td>0</td>
<td>15-30</td>
</tr>
<tr>
<td><em>Tabebuia impetiginosa</em></td>
<td>Purple Trumpet Tree</td>
<td>Semi E</td>
<td>WD</td>
<td>F</td>
<td>High</td>
<td>12-18'</td>
<td>10'</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

#### SMALL SIZED TREES

<table>
<thead>
<tr>
<th>Species</th>
<th>Common Name</th>
<th>Type</th>
<th>Soil</th>
<th>Light</th>
<th>Drought Tolerance</th>
<th>Mature Height</th>
<th>Mature Crown Spread</th>
<th>Mature Canopy Area (sq. ft.)</th>
<th>P/L</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Aesculus pavia</em></td>
<td>Florida Buckeye</td>
<td>D</td>
<td>WD-M</td>
<td>S, P</td>
<td>Medium</td>
<td>15-20'</td>
<td>20</td>
<td>315</td>
<td>0</td>
</tr>
<tr>
<td><em>Callistemon rigidus</em></td>
<td>Bottlebrush, stiff</td>
<td>E</td>
<td>M-W</td>
<td>F, P</td>
<td>High</td>
<td>8-15</td>
<td>5</td>
<td>20</td>
<td>0</td>
</tr>
<tr>
<td><em>Callistemon viminalis</em></td>
<td>Bottlebrush, weeping</td>
<td>E</td>
<td>W</td>
<td>F</td>
<td>High</td>
<td>15-20'</td>
<td>10</td>
<td>79</td>
<td>0</td>
</tr>
<tr>
<td><em>Chionanthus virginicus</em></td>
<td>Fringetree</td>
<td>D</td>
<td>WD-M</td>
<td>P, F, S</td>
<td>Medium</td>
<td>15-25'</td>
<td>10</td>
<td>79</td>
<td>0'</td>
</tr>
<tr>
<td><em>Cornus florida</em></td>
<td>Flowering Dogwood</td>
<td>D</td>
<td>WD</td>
<td>P, F, S</td>
<td>Medium</td>
<td>20-30'</td>
<td>16</td>
<td>201</td>
<td>15-30</td>
</tr>
<tr>
<td><em>Eriobotrya japonica</em></td>
<td>Loquat</td>
<td>E</td>
<td>WD</td>
<td>F, P</td>
<td>Medium</td>
<td>15-20'</td>
<td>10</td>
<td>79</td>
<td>0</td>
</tr>
<tr>
<td><em>Illex vomitoria</em></td>
<td>Yaupon Holly</td>
<td>E</td>
<td>A</td>
<td>P, F</td>
<td>High</td>
<td>15-25'</td>
<td>8</td>
<td>50</td>
<td>0</td>
</tr>
<tr>
<td><em>Magnolia Xsoulangiana</em></td>
<td>Saucer Magnolia</td>
<td>D</td>
<td>WD-M</td>
<td>F, P</td>
<td>Low</td>
<td>20-25'</td>
<td>20</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><em>Osmanthus americanus</em></td>
<td>Wild Olive</td>
<td>E</td>
<td>A</td>
<td>F, P</td>
<td>Medium</td>
<td>15-30'</td>
<td>8</td>
<td>50</td>
<td>0</td>
</tr>
<tr>
<td><em>Prunus angustifolia</em></td>
<td>Chickasaw Plum</td>
<td>D</td>
<td>WD</td>
<td>P, F</td>
<td>High</td>
<td>15-20'</td>
<td>15</td>
<td>177</td>
<td>0</td>
</tr>
<tr>
<td><em>Prunus umbellate</em></td>
<td>Flatwoods Plum</td>
<td>D</td>
<td>M</td>
<td>P, F</td>
<td>Medium</td>
<td>12-20'</td>
<td>15</td>
<td>177</td>
<td>0</td>
</tr>
<tr>
<td><em>Quercus geminata</em></td>
<td>Sand Live Oak</td>
<td>E</td>
<td>WD</td>
<td>F</td>
<td>High</td>
<td>15-30'</td>
<td>12</td>
<td>113</td>
<td>0</td>
</tr>
</tbody>
</table>

**Key**

*Type:*  
**D** = Deciduous,  
**E** = Evergreen

*Soil Type:*  
**WD** = Well Drained,  
**M** = Medium Drained  
**W** = Wet,  
**A** = All Types

*Light:*  
**S** = Shade,  
**P** = Partial Shade,  
**F** = Full Sun

*P/L:* Distance from Power Lines
# Table 3.07.09. C
## Large Shrubs

<table>
<thead>
<tr>
<th>Species</th>
<th>Common Name</th>
<th>Soil</th>
<th>Light</th>
<th>Drought Tolerance</th>
<th>Height</th>
<th>Spread</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abelia Xgrandiflora</td>
<td>Glossy Abelia</td>
<td>WD</td>
<td>F, P</td>
<td>M</td>
<td>6-10'</td>
<td>6-10'</td>
</tr>
<tr>
<td>Agarista populifolia</td>
<td>Fetterbush</td>
<td>A</td>
<td>S, P</td>
<td>M</td>
<td>8-12'</td>
<td>5-10'</td>
</tr>
<tr>
<td>Allamanda nerifolia</td>
<td>Bush Allamanda</td>
<td>WD</td>
<td>P, S</td>
<td>M</td>
<td>5-15'</td>
<td>4-10'</td>
</tr>
<tr>
<td>Aloysia virgate</td>
<td>Sweet Almond Bush</td>
<td>M</td>
<td>F</td>
<td>H</td>
<td>6-12'</td>
<td>6-12'</td>
</tr>
<tr>
<td>Asimina spp.</td>
<td>Pawpaw</td>
<td>WD-M</td>
<td>F, P, S</td>
<td>M</td>
<td>15-20'</td>
<td>15-20'</td>
</tr>
<tr>
<td>Baccharis halimifolia</td>
<td>Groundsel Bush, Salt Bush</td>
<td>A</td>
<td>F</td>
<td>M</td>
<td>8-10'</td>
<td>6-12'</td>
</tr>
<tr>
<td>Berberis julianae</td>
<td>Wintergreen Barberry</td>
<td>M</td>
<td>F, P</td>
<td>M</td>
<td>4-6'</td>
<td>2-5'</td>
</tr>
<tr>
<td>Brunfelsia grandiflora</td>
<td>Yesterday-Today-and-Tomorrow</td>
<td>WD</td>
<td>F, P, S</td>
<td>M</td>
<td>7-10'</td>
<td>5-8'</td>
</tr>
<tr>
<td>Buddleia lindleyana</td>
<td>Butterfly Bush</td>
<td>WD</td>
<td>F</td>
<td>M</td>
<td>4-6'</td>
<td>4-6'</td>
</tr>
<tr>
<td>Callicarpa americana</td>
<td>Beautyberry</td>
<td>WD</td>
<td>P, S</td>
<td>H</td>
<td>6-8'</td>
<td>6-8'</td>
</tr>
<tr>
<td>Calycanthus floridus</td>
<td>Eastern Sweetshrub</td>
<td>WD-M</td>
<td>P, S</td>
<td>M</td>
<td>6-9'</td>
<td>6-12'</td>
</tr>
<tr>
<td>Camellia japonica</td>
<td>Camellia</td>
<td>M</td>
<td>P, S</td>
<td>M</td>
<td>10-20'</td>
<td>10-20’</td>
</tr>
<tr>
<td>Carissa macrocarpa</td>
<td>Natal Plum</td>
<td>WD</td>
<td>F, P</td>
<td>H</td>
<td>2-20'</td>
<td>2-20'</td>
</tr>
<tr>
<td>Cestrum aurantiacum</td>
<td>Orange Jessamine</td>
<td>WD</td>
<td>P, F</td>
<td>M</td>
<td>4-10'</td>
<td>6-8'</td>
</tr>
<tr>
<td>Clethra alnifolia</td>
<td>Sweet Pepperbush</td>
<td>A</td>
<td>P, F, S</td>
<td>M</td>
<td>4-8'</td>
<td>4-8'</td>
</tr>
<tr>
<td>Crataegus spp.</td>
<td>Hawthorn</td>
<td>A</td>
<td>F, P</td>
<td>H</td>
<td>20-35'</td>
<td>15-40'</td>
</tr>
<tr>
<td>Erythrina herbacea</td>
<td>Coral Bean</td>
<td>WD-M</td>
<td>F, P</td>
<td>H</td>
<td>5-10'</td>
<td>8-12'</td>
</tr>
<tr>
<td>Forestiera segregate</td>
<td>Florida Privet</td>
<td>WD-M</td>
<td>P, F</td>
<td>H</td>
<td>4-15'</td>
<td>3-12'</td>
</tr>
<tr>
<td>Galphimia glauca</td>
<td>Thryallis</td>
<td>WD</td>
<td>F</td>
<td>M</td>
<td>5-9’</td>
<td>4-6'</td>
</tr>
<tr>
<td>Gardenia jasminoides</td>
<td>Gardenia</td>
<td>WD</td>
<td>S, P</td>
<td>M</td>
<td>4-8’</td>
<td>4-8’</td>
</tr>
<tr>
<td>Hamelia atens</td>
<td>Firebush</td>
<td>WD-M</td>
<td>F, P, S</td>
<td>M</td>
<td>5-20’</td>
<td>5-8’</td>
</tr>
<tr>
<td>Heptapleurum arboricola</td>
<td>Dwarf Scheffler</td>
<td>WD-M</td>
<td>P, F</td>
<td>H</td>
<td>10-15’</td>
<td>6-15’</td>
</tr>
</tbody>
</table>

**Key**

*Soil Type:* WD = Well Drained, M = Medium Drained, W = Wet, A = All Types

*Light:* S = Shade, P = Partial Shade, F = Full Sun

*Drought Tolerance:* H = High, M = Medium, L = Low, N = None
### Table 3.07.09. C
Large Shrubs

<table>
<thead>
<tr>
<th>Species</th>
<th>Common Name</th>
<th>Soil</th>
<th>Light</th>
<th>Drought Tolerance</th>
<th>Height</th>
<th>Spread</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hibiscus spp.</td>
<td>Hibiscus</td>
<td>WD-M</td>
<td>F, P</td>
<td>M</td>
<td>4-12’</td>
<td>3-10’</td>
</tr>
<tr>
<td>Hydrangea arborescens</td>
<td>Wild Hydrangea</td>
<td>WD-M</td>
<td>P</td>
<td>N</td>
<td>6-10’</td>
<td>6-10’</td>
</tr>
<tr>
<td>Hydrangea macrophylla</td>
<td>French Hydrangea</td>
<td>WD-M</td>
<td>S, P</td>
<td>M</td>
<td>6-10’</td>
<td>6-10’</td>
</tr>
<tr>
<td>Hydraneea quercifolia</td>
<td>Oakleaf Hydrangea</td>
<td>WD-M</td>
<td>F, P, S</td>
<td>M</td>
<td>6-10’</td>
<td>6-8’</td>
</tr>
<tr>
<td>Ilex X’ Mary Nell’</td>
<td>Mary Nell Holly</td>
<td>WD-M</td>
<td>F, P</td>
<td>M</td>
<td>10-20’</td>
<td>10-15’</td>
</tr>
<tr>
<td>Illicium spp.</td>
<td>Star Anise</td>
<td>WD</td>
<td>P, F</td>
<td>M</td>
<td>10-15’</td>
<td>6-15’</td>
</tr>
<tr>
<td>Jasminum mesnyi</td>
<td>Primrose Jasmine</td>
<td>WD-M</td>
<td>F</td>
<td>M</td>
<td>5-10’</td>
<td>2-5’</td>
</tr>
<tr>
<td>Jasminum multiflorum</td>
<td>Downy Jasmine</td>
<td>WD</td>
<td>F, P</td>
<td>M</td>
<td>5-10’</td>
<td>5-10’</td>
</tr>
<tr>
<td>Jasminum nitidum</td>
<td>Star Jasmine</td>
<td>WD</td>
<td>F</td>
<td>M</td>
<td>10-20’</td>
<td>5-10’</td>
</tr>
<tr>
<td>Jatropha integerrima</td>
<td>Peregrina</td>
<td>WD</td>
<td>F, P</td>
<td>H</td>
<td>8-15’</td>
<td>5-10’</td>
</tr>
<tr>
<td>Ligustrum japonicum</td>
<td>Ligustrum</td>
<td>WD</td>
<td>F, P</td>
<td>H</td>
<td>8-12’</td>
<td>15-25’</td>
</tr>
<tr>
<td>Loropetalum chinense</td>
<td>Chinese Fringe Bush</td>
<td>WD</td>
<td>F, P</td>
<td>M</td>
<td>6-15’</td>
<td>8-10’</td>
</tr>
<tr>
<td>Malaviscus arboreus</td>
<td>Turk’s Cap</td>
<td>WD-M</td>
<td>F</td>
<td>M</td>
<td>6-12’</td>
<td>3-5’</td>
</tr>
<tr>
<td>Myrica cerifera</td>
<td>Wax Myrtle</td>
<td>A</td>
<td>F, P</td>
<td>M</td>
<td>10-40’</td>
<td>20’-25’</td>
</tr>
<tr>
<td>Nerium oleander</td>
<td>Oleander</td>
<td>WD</td>
<td>F, P</td>
<td>H</td>
<td>4-18’</td>
<td>3-15’</td>
</tr>
<tr>
<td>Osmanthus fragrans</td>
<td>Tea Olive</td>
<td>WD</td>
<td>F, P</td>
<td>M</td>
<td>15-30</td>
<td>15-20’</td>
</tr>
<tr>
<td>Philadelphus inodorus</td>
<td>English Dogwood</td>
<td>M-W</td>
<td>P, F</td>
<td>H</td>
<td>10-12’</td>
<td>6-10’</td>
</tr>
<tr>
<td>Philodendron bipinnatifidum</td>
<td>Tree Philodendron</td>
<td>WD-M</td>
<td>S, P</td>
<td>M</td>
<td>6-12’</td>
<td>10-15’</td>
</tr>
<tr>
<td>Philodendron cvs.</td>
<td>Philodendron</td>
<td>A</td>
<td>S, P</td>
<td>M</td>
<td>1-12’</td>
<td>2-15’</td>
</tr>
<tr>
<td>Pittosporum tobira cvs.</td>
<td>Pittosporum</td>
<td>WD</td>
<td>F, P</td>
<td>H</td>
<td>8-12’</td>
<td>12-18’</td>
</tr>
<tr>
<td>Plumbago auriculata</td>
<td>Plumbago</td>
<td>WD</td>
<td>F</td>
<td>M</td>
<td>3’-6’</td>
<td>3’-6’</td>
</tr>
<tr>
<td>Podocarpus macrophyllum</td>
<td>Podocarpus</td>
<td>WD</td>
<td>F, P</td>
<td>H</td>
<td>30-40’</td>
<td>20-25’</td>
</tr>
<tr>
<td>Rhododendron cvs.</td>
<td>Azalea</td>
<td>WD</td>
<td>P</td>
<td>M</td>
<td>3-12’</td>
<td>3-10’</td>
</tr>
<tr>
<td>Sabal minor</td>
<td>Dwarf Palmetto</td>
<td>WD-M</td>
<td>P, F, S</td>
<td>H</td>
<td>4-9’</td>
<td>4-8’</td>
</tr>
<tr>
<td>Thunbergia erecta</td>
<td>King’s Mantle, Bush Clock Vine</td>
<td>WD-M</td>
<td>P, F</td>
<td>M</td>
<td>4-6’</td>
<td>5-8’</td>
</tr>
</tbody>
</table>

**Key**

**Soil Type:** WD = Well Drained, M = Medium Drained, W = Wet, A = All Types

**Light:** S = Shade, P = Partial Shade, F = Full Sun

**Drought Tolerance:** H = High, M = Medium, L = Low, N = None
Table 3.07.09. C.
Large Shrubs

<table>
<thead>
<tr>
<th>Species</th>
<th>Common Name</th>
<th>Soil</th>
<th>Light</th>
<th>Drought Tolerance</th>
<th>Height</th>
<th>Spread</th>
</tr>
</thead>
<tbody>
<tr>
<td>Viburnum obovatum</td>
<td>Walter’s Viburnum</td>
<td>WD</td>
<td>P, F, S</td>
<td>H</td>
<td>8-25’</td>
<td>6-10’</td>
</tr>
<tr>
<td>Viburnum odoratissimum</td>
<td>Sweet Viburnum</td>
<td>WD</td>
<td>F, P, S</td>
<td>M</td>
<td>15-30’</td>
<td>15-25’</td>
</tr>
<tr>
<td>Viburnum suspensum</td>
<td>Sandankwa Viburnum</td>
<td>WD</td>
<td>P, S</td>
<td>L</td>
<td>6-12’</td>
<td>6-12’</td>
</tr>
<tr>
<td>Vitex agnus-castus</td>
<td>Chaste Tree</td>
<td>WD</td>
<td>F, P, S</td>
<td>H</td>
<td>10-20’</td>
<td>15-20’</td>
</tr>
<tr>
<td>Yucca spp.</td>
<td>Yucca</td>
<td>WD</td>
<td>F, P</td>
<td>H</td>
<td>3-30’</td>
<td>3-15’</td>
</tr>
</tbody>
</table>

Key

**Soil Type:** WD = Well Drained, M = Medium Drained, W = Wet, A = All Types

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Table 3.07.09. D.
Small Shrubs

<table>
<thead>
<tr>
<th>Species</th>
<th>Common Name</th>
<th>Soil</th>
<th>Light</th>
<th>Drought Tolerance</th>
<th>Height</th>
<th>Spread</th>
</tr>
</thead>
<tbody>
<tr>
<td>Caesalpinia spp. And cvs.</td>
<td>Poinciana</td>
<td>WD-M</td>
<td>F</td>
<td>M</td>
<td>8-35’</td>
<td>10-35’</td>
</tr>
<tr>
<td>Gamolepis spp.</td>
<td>Bush Daisy</td>
<td>WD</td>
<td>F</td>
<td>M</td>
<td>2-4’</td>
<td>3-4’</td>
</tr>
<tr>
<td>Ixora cocinea</td>
<td>Ixora</td>
<td>WD</td>
<td>F</td>
<td>M</td>
<td>10-15’</td>
<td>4-10’</td>
</tr>
<tr>
<td>Lantana depressa</td>
<td>Weeping Lantana</td>
<td>WD</td>
<td>F</td>
<td>M</td>
<td>3-6’</td>
<td>3-6’</td>
</tr>
<tr>
<td>Leucophyllym frutescens</td>
<td>Texas Sage, Silverleaf</td>
<td>WD</td>
<td>F</td>
<td>H</td>
<td>3-5’</td>
<td>3-5’</td>
</tr>
<tr>
<td>Lyonia lucida</td>
<td>Fetterbush</td>
<td>WD-M</td>
<td>F, P</td>
<td>H</td>
<td>3-15’</td>
<td>2-5’</td>
</tr>
<tr>
<td>Mahonia fortune</td>
<td>Fortune’s Mahonia</td>
<td>WD</td>
<td>S, P</td>
<td>M</td>
<td>3-5’</td>
<td>3-5’</td>
</tr>
<tr>
<td>Pyracantha coccinea</td>
<td>Firethorn</td>
<td>WD-M</td>
<td>F, P</td>
<td>M</td>
<td>10-15’</td>
<td>8-12’</td>
</tr>
<tr>
<td>Raphiolepis spp. And cvs.</td>
<td>Indian Hawthorn</td>
<td>WD-M</td>
<td>F, P</td>
<td>H</td>
<td>2-10’</td>
<td>2-6’</td>
</tr>
<tr>
<td>Rosa spp.</td>
<td>Rose</td>
<td>WD</td>
<td>F</td>
<td>M</td>
<td>1-20’</td>
<td>2-8’</td>
</tr>
<tr>
<td>Rosmarinus spp.</td>
<td>Rosemary</td>
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<td>F, P</td>
<td>H</td>
<td>3-6’</td>
<td>4-5’</td>
</tr>
<tr>
<td>Russelia equisetiformis</td>
<td>Coral Plant</td>
<td>WD</td>
<td>F</td>
<td>H</td>
<td>3-5’</td>
<td>6-12’</td>
</tr>
<tr>
<td>Russelia sarmentosa</td>
<td>Firecracker Plant</td>
<td>WD</td>
<td>F, P</td>
<td>M</td>
<td>3-4’</td>
<td>2-4’</td>
</tr>
<tr>
<td>Sabal etonia</td>
<td>Scrub Palmetto</td>
<td>WD</td>
<td>F, P</td>
<td>H</td>
<td>4-6’</td>
<td>4-6’</td>
</tr>
</tbody>
</table>

Key

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### Table 3.07.09. E
Ground Covers

<table>
<thead>
<tr>
<th>Species</th>
<th>Common Name</th>
<th>Soil</th>
<th>Light</th>
<th>Drought Tolerance</th>
<th>Height</th>
<th>Spread</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aloe spp.</td>
<td>Aloe</td>
<td>WD</td>
<td>F, P</td>
<td>H</td>
<td>1-3’</td>
<td>1-3’</td>
</tr>
<tr>
<td>Anthericum sanderi</td>
<td>St. Bernard’s Lily</td>
<td>WD</td>
<td>F, P</td>
<td>M</td>
<td>1-1½’</td>
<td>½ - 1’</td>
</tr>
<tr>
<td>Arachis glabrata</td>
<td>Perennial Peanut</td>
<td>WD</td>
<td>F</td>
<td>H</td>
<td>½ - 1’</td>
<td>1-8’</td>
</tr>
<tr>
<td>Aspidistra elatior</td>
<td>Cast Iron Plant</td>
<td>WD</td>
<td>P, S</td>
<td>M</td>
<td>1-3’</td>
<td>1-3’</td>
</tr>
<tr>
<td>Cyrtomium falcatum</td>
<td>Holly Fern</td>
<td>WD-M</td>
<td>P, F, S</td>
<td>M</td>
<td>2-3’</td>
<td>3-4’</td>
</tr>
<tr>
<td><em>Dyschoriste oblongifolia</em></td>
<td></td>
<td>WD</td>
<td>F</td>
<td>H</td>
<td>½ - 1’</td>
<td>1-½’</td>
</tr>
<tr>
<td>Evolvulus glomeratus</td>
<td>Blue Daze</td>
<td>WD</td>
<td>P</td>
<td>M</td>
<td>½ - 1’</td>
<td>1-2’</td>
</tr>
<tr>
<td>Glandularia tampensis</td>
<td>Tampa Vervain</td>
<td>WD</td>
<td>F</td>
<td>H</td>
<td>1½ - 2’</td>
<td>1 - 1½’</td>
</tr>
<tr>
<td><em>Hedera canariensis</em></td>
<td>Algerian Ivy, Canary Ivy</td>
<td>WD</td>
<td>S</td>
<td>M</td>
<td>½ - 1’</td>
<td>1-6’</td>
</tr>
<tr>
<td><em>Helianthus debilis</em></td>
<td>Beach Sunflower</td>
<td>WD</td>
<td>F</td>
<td>H</td>
<td>Up to 2’</td>
<td>6’ or more</td>
</tr>
<tr>
<td>Ipomoea spp.</td>
<td>Sweet Potato Vine</td>
<td>WD-M</td>
<td>F, P</td>
<td>H</td>
<td>10-20’</td>
<td>10-40’</td>
</tr>
<tr>
<td><em>Juniperus conferta and cvs.</em></td>
<td>Shore Juniper</td>
<td>WD</td>
<td>F</td>
<td>H</td>
<td>1-2’</td>
<td>6-10’</td>
</tr>
<tr>
<td>Lantana montevidensis</td>
<td>Trailing Lantana</td>
<td>WD</td>
<td>F</td>
<td>M</td>
<td>1-3’</td>
<td>4-8’</td>
</tr>
<tr>
<td><em>Liriope muscari and cvs.</em></td>
<td>Liriope, Monkey Grass, Border Grass</td>
<td>WD</td>
<td>F, P, S</td>
<td>M</td>
<td>1-2’</td>
<td>1-2’</td>
</tr>
<tr>
<td>Mimosa strigillosa</td>
<td>Powderpuff, Sunshine Mimosa</td>
<td>WD</td>
<td>F</td>
<td>M</td>
<td>½ - ¾’</td>
<td>8-10’</td>
</tr>
<tr>
<td>Ophiopogon japonicas and cvs.</td>
<td>Mondo Grass, Dwarf Liriope</td>
<td>WD</td>
<td>S, P</td>
<td>M</td>
<td>½ - 1’</td>
<td>½ - 2’</td>
</tr>
<tr>
<td>Phyla nodiflora</td>
<td>Capeweed</td>
<td>WD-M</td>
<td>F, P</td>
<td>M</td>
<td>½ - 1’</td>
<td>8-10’</td>
</tr>
<tr>
<td>Trachelospermum jasminoides</td>
<td>Confederate Jasmine, Star Jasmine</td>
<td>WD-M</td>
<td>F, P</td>
<td>M</td>
<td>1-3’</td>
<td>1-30’</td>
</tr>
<tr>
<td>Vinca major</td>
<td>Periwinkle</td>
<td>WD-M</td>
<td>P, F, S</td>
<td>M</td>
<td>1-2’</td>
<td>1-5’</td>
</tr>
</tbody>
</table>

**Key**

- **Soil Type:** WD = Well Drained, M = Medium Drained, W = Wet, A = All Types
- **Light:** S = Shade, P = Partial Shade, F = Full Sun
- **Drought Tolerance:** H = High, M = Medium, L = Low, N = None
# Table 3.07.09. F.
## Lawn Grass Species

<table>
<thead>
<tr>
<th>CHARACTERISTICS</th>
<th>BAHIA</th>
<th>BERMUDA</th>
<th>CARPETGRASS</th>
<th>SEASHORE PASPALUM</th>
<th>ST. AUGUSTINE</th>
<th>ZOYSIA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Area Adapted To</td>
<td>Statewide</td>
<td>Statewide</td>
<td>Wet Areas</td>
<td>Statewide</td>
<td>Statewide</td>
<td>Statewide</td>
</tr>
<tr>
<td>Soil</td>
<td>Acid, Sandy</td>
<td>Whole Range</td>
<td>Acid, Wet</td>
<td>Wide Range</td>
<td>Wide Range</td>
<td>Wide Range</td>
</tr>
<tr>
<td>Leaf Texture</td>
<td>Coarse-Medium</td>
<td>Fine-Medium</td>
<td>Medium</td>
<td>Fine-Medium</td>
<td>Coarse-Medium</td>
<td>Fine-Medium</td>
</tr>
<tr>
<td>Drought Tolerance</td>
<td>Excellent</td>
<td>Good</td>
<td>Poor</td>
<td>Good</td>
<td>Fair</td>
<td>Medium</td>
</tr>
<tr>
<td>Shade Tolerance</td>
<td>Poor</td>
<td>Poor</td>
<td>Fair</td>
<td>Poor</td>
<td>Good</td>
<td>Good</td>
</tr>
<tr>
<td>Wear Tolerance</td>
<td>Poor</td>
<td>Good-Excellent</td>
<td>Poor</td>
<td>Good-Excellent</td>
<td>Poor</td>
<td>Good-Excellent</td>
</tr>
<tr>
<td>Nematode Tolerance</td>
<td>Very Good</td>
<td>Poor</td>
<td>Poor</td>
<td>Good</td>
<td>Good</td>
<td>Poor</td>
</tr>
<tr>
<td>Maintenance Levels</td>
<td>Low</td>
<td>Medium-High</td>
<td>Low</td>
<td>Medium</td>
<td>Medium</td>
<td>High</td>
</tr>
<tr>
<td>Uses</td>
<td>Lawns, roadsides</td>
<td>Athletic Fields, golf courses</td>
<td>Wet Areas</td>
<td>Lawns, athletic fields, golf courses</td>
<td>Lawns</td>
<td>Lawns</td>
</tr>
<tr>
<td>Establishment Methods</td>
<td>Seed, Sod</td>
<td>Sod, sprigs, plugs, some seed</td>
<td>Seed, sprigs</td>
<td>Sod, plugs, sprigs</td>
<td>Sod, plugs, sprigs</td>
<td>Sod, plugs, sprigs</td>
</tr>
</tbody>
</table>

*Source: “Selecting a Turf Grass for Florida Lawns,” University of Florida IFAS Extension (ENHO4, 2007).*
[RESERVED]
3.08.00 Development Standards for Uses Permitted by Special Exception

The purpose of this Section is to create an approval process for Special Exception uses, those that are permitted only through special application and public review. Its intent is to ensure that such uses, if approved, are compatible with surrounding properties, and are developed in suitable locations with those design features that are necessary to safeguard the public health, safety, and welfare.

Special Exceptions shall be granted in accordance with the provisions of Section 7.06.00. Special standards and requirements presented in this Section are conditions for approval of the Special Exception and shall be binding on all development authorized under the Special Exception.

The following standards apply to uses listed as Special Exceptions in Section 2.04.01, Table A, and approved under the provisions of Section 7.06.00. Where standards provided herein exceed and/or create greater restrictions than those of the underlying zoning district, this Section shall supersede any other provision of this Code. Where no standard is established in this Section, that of the relevant zoning district shall apply.

3.08.01 Single Family Detached Dwelling Units

Single Family Detached Dwelling Units include Manufactured (mobile) home Parks, RV Parks, Single Family Standard Construction Homes, Single Family Manufactured Home and Single Family Manufactured (mobile) home. The definitions of these terms can be found in Article 9. The districts in which any one of these uses is allowed can be found in Table 2.04.01(A), Table of Land Uses, in Article 2.

3.08.01.01 Manufactured (mobile) Home Parks

The purpose of this Section is to establish locations suitable for manufactured (mobile) home development on undivided property, along with open space and other amenities for the common use of residents; to designate those uses and activities that are appropriate for and compatible with such areas; and to establish standards and provisions necessary to ensure proper development and public safety in a manufactured (mobile) home park setting.

Manufactured (mobile) home parks may be permitted in MH and P-I districts with a site development plan. However, the development standards set forth in this Section shall supersede normal development standards applicable in residential districts.

(A) Tract Requirements. The tract requirements are listed in the Table of Development Standards, Table 3.08.01.01(A), with additional requirements as follows:

(1) Minimum Yard Requirements:

a. No manufactured (mobile) home or structure shall be placed
less than 50 feet from the front property line or 30 feet from other property lines. Where the development site adjoins property with a commercial or industrial zoning designation, the required side and rear setback shall be 15 feet.

b. Manufactured (mobile) homes and structures shall be placed at least 20 feet from the pavement edge of private park roads.

c. Each manufactured (mobile) home shall be setback 7.5 feet from the property line. There shall be a minimum of 15 feet between manufactured (mobile) homes and between all other structures. In making an addition to a manufactured (mobile) home, a carport or other appurtenant structure, the minimum standard of 15 feet between structures must be met.

<table>
<thead>
<tr>
<th></th>
<th>Max. Density (units /acre)</th>
<th>Minimum Tract/Lot Size</th>
<th>Minimum Tract/Lot Width</th>
<th>Floor Area Ratio of Living Area</th>
<th>Setbacks (feet)</th>
<th>Max. Bldg. Height (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Per Tract</td>
<td>1-12*</td>
<td>5 acres</td>
<td>150 x 200</td>
<td></td>
<td>50</td>
<td>30</td>
</tr>
<tr>
<td>Per Unit</td>
<td>1-12*</td>
<td>4,000 s.f.</td>
<td>40</td>
<td>500 s.f. min.</td>
<td>20</td>
<td>15</td>
</tr>
</tbody>
</table>

* = Maximum density determined by Future Land Use category.
Note: 15 feet must be between manufactured (mobile) home units, i.e., 7.5 foot side setback on each side.

(2) Manufactured (mobile) Home Park Abutting Residential Areas. Where any property line of a manufactured (mobile) home park abuts land either zoned for residential use or occupied by a residential use permitted by this Code, there shall be provided and maintained along, or within 10 feet of, said property line, a solid face masonry wall, with a finish of stucco or other texture, no less than six (6) feet in height, which shall be in addition to the buffer yard required by Section 3.07.00.
(3) Manufactured (mobile) Home Park Abutting an Agricultural Use Area. Where a manufactured (mobile) home park abuts an Agricultural use, the park setbacks shall be fifty feet (50’) for the front, sides and rear.

(B) Allowable Accessory Uses

(1) Clubhouse, laundry, convenience store (no gasoline sales), hurricane/storm shelter, swimming pool, and other shared facilities for the common use of the residents of a development.

(2) No more than one (1) single family home, at lease 600 s.f. in size, for the use of a resident manager.

(3) Carports, porches and awnings which are physically attached to manufactured (mobile) homes. Such structures shall not exceed a cumulative total of 300 s.f. Freestanding cabanas, storage sheds, and other detached structures for private use are prohibited.

(4) Storage area for boats, RVs, and other types of vehicles which exceed 30 feet in length. Storage area is for the use of park residents only, and shall be fenced and landscaped. Storage of these units shall be prohibited on individual manufactured (mobile) home sites or on park roads.

(C) Other Requirements

(1) Ownership. Manufactured (mobile) home parks may not be platted or otherwise divided by fee simple ownership; however, the sale of interests or memberships on a condominium basis is permitted. All facilities, including roads, shall be privately owned or owned in common by residents of the park, and shall not occupy parcels of land which are deeded separately from the rest of the park. The City of Mulberry shall not be responsible for maintenance and/or repair of common facilities within a manufactured (mobile) home park.

(2) Parking. For each manufactured (mobile) home site, two (2) paved off-street parking spaces shall be provided. Each space must be a minimum of 10 feet by 20 feet.

(3) Common Open Space. An area comprising 20 percent of the development site or 5 acres, whichever is less, shall be set aside as common open space as defined in Article 9.

(4) Hurricane Shelter. Each manufactured (mobile) home park must provide one or more buildings to house guests in a permanent
building in the event of a hurricane, at a rate of twenty square feet (20') of habitable floor space per person. Alternative cooking fuel sources; electrical generation for emergency lighting; sanitary sewer facilities; and, an alternate form of fresh water (i.e. water stored in drums or a well serving the shelter separate from the well system in place for the park) shall be provided and maintained. Each building must be built to conform with the Standard Building Code for hurricane shelters.

To calculate the number of persons per park that would require shelter, each manufactured (mobile) home unit will be counted at a minimum of two persons per home. Shelter space would have to be provided for 100% of the total park population.

Service buildings may be used as hurricane shelters as long as the buildings are built to minimum Standard Building Code regulations for hurricane shelters.

(5) Nonconformities. No new manufactured (mobile) homes may be added to an existing manufactured (mobile) home park which does not comply with applicable requirements of this Code. However, previously installed units may be moved and additional property and common facilities may be incorporated into the site, if such activities will eliminate nonconforming conditions or reduce the degree of nonconformity. See Section 7.06.00.

(6) Site Development Plan. No manufactured (mobile) homes, structures or facilities shall be installed or constructed until a site development plan meeting the requirements of Section 7.04.00 of this Code has been submitted to and approved by the City Manager, or his/her designee. All improvements, regardless of timing or project phasing, shall be substantially consistent with the approved site development plan.

Where an existing manufactured (mobile) home park has no site development plan, such a plan shall be prepared and submitted to the City Manager, or his/her designee, prior to the addition, improvement, rearrangement or replacement of park facilities or manufactured (mobile) homes.

3.08.01.02 Recreation Vehicle Parks (RV) and Campgrounds

It is the purpose of these standards to provide minimum development guidelines for a RV park and a RV campground designed only to accommodate the RV. For the purposes of this ordinance, an RV park is defined as a development in which RVs, and or "park model" manufactured (mobile) homes or manufactured (mobile) homes
are permanently sited and occupied year round. A RV campground, on the other hand, is a development for overnight or limited vacation-season type. These provisions are intended to protect established or permitted uses in the vicinity of such a park or campground, and to protect and promote the orderly growth and development of the City.

(A) General Requirements. RV parks shall be permitted with Special Exception approval in MH district. RV campgrounds will be permitted with Special Exception approval in OR district. The development standards of this section shall apply to both RV parks and campgrounds.

RV campgrounds meeting the required design and compatibility standards shall accommodate the traveling public for a defined maximum time period associated with the specialized seasonal vacation and transient characteristics of such development, in contrast to the more permanent and extended stay characteristics of a RV park and a manufactured (mobile) home park.

(B) Environmental Requirements

(1) General. Condition of soil, groundwater level, drainage, and topography shall not create hazards to the property or to the health and safety of the occupants.

(2) Soil and Ground Cover Requirements. Exposed ground surfaces in all parts of every vehicle site area or other vehicle parking area shall be paved, or covered with stone screening, or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.

(3) Drainage Requirements. Surface drainage plans for the entire tract shall be reviewed by appropriate City staff, who shall determine whether the proposed plan is compatible with the surrounding existing drainage pattern and any relevant drainage plan of the City or Polk County, prior to issuance of building permits. No permit shall be issued in such instance where the Building Director finds the plan to be incompatible with surrounding areas.
Table 3.08.01.02(A)
Table of Development Standards
RV Park or Campground

<table>
<thead>
<tr>
<th></th>
<th>Max. Density (units/ acre)</th>
<th>Minimum Tract/ Lot Size</th>
<th>Minimum Tract/Lot Width (feet)</th>
<th>Setbacks (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Per Tract</td>
<td>6-LDR* 12-MDR*</td>
<td>5 acres</td>
<td>150 x 200</td>
<td>Front 25, Rear 15, Sides 25</td>
</tr>
<tr>
<td>Per Unit</td>
<td>1200 s.f.</td>
<td>20 x 40</td>
<td>10</td>
<td>15</td>
</tr>
</tbody>
</table>

LDR* = Low Density Residential Land Use Classification
MDR* = Medium Density Residential Land Use Classification

(C) Tract Requirements. The tract requirements are listed in the Table of Development Standards, Table 3.08.01.02(A) above, with additional requirements as follows:

1. The tract shall have at least 75 feet of frontage on a Principal Arterial roadway, as designated on the Future Traffic Circulation Map of the City of Mulberry Comprehensive Plan.

2. The minimum width of the tract shall be 150 feet at the front building setback line.

3. Where a public right-of-way abuts a side or rear property line, the minimum setback shall be 25 feet.

4. Where any property line of a RV park or campground abuts land either zoned for residential use or occupied by a residential use permitted by this Code, there shall be provided and maintained along, or within ten (10) feet of, said property line a solid face masonry wall, with a finish of stucco or other texture, no less than six (6) feet in height, which shall be in addition to the buffer yard required by Section 3.07.00.

(D) Vehicle Site Requirements. The individual site requirements are listed in the Table of Development Standards, Table 3.08.01.02(A) above, with additional requirements as follows:
(1) For the purpose of determining vehicle site width and depth, the width of a vehicle site shall be measured at right angles to and between the designated side boundary lines. The depth of a vehicle shall be measured at right angles to and between the designated front and rear boundary lines.

(2) The minimum distance between RVs shall be 10 feet. The minimum distance between an RV and any structure shall be 20 feet. The minimum allowable distance between RVs shall, for the purpose of this section, be measured from and between the outermost structural parts or attached accessory features. The minimum distance between an RV and the edge of the park road shall be 15 feet.

(3) Each vehicle site shall be clearly defined by a permanent marker, constructed of a durable material such as masonry or metal, placed at all corners.

(4) The addition or attachment of any permanent structures, such as awnings, porches, carports, or individual storage facilities, not specifically designed and included as a standard part of the original RV, shall be expressly prohibited in an RV Campground. Such additions to park model RVs may be permitted in an RV Park, so long as they meet all required setbacks and all other requirements of this Code.

(E) Recreation and Open Space Requirements. There shall be provided within a RV park or campground at least one area designed for recreational and open space use that is easily accessible from all vehicle sites. The size of such recreation area shall not be less than 10 percent of the entire tract area, or 15,000 s.f., whichever is greater.

(F) Street System and Off-Street Parking Requirements

(1) General. All parking areas shall be provided with safe and convenient vehicular access from abutting public streets and roads to each vehicle site. Alignment and gradient shall be properly adapted to topography. Surfacing and maintenance shall provide a smooth, hard and dense surface which shall be well drained.

(2) Access. Access to a RV park or campground from a public street or road shall be designed to minimize congestion and hazards at the entrance and on adjacent streets. All traffic into or out of the parking areas shall be through such entrances and exits.

   a. The entrance to each RV park or campground shall be a driveway at least 40 feet (40') wide with a turn radius of 100
feet or more from the public roadway, for maneuvering of vehicles.

b. Each RV park or campground site check-in location shall be setback 200 feet from any public right-of-way to accommodate the stacking of vehicles awaiting check-in.

(3) Internal Streets. All internal streets are to be paved with an asphalt or concrete surface. Road surfacing shall meet the following minimum width requirements:

a. One-way travel: 12 feet.

b. Two-way travel: 24 feet.

(4) Off-Street Parking and Maneuvering Space.

a. For each RV site, one paved, off-street parking space of 10' x 20' shall be provided.

b. Each RV park or campground shall be designed so that parking, loading or maneuvering of vehicles incidental to parking spaces shall not require the use of any public street, sidewalk, or right-of-way, or any private grounds, which is not part of the RV park or campground parking area.

c. Sufficient maneuvering space and off-street parking facilities shall be provided at each site to accommodate a towing vehicle.

(G) Service Requirements

(1) Utilities

a. Water Supply System. Connection to a potable public supply of water is required. Provision of water supply, water storage and water distribution shall be made in accordance with requirements and standards established by this Code and the State of Florida.

b. Watering Stations. Each RV park or campground shall be provided with one or more easily accessible water supply outlets for filling RV water storage tanks in accordance with design and construction requirements established by the State of Florida.
c. **Sewage Disposal System.** The RV park sewerage system shall be connected to the City's public sewage system. The distribution system shall be designed, constructed and maintained in accordance with requirements of this Code and by the State of Florida.

d. **Sanitary Connections.** Each RV park or campground shall be provided with individual connections to each vehicle site in the RV park or campground connected to an on-site sewage disposal system or available public system.

e. **Electrical and Gas Systems.** Each RV park or campground shall be provided with an electrical or gas system, which shall be installed and maintained in accordance with applicable codes and regulations.

(H) **Refuse Handling**

(1) **General.** The storage, collection and disposal of refuse (garbage, ashes, and rubbish) in a RV park or campground shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazard or air pollution in accordance with requirements established by the State of Florida.

(2) **Location.** All refuse shall be stored in watertight, fly-proof, rodent-proof containers, which shall be located within 150 feet of any vehicle.

(3) **Collection.** All refuse containing garbage shall be collected at least twice weekly.

(I) **Service Buildings and Facilities**

(1) **General.** The requirements of this section shall apply to service buildings, recreation buildings and other service facilities, such as:

a. Management offices, repair shops and storage areas.

b. Sanitary facilities.

c. Laundry facilities.

d. Indoor recreation areas.

(2) **Service Buildings for Dependent Vehicles.** A central service building containing the necessary toilet and other plumbing fixtures
specified by the State of Florida shall be provided in a RV park or campground, which provides vehicle sites for dependent vehicles. Service buildings shall be conveniently located within a radius of approximately 300 feet of the sites to be served. This building may also be designated a hurricane shelter if it is built to the standards for hurricane shelters in the Standard Building Code.

(3) Hurricane Shelter. Each RV park or RV park/campground must provide one or more buildings to house guests in a permanent building in the event of a hurricane, at a rate of twenty square feet (20) of habitable floor space per person. Alternative cooking fuel sources; electrical generation for emergency lighting; sanitary sewer facilities; and, an alternate source of water separate from the park source (e.g. water in drums or a separate well) shall be provided and maintained. Each building must be built to conform with the Standard Building Code for hurricane shelters.

To calculate the number of persons per park that would require shelter, each RV space will be counted at a minimum of two persons per space. Shelter space would have to be provided for eighty percent (80%) of total park spaces during peak season.

RV campgrounds do not have to provide hurricane shelters. All campers are to evacuate in the event of a natural disaster such as a hurricane. RV parks that are combined with campgrounds must provide hurricane shelters for those persons who are living, either permanently or seasonally, in an RV unit which is not portable and cannot be driven out of the area on short notice.

Service buildings may be used as hurricane shelters as long as the buildings are built to minimum Standard Building Code regulations for hurricane shelters.

(4) Service Facilities in Connection with Other Businesses. When a RV park or campground requiring a service building is operated in connection with a resort or other business establishment, the number of sanitary facilities for such business establishment shall be in addition to those required by the public health standards for vehicle sites and shall be based upon the total number of persons using or expected to use such facilities.

(5) Pedestrian Access to Service Buildings and Facilities. Appropriately drained, clear walkways having a width of not less than five feet (5') shall be provided from the vehicle sites to all service buildings and facilities, refuse collection areas, and recreation areas.
(6) **Outdoor Cooking and Incinerator Facilities.** All outdoor cooking and incinerator facilities shall be so located, constructed, maintained and used as to minimize fire hazard and smoke nuisance both on the property on which they are used and on neighboring property. Plans, construction, and operation of incinerators shall be carried out in accordance with requirements of the State of Florida.

(G) **General Operating Requirements**

(1) **General.** The person to whom appropriate permits and licenses are issued shall operate the RV park at all times in compliance with applicable state and local laws pertaining to the management and operations of a facility.

(2) **Duration of Stay.** Vehicle sites shall be rented by the day or week only, and the occupant of a vehicle site shall remain at that site and within the RV park for a limited period of time consistent with the special seasonal, vacation and transient requirements of the RV user, but in no case exceeding 120 calendar days within any 360 day period, whether accumulated consecutively or intermittently.

(K) **Permit Procedures and Requirements**

(1) **Site Development Plan.** Any applicant for the required permits to establish, construct, alter or extend a RV park or campground in Mulberry shall first request and receive approval of a Site Development Plan in accordance with the provisions of Article 2 and Section 7.04.00 of this Code.

(2) **Health and Sanitation Permit.** After receipt of required land use approvals, applicant shall then apply for and receive a health and sanitation permit for the proposed RV park or campground from the Polk County Health Department and the State of Florida in accordance with the requirements of appropriate agencies.

(3) **Building Permit.** Upon completion of (A) and (B) above, application shall be made to the Building Director for the building permit to construct, alter, or extend a RV park or campground in accordance with the provisions of this Section. Before issuing a building permit for the construction, alteration or extension of a RV park or campground, the Building Director shall determine that all applicable review procedures and standards required under this Code have been satisfactorily met.
(L) **Accessory Uses**

(1) An allowable accessory use is the storage of RV units. However, no RV may be stored in any tract setback area.

(2) Storage area for boats, RVs, and other types of vehicles which exceed 30 feet in length. Storage area is for the use of park residents only, and shall be fenced and landscaped. Storage of these units shall be prohibited on individual manufactured (mobile) home sites or on park roads.

**3.08.02 Group Care Facilities**

**3.08.02.01 Group Home**

(A) Facility shall be licensed by the Florida Department of Health.

(B) No staff shall be employed on a full-time or live-in basis other than the owner/operator of the facility and his/her immediate family members.

(C) In R-1L, R-1H, and MH districts, the total number of residents shall not exceed 10, including the owner/operator and family members.

(D) No sign indicating the purpose or nature of the facility shall be permitted in R-1L, R-1H, and MH districts.

(E) In addition to parking spaces normally required for a residential dwelling unit, one (1) space shall be provided for each five (5) residents, excluding staff and family members.

(F) Any violation of applicable state regulations shall be deemed a violation of this Code, and shall constitute grounds for termination of the Special Exception.

**3.08.02.02 Nursing Home**

(A) Facility shall be licensed by the Florida Department of Health.

(B) Facility shall provide at least two (2) off-street parking spaces, plus one (1) additional space for each 200 square feet of floor area devoted to medical or therapeutic treatment activities, plus one (1) space for each five (5) residents, excluding staff and family members.

(C) Any violation of applicable state regulations shall be deemed a violation of this Code, and shall constitute grounds for termination of the Special Exception.
3.08.03 Public Service Facilities

3.08.03.01 Communications Tower

(A) Minimum lot size shall be one (1) acre.

(B) Tower shall be set back from all property lines a distance equal to its height. Alternatively, the tower shall be set back a distance equal to 50 percent of its height with certification by an engineer licensed in the State of Florida that the structure is designed to collapse within the boundaries of the property on which it is built.

(C) Tower shall meet all applicable standards of the Federal Communications Commission, the Federal Aviation Administration, and any other relevant Federal or state agency.

3.08.04 Retail Commercial, No Outdoor Storage or Activities

3.08.04.01 Mini-Warehouses

It is the purpose of these standards to provide minimum development guidelines for a mini-warehouse facility and to protect established or permitted uses under these regulations in the vicinity of such a facility.

A mini-warehouse in C-2 shall be permitted as a Special Exception under the provisions of Article 7. Development standards provided in this Section shall supersede the normal development standards of C-2. Once approved, mini-warehouse shall be the sole use of the property. Other activities in place of or in addition to mini-warehouse shall not be permitted.

No storage bay or unit in a mini-warehouse shall be used as a place of business by persons renting storage space, and no occupational license shall be approved for the property other than that of the mini-warehouse owner/operator.

(A) Development Site Requirements

(1) Minimum Lot Size. An area not less than 20,000 square feet, with a minimum width of 100 feet and a minimum depth of 200 feet.

(2) Setbacks

    Front: 35 feet.
Side: 40 feet if contiguous to property designated for residential use on the Future Land Use Map.

10 feet if contiguous to property designated for commercial or industrial use on the Future Land Use Map.

Rear: 40 feet if contiguous to property designated for residential use on the Future Land Use Map.

20 feet if contiguous to property designated for commercial or industrial use on the Future Land Use Map.

(3) **Maximum Lot Coverage.** No more than 40 percent of the development site shall be covered by structures.

(B) **Design Requirements**

(1) **Lighting:** All lights shall be shielded to focus and direct light onto the uses established, and away from adjacent property, but may be of sufficient intensity to discourage vandalism and theft. Reference Section 3.05.00, Performance Standards, for applicable glare and lighting standards.

(2) **Fencing:** Where a property line abuts and is contiguous to any residential land use classification, a six-foot solid face masonry wall shall be constructed along the property line.

(3) **Signs:** A single sign shall be permitted for each abutting road right-of-way, not to exceed 15 feet in height or 40 square feet in gross surface area. No other signs shall be permitted on the property, except traffic directional signage. Signs shall be set back at least 15 feet from all property lines.

(4) **Landscaping:** Landscaping shall be provided in all required setback areas according to the standards of Section 2.03.00 except where a solid face masonry wall is required.

(5) **Parking:** There shall be a maximum of two (2) parking spaces, which shall be located in proximity to the business or manager's office on the site.
3.08.05 Automotive

3.08.05.01 Service Stations

(A) **Site.** The minimum frontage on an arterial street shall be 150 feet. The minimum area of a service station development site shall be 15,000 square feet. Construction on site of minimum area shall include no more than two (2) service bays and two (2) pump islands. One (1) service bay and one (1) pump island may be added for each additional 2,000 square feet.

(B) **Service Area.** Service areas shall be provided as follows:

1. **Paving.** The entire area of service station sites not covered by structures and landscaping shall be paved; either concrete or asphalt concrete shall be used for the paved areas.

2. **Curb.** At the property line, face each street side of the service area which is not included in a driveway with a concrete vertical curb six (6) inches wide by 13 inches deep with a top six (6) inches above the finished pavement grade except where a transition is made to a driveway.

3. **Equipment.** Pits, hoists, and all lubricating, washing, and repair equipment and work space shall be enclosed within a building. Washing and lubricating service areas shall drain to a City standard sand and grease trap, drain field and dry well.

4. **Off-Street Parking.** The service area shall include no less than one (1) employee parking space for each two (2) employees, with a minimum of two (2) employee parking spaces.

(C) **Bulk Storage.** Liquid petroleum fuels shall be stored in underground tanks.

(D) **Structures.** Structures shall conform to the following standards:

1. **Building.** The building shall be set back a minimum of 40 feet from street property lines. This distance shall be measured to vertical canopy supports if they are used, and the building vertical walls if vertical canopy supports are not used. The building shall be set back a minimum of 10 feet from interior property lines. A canopy overhang shall not project more than 10 feet from the canopy vertical supports.

2. **Pump Islands.** Pump islands shall be set back a minimum of 25 feet from any property line.
(3) **Exterior Lighting.** Exterior lighting fixtures shall cast no glare beyond a property line.

(E) **Outdoor Display.** Outdoor displays shall be limited to the following:

1. Racks containing cans of lubricating oil may be displayed on each service island.
2. One (1) rack or pedestal for the display of no more than one (1) tire may be placed on each service island and along any side of the main entrance.
3. One (1) stationary storage cabinet may be located no more than four (4) feet from the wall of the main structure.
4. The display of standards, banners, flags, and any sign not specifically authorized by City ordinance is prohibited except that one (1) permit for the display of standards, banners and flags for not more than 30 days may be issued to a newly constructed service station.
5. The service area shall drain into a catch basin on the site and thence to a storm sewer if a storm sewer is available. If no storm sewer passes the site, a drainage plan approved by the City Engineer shall be used.

(F) **Shopping Centers.** One (1) service station may be constructed at a shopping center having a building development with a floor area of not less than 100,000 square feet and having a land area of not less than 15 acres; provided, however, that such service station shall only be operated as an adjunct to a tenant's regular business and shall not comprise a major part thereof.

(G) **Storage, Sale and Rental of Vehicles and Trailers.** The storage of vehicles and trailers shall be permitted only as incidental to the customary servicing of vehicles and trailers, except that one (1) vehicle or trailer may be stored for each 200 square feet of land over 15,000 square feet of lot area. The sale of vehicles and trailers shall be prohibited. The rental of vehicles or trailers shall be permitted provided that an additional 200 square feet of lot area is provided for each rental vehicle and/or trailer.

**3.08.05.02 Auto Salvage Yards**

(A) **Storage of Materials**

1. Material that is not salvageable shall not be permitted to accumulate, except in bins or containers, and shall be disposed of in an approved
sanitary landfill. The period of accumulation is limited to two (2) months.

(2) In no case shall material that is not salvageable be buried or used as fill.

(3) Any items that can be recycled or salvaged shall be accumulated in bins or containers to be sold to a recycling firm.

(4) Recyclable material that cannot be stored in bins or containers may be stored in the open.

(B) Screening. All salvage yards shall comply with the following screening requirements:

(1) All outdoor storage facilities shall be surrounded by a substantial continuous masonry, wood or metal fence (not including chain link 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 that shall not exceed 25 feet in width.

(2) Gates at entrance or exit shall be of a material without openings.

(3) The screen shall be constructed of the same type of material throughout.

(4) No screen shall be constructed of metal that will rust.

(5) Screens shall be maintained and in good repair at all times.

(C) Buffer In Lieu of Screening. Where an outdoor storage facility does not abut a public street or highway, a vegetative buffer may be permitted in lieu of screening. Such buffer may be approved by the City Commission after a finding that the proposed buffer would provide screening equivalent to that required in (B) above.

3.08.06 Junkyards

(A) Storage of Materials

(1) Material that is not salvageable shall not be permitted to accumulate, except in bins or containers, and shall be disposed of in an approved sanitary landfill. The period of accumulation is limited to two (2) months.

(2) In no case shall material that is not salvageable be buried or used as fill.
(3) Any items that can be recycled or salvaged shall be accumulated in bins or containers to be sold to a recycling firm.

(4) Recyclable material that cannot be stored in bins or containers may be stored in the open.

(5) 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 FDEP.

(6) In any open storage 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 1/2 cubic feet or more from which the door has not been removed.

(B) **Screening.** All junkyards shall comply with the following screening requirements:

(1) All outdoor storage facilities shall be surrounded by a substantial continuous masonry, wood or metal fence (not including chain link 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 that shall not exceed 25 feet in width.

(2) Gates at entrance or exit shall be of a material without openings.

(3) The screen shall be constructed of the same type of material throughout.

(4) No screen shall be constructed of metal that will rust.

(5) Screens shall be maintained and in good repair at all times.

(C) **Buffer In Lieu of Screening.** Where an outdoor storage facility does not abut a public street or highway, a vegetative buffer may be permitted in lieu of screening. Such buffer may be approved by the City Commission after a finding that the proposed buffer would provide screening equivalent to that required in (B) above.

**3.08.07 Truck Stop**

(A) Development site shall have frontage on a road with a functional classification of "arterial."

(B) Structures and truck parking areas shall be set back at least 25 feet from side and rear property lines.
Unified Land Development Code Update

ARTICLE 4

Sign Regulations
ARTICLE 4

SIGNS

4.01.00 Cross-Reference & Incorporation of General Code Chapter 17

The regulations for signs have been transferred to the general code of ordinances, section 17 for ease of review, and Developers shall refer to that Chapter of the Code of Ordinances to ensure compliance. However, Chapter 17 is hereby incorporated into these Land Development Regulations as if fully described herein, and such regulations remain applicable to new construction.

[RESERVED]
Unified Land Development Code Update

ARTICLE 5

Resource Protection Standards
ARTICLE 5
RESOURCE PROTECTION STANDARDS

5.01.00 Development in Flood-Prone Areas

5.01.01 Purpose and Intent

It is the purpose and intent of this Section to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas.

This Section shall apply to all areas of special flood hazard within the jurisdictional boundaries of the City of Mulberry. No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this Section and other applicable regulations.

Areas of special flood hazard that have been or may be identified on a Flood Insurance Rate Map (FIRM), published by the Federal Emergency Management Agency (FEMA), and any revisions thereto, are adopted by reference and declared to be a part of this Section. In the absence of FIRM's and supporting data, areas of special flood hazard shall be identified by field analysis until such FIRM's are available.

These flood hazard management regulations do not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions.

Although the degree of flood protection required by this Section is reasonable and appropriate for regulatory purposes, based on scientific and engineering considerations, more severe floods will occur and flood heights may be increased by man-made or natural causes. Consequently, this Section is not intended to imply that land outside the areas of special flood hazard or uses permitted within those areas will be free from flooding or flood damages. This Section shall not create liability on the part of the City or any of its officers or employees for any flood damages that result from reliance on these flood hazard management regulations or any administrative decision lawfully made thereunder.

5.01.02 Standards for Reducing Flood Hazards in the Area of Special Flood Hazard

The following standards apply to all development permitted within the Area of Special Flood Hazard.

(A) Compensatory Stormwater Storage Required. Encroachments, including fill, new construction, substantial improvements and other development, are prohibited unless a registered professional engineer certifies that compensatory storage will be provided in order to alleviate flood problems within the impacted area.

(B) Anchoring. All new construction and substantial improvements of existing construction shall be anchored to prevent flotation, collapse or lateral movement of the structure during a base flood. Manufactured (mobile) homes shall be anchored,
tied down and blocked in accordance with the standards of Section 15C-1.10, F.A.C.

(C) **Construction Materials And Methods.** All new construction and substantial improvements of existing construction shall be constructed with materials and utility equipment resistant to flood damage, and using methods and practices that will minimize flood damage and prevent the pollution of surface waters during a base flood.

(D) **Service Facilities And Utilities**

1. Electrical heating, ventilation, plumbing, air conditioning and other service facilities shall be designed or located to prevent water from entering or accumulating within the components during a base flood.

2. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate both infiltration of flood waters into the systems and discharges from the systems into flood waters.

3. On-site sanitary sewage systems shall be located and constructed to avoid impairment to them or contamination from them during flooding, and shall not be installed wholly or partially in a regulatory floodway.

### 5.01.03 Additional Standards for Reducing Flood Hazards in Areas for Which FIRMs Have Been Prepared

The following standards must be complied with in all areas of special flood hazard for which a base flood elevation has been established as set forth in Section 5.01.01.

(A) **Compensatory Stormwater Storage Required.** Encroachments, including fill, new construction, substantial improvements and other development, are prohibited unless a registered professional engineer certifies that compensatory storage will be provided in order to alleviate flood problems within the impacted area.

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

1. Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding.

2. Place the bottom of all openings no higher than one (1) foot above grade.

3. Equip openings with devices, such as screens, louvers, or valves that permit the automatic entry and exit of floodwater. Access to the enclosed area shall
be the minimum necessary to allow for parking of vehicles (i.e. a garage door) or storing equipment used to maintain the premises (i.e. a standard exterior door), or entering the living area (i.e. a stairway or elevator). The interior of the enclosed area shall not be partitioned or finished into separate rooms.

(C) Residential Structures

(1) All new construction and substantial improvements of existing construction of residential structures shall be constructed with the lowest floor elevated to or above the flood protection elevation.

(2) For all new construction and substantial improvements of existing construction, enclosed areas below the lowest floor that are subject to flooding shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for automatic entry and exit of floodwater.

Designs for meeting this requirement must either be certified as meeting this requirement by a registered professional engineer or architect, or meet or exceed the following minimum standards:

a. Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding.

b. Place the bottom of all openings no higher than one (1) foot above grade.

c. Equip openings with devices, such as screens, louvers, or valves that permit the automatic entry and exit of floodwater. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (i.e., a garage door) or storing equipment used to maintain the premises (i.e., a standard exterior door), or entering the living area (i.e., a stairway or elevator). The interior of the enclosed area shall not be partitioned or finished into separate rooms.

(3) Electrical, plumbing, and other utility connections shall not be placed below the Flood Protection Elevation.

(D) Nonresidential Structures. New construction and substantial improvements of existing construction of nonresidential structures shall either comply with Section 5.01.03(C) of this Section, or be constructed, including attendant utility and sanitary facilities, to meet the following standards:

(1) Walls below the flood protection elevation shall be substantially impermeable to the passage of water.

(2) Structural components shall resist hydrostatic and hydrodynamic loads and effects of buoyancy.
(3) Be certified as meeting the standards of this section by a registered professional engineer or architect.

(E) Subdivisions

(1) All preliminary subdivision proposals shall identify the area of special flood hazard and the elevation of the base flood.

(2) All final subdivision plans shall identify the elevation of proposed structures and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor.

(3) All public utilities and facilities in subdivisions shall be located and constructed to minimize flood damage, and shall be adequately drained to reduce exposure to flood hazards.

(4) Each lot must include a site suitable for constructing a structure in conformity with the standards of these flood damage prevention regulations.

5.01.04 Standards for Reducing Flood Hazards in Certain Zones Within the Area of Special Flood Hazard

(A) Standards for Areas of Shallow Flooding. The following standards apply to Areas of Shallow Flooding located within the area of special flood hazard.

(1) Residential Structures. The lowest floor of all residential structures, including new construction and substantial improvements to existing structures, shall be elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least 2 feet if no depth number is specified).

(2) Nonresidential Structures. The lowest floor of all new construction of and substantial improvements to non-residential structures shall:

a. Be elevated as prescribed in Section 5.01.04(A)(1) above; or

b. Be constructed, together with attendant utility and sanitary facilities, so that any walls below the level prescribed in Section 5.01.04(A)(1) above shall be substantially impermeable to the passage of water and any structural components below that level shall be capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(B) Standards for Streams Without Established Base Flood Elevations. The following standards apply to small streams in the area of special flood hazard for which no base flood data have been provided.
(1) **Encroachments.** No encroachments, including fill material or structures, shall be located within a distance of the stream bank equal to five (5) times the width of the stream at the top of the bank, or 20 feet from the top of each bank, whichever is greater, unless a registered professional engineer demonstrates and certifies that the encroachments would not result in any increase in flood levels in a base flood.

(2) **Elevation.** New construction of or substantial improvements to structures shall be elevated or flood-proofed to minimize risks of flooding reasonably to be expected based on the best available data.

### 5.01.05 Administration and Enforcement

In addition to other administrative and enforcement provisions in this Code, the following provisions shall apply:

(A) **Designation and Duties of Development Director.** The Development Director shall administer and implement the provisions of these flood hazard management regulations. In addition to duties assigned elsewhere, the Development Director shall:

(1) Review all proposed developments to assure that the requirements of these regulations have been met.

(2) Review all certificates submitted to satisfy the requirements of these regulations.

(3) Notify adjacent communities, the SWFWMD, and the State of Florida Department of Community Affairs (DCA), prior to permitting or approving any alteration or relocation of a watercourse, and, if applicable, provide evidence of such notification to FEMA.

(4) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor, or of the flood-proofing, of all new or substantially improved structures regulated by this Section.

(5) Interpret the boundaries of the Areas of Special Flood Hazard and Areas of Shallow Flooding.

(6) Maintain all records pertaining to the implementation of these flood damage prevention regulations.

(B) **Certification of As-Built Elevations**

(1) For development activity that includes structures, and in areas where base flood elevations are available, the developer shall submit to the Development Director a certification prepared by a registered land surveyor or licensed professional engineer of the as-built elevation in relation to mean sea level of the lowest floor, flood-proofed elevation, or horizontal structural members of
the lowest floor, as applicable. This certification shall be provided before additional construction may occur.

(2) The Development Director shall review submitted floor elevation survey data and inform the applicant of deficiencies within five (5) working days. No work shall be permitted to proceed until the deficiency is removed in the opinion of the Development Director. Failure to submit the certification or to make required corrections shall be cause to issue a stop-work order for the project.

(3) Upon submittal of certified elevations and/or a determination by the Development Director that the development meets all of the applicable requirements of this Section, the Development Director shall issue a certificate of compliance. All work performed before the issuance of this certificate shall be at the risk of the developer.

(C) Enforcement

(1) Any violation of this Section is a public nuisance and may be restrained by injunction or otherwise abated in a manner provided by law.

(2) In addition to any remedy or penalty provided herein or by law, any person who violates the provisions of these flood damage prevention regulations shall be punished by a fine of not less than $100 nor more than $500 or by imprisonment in the county jail for a period not to exceed 60 days, or by both such fine and imprisonment. Each day during which the violation occurs shall constitute a separate offense.

(3) Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within 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.

5.02.00 Potable Water Wellfield Protection from Hazardous Materials

5.02.01 Purpose and Intent

The purpose and intent of this Section is to safeguard the health, safety and welfare of the citizens of Mulberry by providing for regulation of the storage, handling, use or production of hazardous substances within zones of protection surrounding potable water supply wells, thereby providing protection of the principal source of water for domestic, agricultural, and industrial use. The availability of adequate and dependable supplies of potable quality water is of primary importance to the future of the City. Therefore, standards are described in this Section with the intent of protecting both the quantity and quality of the groundwater supply. It is further the intent of this Section to control development in and adjacent to designated wellheads to protect water supplies from potential contamination.
5.02.02 Establishment of Wellfield Protection Zone

Zone of Protection. The Zone of Protection is hereby established around each of the City's public supply potable water wells, as provided in the Comprehensive Plan’s Future Land Use Policies 1.9, 5.1 and 5.2; Infrastructure Policy 5.3; and Conservation Policy 2.4. The City establishes the zones of protection around its wellheads in accordance with the Polk County Wellhead Protection Area Delineation Project, and are depicted on the Future Land Use Map. This area shall be known as the Zone of Protection and includes a 1-year, 5-year and 10-year time-of-travel delineated area as established by the aforementioned report. These delineated areas represent the time it takes for a hazardous spill to reach the potable water supply, based on topography, soils and environmental conditions of the area around each well.

(A) The City will keep an annually updated list of all uses that generate or store hazardous materials within the Zone of Protection of every wellhead. Wellheads and wellhead protection areas shall be mapped on the Future Land Use Map of the Comprehensive Plan. Specifically, the map shall show the location of each well within the City, including all wells not currently within the City limits but part of the City’s water system, and identify the Zone of Protection around each well. Wellhead protection areas shall be identified in order to prohibit development or the establishment of new uses from locating within the identified zone of protection that may be a potential source of pollution to the potable water system.

(B) Where a property lies partly outside the Zone of Protection, development standards contained in this Section shall apply only to that part of the property lying within the Zone. Where the Zone of Protection boundary passes through a building, the entire building shall be considered to be in the protection zone.

(C) Development regulations provided in this Section shall be applicable to designated cones of influence, what are now referred to as time-of-travel zones, for all municipal public supply wells.
5.02.03 Wellfield Protection Zone Permits

Except as otherwise provided, no person shall construct, modify, install or replace a hazardous substance storage system within the Zone of Protection of a public supply potable water well. Any such system existing prior to adoption of this Code shall require a wellfield protection permit as provided in this Section, and shall be subject to the containment standards in 5.02.04(D).

5.02.04 Wellfield Protection Restrictions

(A) Unless otherwise provided in this Section, new non-residential use, handling, production, or storage of hazardous substances shall be prohibited within the wellfield Zone of Protection.

(B) Existing Activity. Any person with existing non-residential activity shall have a period of one (1) year from the adoption of this Section to apply for a permit without a fee. Thereafter, said person shall be subject to the fee schedule adopted in connection with this Code.

(C) Exemptions. The following activities or uses are exempt from the provisions of this Section:

(1) The transportation of any hazardous substance through the Zone of Protection.

(3) The use of any hazardous substance solely as fuel in a vehicle fuel tank or as lubricant in a vehicle.

(4) Fire, police, emergency medical services, governmental emergency management center facilities, and public utilities.

(5) Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers.

(6) Office uses, except for the storage, handling or use of hazardous substances.

(7) Repairing or maintaining any facility or improvement on lands within the Zone of Protection.

(8) Storage tanks that are constructed and operated in accordance with the storage tanks regulations as set forth in Chapter 17-61, Florida Administrative Code.

(9) Geotechnical borings.

(10) Residential activities.

(D) Containment Standards. Primary and secondary levels of containment shall be required for all new and previously existing hazardous materials storage systems, except those exempted under subsection 5.02.04(C) and those that are the object of modified requirements under Section 5.02.05. Containment standards shall apply to all areas of use, production, and handling; to all storage areas; and to above-ground and underground storage areas.

(1) Primary Containment. All primary containment shall be product-tight.

(2) Secondary Containment. All secondary containment shall be:

a. Constructed of materials of sufficient thickness, density, and composition so as not to be structurally weakened as a result of contact with the discharged hazardous substances;

b. Equipped with leak-proof trays under containers, floor curbing or other containment systems to provide secondary liquid containment;

c. Adequate in capacity to handle 111 percent of the total volume of the container(s) in order to contain all spills, leaks, overflows, and precipitation until appropriate action can be taken;
d. Constructed of materials of sufficient strength to preclude loss of any hazardous substances to the external environment; and

e. Sheltered so that the intrusion of precipitation is inhibited.

(E) Monitoring Capacity. All storage systems to which these regulations apply shall be designed with the capability of visually detecting that a hazardous substance stored in primary containment has entered secondary containment. Non-visual techniques may be approved by the City Commission where such techniques are proven to be reliable.

(F) Miscellaneous Requirements

(1) Devices or materials to absorb or contain the hazardous substances shall be available in sufficient supply so as to control and collect the total quantity of hazardous substances on the site. To the degree feasible, emergency containers shall be present and of such capacity as to hold the total quantity of hazardous substances plus absorbent material.

(2) Procedures shall be established by the applicant for periodic in-house inspection and maintenance of containment and emergency equipment. Such procedures shall be provided to the Development Director in writing. A checklist and schedule of regular maintenance shall be established and a log shall be kept of inspections and maintenance. Such logs and records shall be kept available for inspection by the Development Director.

5.02.05 Modification of Requirements

Any person affected by this Section may petition the City Commission for modification from the prohibitions of this Section, provided that the person demonstrates that special or unusual circumstances and adequate technology exists to isolate the facility or activity from the potable water supply in the event of a spill.

5.02.06 Maintenance, Repair, or Replacement

(A) Modification or Repair. Any modification or repair of a storage system, other than minor repairs or emergency repairs, shall be in accordance with plans to be submitted to the Development Director and approved prior to the initiation of such work.

(B) Emergency Repairs. A facility owner or operator may make emergency repairs to a storage system in advance of seeking an approval whenever an immediate repair is required to prevent or contain an unauthorized discharge or to protect the integrity of the containment.

(C) Replacement. Replacement of any existing storage system for hazardous substances must be in accordance with the new installation standards.
5.02.07 Out-of-Service Storage Systems

(A) Systems Temporarily Out of Service. Storage systems that are temporarily out of service, and are intended to be returned to use, shall continue to be monitored and inspected. Any storage system that is not being monitored and inspected in accordance with this Section shall be closed or removed in a manner approved by the Development Director.

(B) Closure of Facilities. Upon closure of a hazardous substance storage system for any reason, the facility owner or operator shall file an application with the Development Director of intention to close the storage system. Said application shall be processed as provided in 5.02.03(A) of this Section. By signing the wellfield protection permit application, the owner is held responsible to adhere to the closure procedures outlined in this Section. An application to close a hazardous substance storage facility shall include the following:

1) A schedule of events to complete the closure of this activity that does or did store, handle, use, or produce hazardous substances. As a minimum, the owner/applicant shall address the following:

   a. Disposition of all hazardous substances and contaminated containers.

   b. Cleanup of the activity and environs to preclude leaching of hazardous substances into the aquifer.

   c. Certification by the Development Director that disposal and cleanup have been completed in an acceptable manner. Certification may be waived if the applicant provides evidence to the Development Director that all of the following conditions apply to the subject land use facility or activity:

1) The entire operation is maintained inside the building(s) of the facility.

2) The method of removing operating waste is not a septic tank, sewer main, or floor drain.

3) There is no evidence of spills permeating floors or the environs.

4) There are no outstanding or past notices of violation from any regulatory agency concerned with hazardous, industrial or special waste.

5) There is no evidence of past contamination in the public drinking water well(s) associated with a facility located in the Zone of Protection.
6) The applicant shall provide a sworn statement that disposal and cleanup have been completed in a manner acceptable to the Development Director.

(2) The Development Director shall inspect the facility to determine whether or not the requirements of this subsection have been met.

(C) Abandoned Systems. Whenever an abandoned storage system is located, a plan for the closing or removing or upgrading and permitting of such storage system shall be filed by the owner of the property at a reasonable time as determined by the Development Director. Provided, however, such reasonable time for filing shall be not more than six (6) months.

5.02.08 Appeals

Determinations of the Development Director may be appealed in writing within 30 days of said determination to the City Commission by the applicant. In not more than sixty (60) days the City Commission shall meet and rule to uphold, modify or reverse the determination of the Development Director.

5.02.09 Fee Resolution

The City of Mulberry may, at its option, adopt a fee schedule by resolution to provide for the funding for the administration of this Section.

5.02.10 Location of New Wells

No new public supply water wells shall be located such that the Wellhead Protection Area extends past the owners’ property boundaries.

5.03.00 Wetlands Protection

5.03.01 Purpose and Intent

The Mulberry City Commission has determined that wetlands contiguous to waters of the state, and non-contiguous and isolated wetlands serve important functions in the hydrologic cycle and ecological system and therefore require protection. It is the purpose and intent of this Section to provide for the protection, maintenance, and enhancement of wetlands within the City of Mulberry in accordance with the adopted comprehensive plan, recognizing the rights of individual property owners to use their lands in a reasonable manner as well as the rights of all citizens to protection and purity of the waters of the City of Mulberry and their associated wetland ecosystems. It is further the purpose and intent of this Section to ensure that there be no net loss of wetlands as defined in this Code.
5.03.02 Relationship to Other Requirements Relating to Wetlands Protection

In addition to meeting the following wetlands protection requirements, development plans shall comply with applicable federal, state and water management district regulations. In all cases the strictest of the applicable standards shall apply.

5.03.03 Protection Zones Established

Two zones of protection for wetlands are hereby established. The protection zones shall be known as the wetland protection and upland zones.

(A) Wetland Zone

There is hereby created a wetland protection zone in which special restrictions on development apply. The boundaries of this zone shall be the most landward extent of the following:

(1) Areas within the dredge and fill jurisdiction of the FDEP as authorized by Section 403 of the F.S.

(2) 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.

(3) Areas within the jurisdiction of the SWFWMD pursuant to Rule 40D-4, F.A.C.

(4) Development requiring a permit or permits from one or more of the U.S. Army Corps of Engineers, FDEP, and the SWFWMD, shall have the most restrictive agency wetlands boundary determination recognized by the City as the wetlands boundary. The term most restrictive is used here to mean the boundary covering the largest area.

(5) In circumstances where the natural boundary of wetland vegetation is unclear, the line of demarcation may be approximated at a surveyed elevation measured at a location in the same wetland where the natural line is clear.

(6) In the event an undeveloped area has been recently cleared of all vegetation, the wetland boundary may be determined by a study of the soils, aerial mapping, photography, hydrology, and other relevant historical information.
(B) **Upland Zone**

There is hereby created an upland transitional zone adjacent to each wetland zone. The upland zone is an area having a direct ground- or surface water influence and functions as a buffer between wetlands and development. The purpose of this zone is to minimize the adverse effects of development upon the wetland itself. This zone shall encompass all land within 200 feet of the boundary of the wetland zone unless the applicant is able demonstrate to the Planning Commission's satisfaction that the functions of the wetland can be protected with a smaller upland transitional zone. In no case, however, shall an upland zone of less than 40 feet be approved.

### 5.03.04 Permits Required

Except as provided in Subsection 5.03.05, no person shall remove, fill, drain, dredge, clear, destroy or alter any wetland as defined in this Code without first submitting a wetland management plan to the Development Director and obtaining from the City Commission a wetland alteration permit. This permit may be issued concurrently with any other land development permits issued by the City.

### 5.03.05 Exemptions

Activities or development types that are exempted from this Section include:

(A) Non-mechanical clearing of vegetation from an area of less than 10 percent of the protected zone.

(B) Minor maintenance or emergency repair to existing structures of improved areas.

(C) Cleared walking trails having no structural components.

(D) Timber catwalks and docks four (4) feet or less in width.

(E) Utility crossings.

(F) Maintenance of drainage systems, including routine dredge and fill activities in ditches, retention and detention areas, public road and other rights-of-way.

(G) Bona fide mosquito control activities.

(H) Activities approved by a federal, state, or regional agency prior to adoption of this Section.

### 5.03.06 Development Standards

(A) **Wetland Zone.** Except as otherwise provided in this Section, it is presumed that development will have an adverse effect on wetlands. No activities other than those listed below shall be undertaken in a wetland zone.
Activities Permitted in Wetland Zones. The following activities and development types generally may be undertaken unless the City Commission determines in a specific case that a listed activity or development type would have a significant adverse impact on the wetland zone:

1. Scenic, historic, wildlife, or scientific preserves.

2. Minor maintenance or emergency repair to existing boat docks, walking trails, and timber catwalks.

3. Cultivating agricultural or horticultural products that occur naturally in the wetland.

4. Constructing fences where no fill activity is required and where navigational access will not be impaired by construction of the fence.

5. Developing a "Wetlands Storm Water Discharge Facility" in accordance with state permits received under Chapters 17-25, F.A.C.

6. Construction of foot bridges and vehicular bridges.

Upland Zone. All development in an upland zone shall be in accordance with the Future Land Use Map of the Comprehensive Plan and the zoning classification, and shall be designed, constructed and maintained to avoid significant adverse effects on the adjacent wetland. Where a development site lies partly within the wetland zone and partly within the upland zone, the acreage within a wetland zone may be used to determine the total allowable units or square footage of development that will be allowed on a site. This development potential shall be transferred from the wetland zone to the upland zone.

Special Standards for Upland Zones. The following standards shall apply within upland zones:

1. Natural vegetative buffer areas shall be retained between all development and all wetlands where such buffer areas exist. The minimum width of the buffer shall be twenty-five (25) feet and the average of all wetland buffers shall be forty (40) feet. No structures shall be located in such areas. Impervious surfaces shall be limited to roads or walking trails providing access to a body of water. Where a natural buffer area does not exist, an equivalent buffer shall be created.

2. The developer shall completely restore any portion of a wetland zone damaged as a result of construction activity in the upland zone.

3. The City Commission may require other reasonable protective measures to be undertaken within the upland zone as necessary to prevent significant adverse effects on a wetland. Protective measures may include, but are not limited to:
a. Maintaining natural drainage patterns.

b. Limiting the removal of vegetation.

c. Minimizing the amount of fill used in the development activity.

d. Prohibiting or limiting the use of septic tanks.

5.03.07 Mitigation

The Planning Commission may require mitigation of adverse impacts on wetlands as a condition of development approval if it finds that such impacts are unavoidable. In such cases, action will be taken during or after development to reduce or counteract damage to wetlands areas. A mitigation plan approved by a federal, state, or regional agency shall be acceptable to the City. Mitigation shall not contribute to the production of mosquitoes by creating mosquito larval habitat or by eliminating habitat for predatory fish. The mitigation plan shall address the following circumstances as they apply to the specific condition of the proposal.

(A) Preservation and maintenance regulations to reduce or eliminate the impact over time.

(B) Compensation for the impact through enhancement of existing wetlands, reestablishment of wetlands that are no longer functioning, or the creation of new wetlands.

(C) Repair, rehabilitation, or restoration of the wetland.

(D) Specific design requirements based upon conditions of the site and the type of wetland to be created or restored.

(E) Periodic monitoring to remove exotic or nuisance vegetation.

(F) Preservation or creation of an appropriate habitat in an adjacent wetland zone.

A developer of a compensatory mitigation plan shall grant a conservation easement in accordance Section 704.06, F.S., and Section 5.06.00 of this Code on the newly purchased, created, enhanced or restored environmentally sensitive lands to protect them from future development. The City Commission must specifically approve and accept the conservation easement. A legal mechanism other than a conservation easement may be considered, if appropriate, to carry out the purpose of this subsection. Any other legal mechanism must be approved and accepted by the City Commission.
5.03.08 Prohibited Ongoing Activities

The following standards apply to post-development activities taking place within any wetland zone or upland zone.

(A) Clearing. Without an amendment to the development order, no person shall clear more vegetation than was permitted for the original development.

(B) Handling and Storage of Fuel, Hazardous and Toxic Substances, and Wastes. No fuel or toxic substances shall be stored, transferred, or sold in a wetland or an upland zone.

(C) Fertilizers, Herbicides, or Pesticides. No fertilizers, herbicides, or pesticides shall not be applied in a wetland zone except for those projects permitted by the governing State agencies.

5.04.00 Lake (Pit) Protection

5.04.01 Purpose and Intent

There are no natural lakes in Mulberry, because most of the unincorporated land was mined for phosphate during the early part of this century and was reclaimed in a piece-meal fashion for building sites as development demanded. As a result, artificial water bodies were formed from surface water drainage and groundwater seepage that filled the old mine cuts. These water bodies are referred to in the Comprehensive Plan as ponds or pits, not lakes. There are nine such water bodies, which are privately owned and do not have any public access.

Since most of these former mine cuts are isolated and not connected to a surface drainage system, the FDEP and the SWFWMD have not collected water quality data on them.

Each of these pits is surrounded by an identified wetland, and mapped in 1980 for insurance purposes as flood prone areas. It is the purpose of this Section to maintain pit water quality and reduce nutrient loading in the pits. In order to achieve this, the following standards restrict the amount of clearing or removal of shoreline vegetation and establish a shoreline protection zone.

5.04.02 Shoreline Protection Zones Established

A Shoreline Protection Zone for all pits in the City of Mulberry is hereby established. The Shoreline Protection Zone extends from the water's edge to a point forty (40) feet landward of the Ordinary High Water Line.

5.04.03 Development Standards for Shoreline Protection Zones

All development in the Shoreline Protection Zone, including marinas, boat launching facilities and ramps, docks, piers, walkways and boat houses permitted in conformance with
other applicable requirements of this Code, shall be designed, constructed and maintained to avoid adverse effects on the pits. In order to achieve this, all development proposed to be located in the Shoreline Protection Zone shall comply in all respects with the following requirements:

(A) To the maximum extent feasible, all natural drainage patterns shall be retained, and the amount of fill used in the development activity shall be kept a the absolute minimum to accommodate permitted development.

(B) Point source and nonpoint source discharges into any pit are prohibited.

(C) All development shall be designed, located, constructed and maintained in a manner that minimizes environmental damage.

(D) All development shall be set back 40 feet from the Ordinary High Water Line.

(E) The combined impervious surface of all permitted buildings, structures, walkways and paved areas on a site that includes any portion of the Shoreline Protection Zone shall not exceed forty (40) percent of the land area of the entire site.

(F) Within the Shoreline Protection Zone, a minimum of fifty (50) percent of the natural vegetation shall be retained, maintained and protected.

(G) If no natural vegetation exists, buffers shall be planted and maintained to maturity to achieve a minimum cover of forty (40) percent of the site within the Shoreline Protection Zone. Buffers may be linear or clustered and shall be composed of native plant species found growing in the vicinity of the site, or may be plants selected from the lists of species in Section 3.07.00.

(H) The developer shall limit the removal of vegetation to the minimum necessary to carry out a permitted development activity, and shall expeditiously restore any portion of the Shoreline Protection Zone damaged or removed during construction by replanting native grasses and ground covers or appropriate substitutes.

5.04.04 Prohibited Ongoing Activities

The following standards apply to post-development activities taking place within any Shoreline Protection Zone.

(A) Without an amendment to the development order, no person shall clear more vegetation than was permitted for the original development.

(B) Developments where fuel or toxic substances will be stored, transferred, or sold shall employ the best available facilities and procedures for the prevention, containment, recovery, and mitigation of spillage of fuel and toxic substances. Facilities and procedures shall be designed to prevent substances from entering the water or soil, and employ adequate means for prompt and effective clean-up of spills that do occur.
(C) Fertilizers, herbicides, or pesticides shall not be applied in a primary shoreline protection zone except for projects conducted under the authority of Sections 373.451 - 373.4595, Florida Statutes, the Surface Water Improvement and Management Act, and mosquito control programs authorized by a government agency.

5.05.00 Erosion Control

5.05.01 Required Soil Conservation Measures

The following soil conservation measures shall apply to all development activities requiring site development plan or subdivision reviews:

(A) During Construction. The developer shall follow standard practices as specified in the Erosion Control Handbook - Florida published by the U.S. Dept. of Agriculture, Soil Conservation Service, latest edition, or details specifically approved by the City to prevent erosion and depositing of soils off the construction site.

(B) After Construction. All disturbed areas shall be mulched, seeded or sodded as required by the City, and shall be maintained as such. The removal or lack of maintenance of vegetation resulting in on-site or off-site erosion or windblown loss of soils shall be deemed a violation of this Section.

5.06.00 Conservation Easements

As a condition for approval of a development permit or development order, or as part of a development agreement established under Section 6.02.00 of this Code, any person, corporation or entity owning property in the City of Mulberry may create a conservation easement. Conservation easements shall be subject to the provisions of Section 704.06, F.S., and may be used to prevent or prohibit the following activities:

(A) Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground.

(B) Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials.

(C) Removal or destruction of trees, shrubs, or other vegetation.

(D) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface.

(E) Surface use except for purposes that permit the land or water area to remain predominantly in its natural condition.
(F) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.

(G) Acts or uses detrimental to such retention of land or water areas.

(H) Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.

Conservation easements are perpetual, undivided interests in property and may be created or stated in the form of a restriction, easement, covenant, or condition in any deed, will, or other instrument executed by or on behalf of the owner of the property, or in any order of taking. Such easements may be acquired in the same manner as other interests in property are acquired, except by condemnation or by other exercise of the power of eminent domain, and may be assigned to other governmental agencies, charitable organizations, or trusts authorized to acquire such easements.

Conservation easements shall run with the land and be binding on all subsequent owners of the property. Conservation easements shall entitle the holder to enter the land in a reasonable manner and at reasonable times to assure compliance with the purpose(s) of such easements.

All conservation easements shall be recorded and indexed in the public records of Polk County in the same manner as any other instrument affecting the title to real property.
Unified Land Development Code Update

ARTICLE 6

Public Facility Monitoring
ARTICLE 6
PUBLIC FACILITY MONITORING AND PERMITTING

6.01.00 Concurrency

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ARTICLE 6
PUBLIC FACILITY MONITORING AND PERMITTING

6.01.00 Concurrency

6.01.01 General Provisions

The purpose of this Section is to ensure that any facilities and services needed to support development are available concurrent with the impacts of development.

Except as otherwise provided, no development proposal submitted after the effective date of this Code shall be approved unless public facilities are or will be available, such that the Levels of Service adopted in the Comprehensive Plan are maintained. Prior to concurrency approval for a proposed development, the following conditions shall be met, as applicable.

(A) *Potable Water, Sewer, Solid Waste, and Stormwater Management.* The concurrency requirement may be met through one of the following conditions or actions:

(1) The necessary facilities and services are in place at the time a development permit is issued; or

(2) A development permit is issued subject to the condition that the necessary facilities and services will be in place when the impacts of the development occur; or

(3) The necessary facilities are under construction at the time a permit is issued; or

(4) The necessary facilities and services are guaranteed in an enforceable development agreement that includes provisions 1-3 above. An enforceable development agreement shall include, but is not limited to, the provisions of Section 163.3227, F.S., or shall be a development order issued pursuant to Sections 163.3227-3243, F.S., or an agreement or development order issued pursuant to Chapter 380, F.S. The agreement shall guarantee that the necessary facilities and services will be in place when the impacts of the development occur.

(B) *Roads.* The concurrency requirement may be met by satisfying the conditions listed in paragraphs (A)(1-4) above, and by complying with the following standards:

(1) The Capital Improvements Element and 5-Year Schedule of Capital Improvements must be financially feasible; and, it must be based on currently available revenue sources that must be adequate to fund the public facilities required to serve the development authorized by the development order and development permit.
(2) The 5-Year Schedule of Capital Improvements must include roads necessary to maintain the adopted level of service standards to serve the proposed new development; the estimated date of commencement of actual construction and the estimated date of project completion; and, must demonstrate that the actual construction of the road must be scheduled to commence in or before the third year of the five-year schedule.

(C) Parks and Recreation. The concurrency requirement may be met by satisfying the conditions listed in paragraphs (A)(1-4) above, or by complying with the following standards:

(1) At the time the development permit is issued, the necessary recreation facilities and services are the subject of a binding executed contract that provides for the commencement of the actual construction of the facilities within one year of the issuance of the building permit; or

(2) The necessary recreation facilities are guaranteed in an enforceable development agreement that requires the commencement of the actual construction of the facilities or the provision of services within one year of the issuance of the building permit.

6.01.02 Concurrency Management System

The Concurrency Management System (CMS) shall identify and inventory existing service capacities available for development. It shall include facility and service improvements approved in the first year of the City's 5-Year Schedule of Capital Improvements. No development plan or permit may be approved by the City that results in a reduction in LOS below the adopted standard.

(A) Concurrency Test Statement. Concurrency Test Statements shall be filed with and reviewed by the City, and a determination of concurrency shall be made prior to formal submittal of a development plan of any kind. This shall include issuance of building permits for residential development on existing lots where no plat or Site Development Plan is required.

(B) Procedure. Prepare Concurrency Test Statements on forms available at the City Clerk's office. Test Statements shall include the following information:

A legal description; a map; a narrative description of the site; all roads; projected potable water demand; projected wastewater demand; projected solid waste generation and identification of the service provider; a description of the stormwater management system; identification of required park and recreation facilities; and, a development schedule identifying the proposed date for the start of construction and the date of project completion.

Where required information is readily available, the Development Director may, at his own discretion, obtain or calculate one or more of the above data requirements. However, it shall be the applicant's full responsibility to ensure that the Concurrency Test Statement is complete and accurate.
For any public service not provided by the City of Mulberry, the Development Director may waive capacity certification on a case-by-case basis if there is satisfactory evidence that capacity is available to support the proposed development. Stormwater management certification for single family development on existing lots may be waived under the same conditions.

The applicant shall be notified within seven (7) working days as to whether the proposed development meets the concurrency requirement. If the proposal is determined to meet concurrency, the applicant may proceed with the development process as set forth in other sections of this Code. Proposals not meeting concurrency shall not be processed for review until and unless an agreement has been reached by the City and the developer to mitigate the identified deficiency.

### 6.01.03 Fees

Fees for staff review of Concurrency Test Statements shall be established, and may be changed from time to time, by resolution of the City Commission.

### 6.01.04 Developments to be Consistent with Concurrency Test Statements

All development proposals submitted to the City for review shall be consistent with the data established in the Concurrency Test Statement. Where deficiencies have been identified, development plans based on an agreement to provide needed facilities and/or services shall be processed with the agreement as a condition of development approval. However, the City shall not be required to approve a development plan that meets the concurrency requirement, but does not satisfy other provisions of this Code.

### 6.01.05 Allocation of Municipal Services

Allocations of public facility and service capacities shall be on a first-come, first-served basis.
6.01.06 Levels of Service

Through the Concurrency Management System, Mulberry shall maintain the following levels of service for public facilities:

<table>
<thead>
<tr>
<th>Facility</th>
<th>Level of Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sanitary Sewer</td>
<td>87 gallons per capita per day</td>
</tr>
<tr>
<td>Potable Water</td>
<td>130 gallons per capita per day (gpcd); 110 gpcd by 9-30-04 due to SWUCA Rule</td>
</tr>
<tr>
<td>Solid Waste</td>
<td>4.5 pounds per person per day</td>
</tr>
<tr>
<td>Principal Arterial Roads</td>
<td>C</td>
</tr>
<tr>
<td>Minor Arterial Roads</td>
<td>E</td>
</tr>
<tr>
<td>Other Local Roads</td>
<td>E</td>
</tr>
<tr>
<td>Recreation and Open Space</td>
<td>4.5 acres per 1000 people</td>
</tr>
<tr>
<td>Buildings</td>
<td>At or above the 100-year flood elevation</td>
</tr>
<tr>
<td>Stormwater Management Facilities</td>
<td>For existing development: Designed for a 3-year, 24-hour storm event. For new development: Designed for a 25-year, 24-hour storm event.</td>
</tr>
</tbody>
</table>

Source: Per the Comprehensive Plan, Updated 12-02.

All development that was not approved through a subdivision plat, site development plan, or the issuance of a building permit prior to the date of adoption of this Code shall be subject to an Adequacy Determination through the Concurrency Management System. An Adequacy Determination shall also be required for existing development where any improvement, expansion, or other change is proposed that may result in a greater demand for those public facilities addressed in this Section. The Development Director shall determine whether a proposed change in existing development requires an Adequacy Determination.

6.01.07 Required Determinations

As part of the Adequacy Determination, findings shall be made as to the amount of available capacity in those public facilities that are addressed in this Section.

(A) Adequacy of the Road System

The adequacy of the road network shall be evaluated according to conditions at the time the development plan or building permit is approved. Initial measurement of roadway capacities shall be carried out using data and methodology accepted by FDOT or other traffic analysis techniques that are technically justifiable as determined by the Development Director. Capacity ratings on the state highway network shall be approved by FDOT.
(B) Adequacy of Stormwater management facility

The proposed development shall be designed to provide adequate areas and easements for the construction and maintenance of a water management system to serve the proposed development and adjacent public rights-of-way in a manner that conforms to sound engineering standards. All developments shall meet the following LOS standards, where applicable:

1. Road Protection. Residential streets shall have crown elevations equal to the 100-year flood elevation.

2. Buildings. The lower floor elevation for buildings shall be no lower than one (1) foot above the 100-year elevation.

3. Off-Site Discharge. Off-site discharge is not to exceed the standards allowed by the SWFWMD and this Code.

4. Storm Sewers. The design frequency applicable to storm sewers is the 25-year, 24-hour storm event.

(C) Adequacy of Potable Water Service

Potable water service must be available for the needs of the proposed development at the adopted LOS. The proposed development shall be designed so as to reserve rights-of-way, easements, and any other areas that may be needed for the installation and maintenance of a potable water distribution system that will meet all applicable building, health, and environmental regulations, including Chapter 17-22, F.A.C.

(D) Adequacy of Wastewater Treatment and Disposal Services

Sanitary sewer service must be available for the needs of the proposed development at the adopted LOS. The proposed development shall be designed so as to reserve rights-of-way, easements, and any other areas that may be needed for the installation and maintenance of a wastewater treatment and disposal system that will meet all applicable building, health, and environmental regulations.

(E) Adequacy of Parks and Recreational Facilities

Park and recreational facilities shall be available prior to development approval for any residential development to meet the needs of that development at the adopted LOS. Calculations shall be based on average household size figures provided in the Housing Element of the Comprehensive Plan.
**6.01.08 Monitoring**

The Concurrency Management System shall be monitored and updated annually. Monitoring and updating shall consist of summing all approved services during each year and subtracting those sums from the capacities available at the beginning of the concurrency period. Any capital improvement scheduled during the concurrency period and constructed or placed into service shall then be added to the capacity totals. Any developer-sponsored facility or service placed into service shall also be included in the calculations. Upon calculation of available capacities under this method, all capital improvements projects budgeted and approved by the City Commission in the first year of its 5-Year Schedule of Capital Improvements shall be added to the relevant capacities. The sums of all aforementioned calculations shall be the available capacities for the next year. The following calculation shall be the basis of the annual concurrency monitoring system:

\[
\text{Available Capacity} + \text{Programmed Improvements (1st year S.C.I.)} - \text{Development Approved during year} = \text{Available Capacity (Nth year)}
\]

**6.01.09 Appealing City's Adequacy Determination**

A developer may challenge any concurrency determination made by the City by appealing the decision to the City Commission. The appeal shall be accompanied by substantial, competent evidence that sufficient capacity does exist by virtue of the following:

(A) The impacts of the proposed development will differ from the impacts estimated by the City as a result of special circumstances of that development;

(B) The information on which the City's analysis was based is erroneous or inadequate;

(C) In the case of roads, the applicant presents evidence through travel speed, distance, and time studies that impacted roadway links actually operate at higher levels of service than indicated by the City's analysis. Methodology for such travel speed/distance/time studies shall be certified by a licensed professional traffic engineer. In the event the travel speed/distance/time studies are warranted, the City or its agent shall conduct or commission such a study after receiving a fee from the applicant to cover the costs of conducting and analyzing the study. The applicant shall have the opportunity to review the methodology prior to the commencement of the study.

**6.01.10 Options for Achieving Compliance**

Where it appears, or it has been determined, that there is a lack of capacity to service a proposed development, the developer should consider a variety of methods for achieving compliance. Some possibilities are as follows.
(A) **Plan Amendment.** The developer may propose a plan amendment that lowers the adopted level of service standard for the affected facilities and/or services.

(B) **Reduce Impact of Development.** The developer may propose a reduction in the scale or impact of the proposed development.

(C) **Phasing of Development.** The developer may propose a phasing of the proposed development to match the availability of capacity with the timing of each phase of the development. Specific conditions for permitting each phase to proceed shall be included in an enforceable development agreement or development order to ensure that necessary public facilities and services will be in place when the impacts of the development occur.

(D) **Development Agreement.** The developer may propose a development agreement assuring that the required facility capacity will be provided. Any development agreement must provide one or more of the following assurances, acceptable to the City in form and amount, to guarantee the applicant's pro rata share of the cost of providing any public facilities and services that may be necessary to maintain the adopted level of service standards for the subject property:

1. cash escrow;
2. irrevocable letter of credit;
3. prepayment of capacity/connection charges.

Whenever an applicant's pro rata share of a public facility is less than the full cost of the facility, the City shall do one of the following:

1. contract with the applicant for the full cost of the facility, including terms regarding reimbursement of the applicant for costs in excess of the applicant's pro rata share; or
2. obtain assurances from other sources similar to those described above in this Section; or
3. amend the Comprehensive Plan to modify the adopted level of service standard so as to reduce the required facility to equal the applicant's needs.

(E) **Alternative Transportation Study.** Where a developer disagrees with the results obtained by the City in its concurrency review regarding transportation, a transportation study may be performed at the option and expense of the developer. The results of the study shall be considered by the City in subsequent determinations regarding the development's compliance with concurrency requirements.
(F) Other Transportation Studies. For those roadway facilities that indicate a lower LOS than the adopted standard of the City of Mulberry Comprehensive Plan, the City shall allow applicants to perform an operating LOS assessment based upon procedures outlined in the most recent FDOT Highway Capacity Manual. A discussion of any proposed transportation system management and/or mitigation strategies shall be included in the study. The transportation study shall be signed and sealed by a registered professional engineer. The cost of this assessment shall be borne by the applicant.

[RESERVED]
6.02.00 Development Agreements

6.02.01 Authority

Authority is granted to the City to enter into development agreements with developers under Sections 163.3220 through 163.3243, F.S. This Section shall be regarded as supplemental and additional to the powers conferred upon the City by other laws and shall not be regarded as in derogation of any powers now existing.

6.02.03 Procedures

(A) Application for Development Agreement. The developer shall make application for a development agreement through the Development Director and pay an application fee set by resolution.

(B) Public Hearing. Before entering into, amending or revoking a development agreement, the City shall conduct at least two (2) public hearings, one of which shall be held by the Planning Commission.

1. Notice of Hearing. See Section 8.06.00, Article 8.

2. Contents of Notice. The notice shall specify the location of the land subject to the development agreement, the development uses proposed on the property, the proposed population densities, and the proposed building intensities and height and shall specify a place where a copy of the proposed agreement can be obtained.

6.02.04 Contents and Duration of Development Agreement

(A) Contents. A development agreement shall include the following:

A legal description; names of the legal and equitable owners; duration of the agreement; development uses permitted on the land; description of public facilities that will service the development; description of any reservation or dedication of land for public purposes; and, description of all local development permits approved or needed to be approved for the development of the land.

(B) Duration of Agreement. The duration of a development agreement shall not exceed five (5) years. It may be extended by mutual consent of the City and the developer, subject to a public hearing in accordance with 6.02.03(A) above.

(C) Rights Vested Pursuant to Common Law. This Section does not abrogate any rights that may vest pursuant to common law.

6.02.05 Review, Amendment, Termination

(A) Periodic Review of Agreements. The City shall inspect land subject to development agreement at least once every 12 months to determine if there has been demonstrated good faith compliance with the terms of the development agreement. If the City
finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of the development agreement, the agreement may be revoked or modified by the City.

(B) Amendment or Cancellation of Agreement. A development agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest.

(C) Modification or Revocation to Comply with Subsequent State and Federal Law. If state or federal laws are enacted after the execution of a development agreement that are applicable to and preclude the parties' compliance with the terms of a development agreement, such agreement shall be modified or revoked as is necessary to comply with the relevant state or federal laws.

6.02.06 Recording and Enforcement

(A) Recording of Agreement. Within 14 days after the City enters into a development agreement, the City shall record the agreement with the clerk of the circuit court. A copy of the recorded development agreement shall be submitted to the DCA within 14 days after the agreement is recorded. The burdens of the development agreement shall be binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

(B) Enforcement of Agreement. Any party, any aggrieved or adversely affect person as defined in F.S. 163.3215(2), or the DCA, may file an action for injunctive relief in circuit court to enforce the terms of a development agreement or to challenge the validity of the agreement.

6.03.00 Development Exactions and Dedications

6.03.01 Dedication of Sites for Public Uses or Fee In Lieu

(A) Parks

(1) Where an evaluation under the Concurrency Management System indicates that additional usable recreation land and facilities are needed to maintain the adopted level of service standard, the developer shall dedicate land of suitable size, topography and general character to the City or pay a fee that is equal to the fair market value of the land otherwise required to be dedicated. The required acreage or fee shall be determined by the Development Director based on information supplied in the Concurrency Test Statement submitted in connection with the proposed development.

Conditions for the City's acceptance of dedicated recreation land shall be established in a Development Agreement under the provisions of Section 6.02.00.
(2) Where dedication of recreation land is not required to maintain the adopted level of service, the City may refuse to accept such land, or establish reasonable conditions for acceptance. Proposed recreational uses must be consistent with the Future Land Use Map of the Mulberry Comprehensive Plan. Other conditions may include, but are not limited to, the following:

a. Land must be readily accessible and usable for recreational purposes.

b. Land must be fully or partially developed for recreational use at time of acceptance.

c. The facility would meet a specific recreational need of the City (i.e., picnic areas, boat launch facilities).

(B) **Right-Of-Way.** Right-of-way required to serve all development shall be dedicated in accordance with the requirements of Article 3 of this Code. Where subdivisions are bordered by public right-of-way, additional right-of-way shall be dedicated so as to meet minimum widths specified in the comprehensive plan. Where dedicated right-of-way is extended to an adjoining property or street, there shall be no reserved strips affording private control of future access. The City may require public reserved strips where such reservations promote the public health and safety and implement the comprehensive plan.

Where right-of-way has been dedicated independent of any requirement of this Code or the Comprehensive Plan, the City may refuse to accept such right-of-way, or establish such conditions for acceptance as the City Commission determines to be reasonable.

**6.03.02 Dedication of Utility Easements**

Except where alleys are provided for the purpose of access and utility placement, easements of no less than 15 feet in width, or wider as the City Engineer deems necessary, shall be dedicated for the installation of underground utilities by the City or franchised utility providers. Easements for watercourses or stormwater management facilities traversing a subdivision shall be of a width sufficient to convey the volume of stormwater projected to be generated by the 25-year storm event. Such easements shall be approved by the City Engineer.
APPLICATION FOR CONCURRENCY EVALUATION  
City of Mulberry

This application, together with all required attachments, shall be completed and filed with the Development Director prior to making application for site development plan, subdivision, or building permit approval. A finding of non-deficiency only entitles the owner to apply for development permits pursuant to the time parameters established in Article 6 of the City of Mulberry Land Development Code.

**Type or Print** the following information.

<table>
<thead>
<tr>
<th>Owner</th>
<th>Applicant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
<td>Address</td>
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<tr>
<td>Zip</td>
<td>Zip</td>
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<tr>
<td>Phone #</td>
<td>Phone #</td>
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**PROPERTY DESCRIPTION**

Adjacent Road(s)

<table>
<thead>
<tr>
<th>Township</th>
<th>Range</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subdivision Name</td>
<td>Block</td>
<td>Lot/Parcel</td>
</tr>
<tr>
<td>Plat Book / Page Number (if applicable)</td>
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</tbody>
</table>

**PROPOSAL**

- Site Development Plan
- Subdivision
- Building Permit

**DEVELOPMENT INFORMATION**

- Acreage / Lot Dimensions
- Zoning District

- Residential Development
  - Type(s) of Units
  - Maximum Number of Units

- Non-Residential Development
  - Specific Use(s)
  - Floor Area or Acreage*

* Other measures of intensity may be substituted as appropriate for the proposed use, such as number of students (schools), seating capacity (churches and theaters), etc.
### TRANSPORTATION FACILITIES

<table>
<thead>
<tr>
<th>Primary Access Street(s)</th>
<th></th>
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<tbody>
<tr>
<td><strong>Classification</strong></td>
<td><strong>Current PHT</strong></td>
</tr>
<tr>
<td><strong>Current V/C and LOS</strong></td>
<td><strong>Adopted LOS Standard</strong></td>
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<tr>
<td>Required facility improvement scheduled in:</td>
<td></td>
</tr>
<tr>
<td>☐ 5-Year Schedule of Capital Improvements</td>
<td></td>
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<tr>
<td>☐ FDOT 5-Year Work Program (no later than 3rd year)</td>
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<tr>
<td>☐ No facility improvement needed</td>
<td></td>
</tr>
<tr>
<td>Potential PHT generated by development</td>
<td>V/C ratio &amp; LOS with development</td>
</tr>
<tr>
<td>Further evaluation of traffic impacts needed</td>
<td>☐ Yes ☐ No</td>
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</tbody>
</table>

### POTABLE WATER FACILITIES

<table>
<thead>
<tr>
<th>Is proposed development within an existing potable water service area?</th>
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<tbody>
<tr>
<td>☐ Yes (Capacity Certification attached)</td>
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<tr>
<td>☐ No</td>
<td></td>
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<tr>
<td>Supplier of potable water service</td>
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<tr>
<td>Are facility expansions or improvements needed to service the development?</td>
<td></td>
</tr>
<tr>
<td>☐ Yes ☐ No</td>
<td></td>
</tr>
<tr>
<td>☐ Needed facilities included in 5-Year Schedule of Capital Improvements</td>
<td></td>
</tr>
<tr>
<td>☐ Needed facilities will be provided by applicant</td>
<td></td>
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<tr>
<td>☐ Needed facilities will be provided by other means (explain below)</td>
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### SANITARY SEWER FACILITIES

<table>
<thead>
<tr>
<th>Is proposed development within an existing sanitary sewer service area?</th>
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<tbody>
<tr>
<td>☐ Yes (Capacity Certification attached)</td>
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<tr>
<td>☐ No (Attach copy of Septic Tank Permit)</td>
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<tr>
<td>Supplier of sanitary sewer service</td>
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<tr>
<td>Are facility expansions or improvements needed to service the development?</td>
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<tr>
<td>☐ Yes ☐ No</td>
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<tr>
<td>☐ Needed facilities included in 5-Year Schedule of Capital Improvements</td>
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<td>☐ Needed facilities will be provided by applicant</td>
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</tr>
<tr>
<td>☐ Needed facilities will be provided by other means (explain below)</td>
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### PARKS AND RECREATION FACILITIES (Residential proposals only)

<table>
<thead>
<tr>
<th>Potential population of development proposal</th>
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<tr>
<td><strong>Existing Level of Service</strong></td>
<td><strong>Level of Service based on proposal's potential</strong></td>
</tr>
<tr>
<td>Additional recreation property/funding required to service development</td>
<td>☐ Yes ☐ No</td>
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**SOLID WASTE DISPOSAL**

Solid Waste facility to be used:

- Adequate facility capacity is available to service the development
  - Yes (Capacity Certification attached)
  - No

**STORMWATER MANAGEMENT**

This development is designed such that post-development runoff does not exceed pre-development runoff for a 25-year storm even of 24-hour duration.

- Yes (Engineering plans or certification attached)
- No

**SUMMARY OF CONCURRENCY EVALUATION RESULTS**

Using the information provided in items A through F of the worksheet, will the development proposal be served by the following facilities and services with the adopted Level of Service Standards of the City of Mulberry Comprehensive Plan?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>Unknown (Explain below)</th>
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[RESERVED]
Unified Land Development Code Update

ARTICLE 7

Development Approval Process
ARTICLE 7

DEVELOPMENT APPROVAL PROCESS

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7.02.02 Contents of the Application for Plan Amendments
7.02.03 Planning Board Standards for Evaluation
7.02.04 Public Hearings
7.02.05 Findings and Recommendation to Approve a Plan Amendment
7.02.06 Findings and Recommendation to Deny a Plan Amendment
7.02.07 Decision By City Commission

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7.03.03 Planning Board Standards for Evaluation
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7.03.06 Findings and Recommendation to Deny a Rezoning
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7.04.02.06 Non-Compliance
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7.05.05 Preliminary Subdivision Plat

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7.05.05.02 Term of Preliminary Subdivision Plat

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7.05.06.01 Submission of Construction Plans
7.05.06.02 Performance Bond
7.05.06.03 Construction Inspection
7.05.06.04 Engineering drawings
7.05.06.05 Maintenance Guarantee

7.05.07 Final Plat

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7.07.00 Home Occupations

7.07.01 Procedure for Approval of a Home Occupation
7.08.00 Variances

7.08.01 Criteria for Granting a Variance

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7.09.02 Nonconforming Lots of Record
7.09.03 Nonconforming Structures
7.09.04 Nonconforming Manufactured (mobile) Home Parks
7.09.05 Nonconforming Manufactured (mobile) Homes
ARTICLE 7
DEVELOPMENT APPROVAL PROCESS

7.01.00 Pre-Application Conference

A pre-application conference will be held for each new site development plan or subdivision plat submitted to the City for approval. The City Manager, or his/her designee, will conduct pre-application conferences as needed and, at his discretion, will summon the Development Review Committee (DRC) consisting of various members of City staff and other persons whose expertise is relevant to a particular project. At a minimum, the DRC shall be comprised of the director or manager, or their designee, of Development/Planning, Building, Code Enforcement, Public Works/Utilities, and Fire Services.

Persons participating in pre-application conferences shall have knowledge and experience in one or more of the following areas: planning and/or zoning, public works, downtown redevelopment, law enforcement, fire/emergency services, parks and recreation, traffic engineering, environmental protection, community development, or others as appropriate.

A pre-application conference will be scheduled upon submission of preliminary development plans and may be waived if the applicant so chooses.

The pre-application conference shall not be required for proposals involving existing development sites and meeting the following conditions:

1. Site Development Plan: proposed change does not generate the need for additional parking spaces.

2. Subdivision Plat: proposed change does not create more than two (2) additional lots.

Such proposals shall be considered amendments to existing plans rather than new ones; however, all other provisions of this Code shall apply.

[RESERVED]
7.02.00 Comprehensive Plan Amendments

7.02.01 Intent and Purpose

An amendment to the Comprehensive Plan may either be a change to the goals, objectives and policies of the Comprehensive Plan; or, the amendment of a land use classification shown on the Future Land Use Map. A Plan Amendment may be initiated by the City, by a property owner or agent of a property owner, or by citizens or interested parties who have established standing to bring amendments to the City for consideration.

The basis for review of a proposed Plan Amendment is the same as the basis for the adoption of the Comprehensive Plan, which entails a review of data and analysis in support of the Plan Amendment: analysis of the impact of the Amendment on public facility Levels of Service and the Capital Improvements Budget of the City; and an analysis of the need for the proposed Amendment in relation to the existing structure of the City and the future as delineated in the goals, objectives and policies of the Comprehensive Plan.

There are three general types of Comprehensive Plan Amendments: Expedited State Review, State Coordinated Review, and Small Scale. The Expedited State Review Process is utilized for the majority of Comprehensive Plan amendments adopted by local governments. The State Coordinated Review Process is utilized for amendments that are in an area of critical state concern, amendments that propose a rural land stewardship area, amendments that propose a sector plan, or amendments that update a comprehensive plan based on an Evaluation and Appraisal Report. The Small Scale process is utilized for amendments that qualify as small-scale development amendments. Statutory requirements for Comprehensive Plan Amendments are found in Article 8, Section 8.07.00 of this Code.

7.02.02 Contents of the Application for Plan Amendments

Comprehensive Plan Amendments can be either text amendments or amendments effecting land use, development standards, and maps. All requests for Plan Amendments shall be submitted in writing to the City Manager, or his/her designee, together with applicable fees, which shall have been established by resolution of the City Commission.

(A) Application Contents for Text Amendments. The application shall contain the following items, as applicable:

(1) A description of the proposed Plan Amendment, specifying the goals, objectives and policies of the Comprehensive Plan that are to be modified.

(2) Data and analysis that supports the change applied for. Specifically, new data that would alter the assumptions in the Comprehensive Plan and would, therefore, justify the Plan Amendment of a goal, objective or policy.
(B) **Application Contents for Amendments Effecting Land Use, Development Standards, & Maps.** The application shall contain the following items, as applicable:

1. A description of the proposed Plan Amendment, specifying the goals, objectives and policies of the Comprehensive Plan that are to be modified.

2. Where the Plan Amendment proposed will change the Future Land Use Map, a legal description of the property.

3. A concurrency analysis of all public facilities and services for which a Level of Service has been established in the Comprehensive Plan.

4. An Evaluation and Appraisal Report (EAR Report), the format of which is outlined in (C) below.

(C) **Plan Amendment Evaluation and Appraisal Report (EAR Report) Required from the Applicant.** Based on the data found in the Comprehensive Plan Data and Analysis sections, the evaluation and appraisal report shall contain the following, as applicable.

1. **Inventory and Analysis of Site Characteristics**
   a. A description of the terrain; type of vegetation on the site; statement regarding the existence of surface water or wetlands or both; and existence of any flood plains on the site.
   b. The type of soils present on the site and in the area; an analysis of the limitations for construction for each type of soil; and an analysis of absorption rate for septic fields. Identification of habitats present on the site as indicated by the soil types.
   c. An inventory of endangered plant and animal species on the site; an inventory of plant and animal species (mammals, birds and reptiles) common to this site.
   d. A list of trees with an estimate of canopy that they provide; a list of herbaceous plants and vines; a list of grasses and grasslike plants.

2. **Inventory and Analysis of Land Use:** location in the City; former use; existing surrounding land uses; and, analysis of type of buffer needed between proposed project site and existing land uses.

3. **Inventory of Public Facilities:** location of existing sewer service and potable water facilities serving the development site with capacities and the future demand associated with the proposed development; the functional classification of roads serving the area with estimated daily traffic volumes;
an analysis detailing the future volumes and their effect on roadway Levels of Service; and an analysis of recreation land and facilities needs generated by the proposed land use classification.

7.02.03 Planning Board Standards for Evaluation

The Planning Board shall review every Plan Amendment. In reviewing and formulating recommendations to the City Commission on proposed Amendments to the Comprehensive Plan, and particularly, the Future Land Use Element and Future Land Use Map, the Planning Board shall specifically consider and evaluate the proposed amendments against the following standards.

(A) The proposed Plan Amendment is consistent with the goals of the City of Mulberry Comprehensive Plan. Objectives and policies of the Plan may be proposed for modification by the Amendment.

(B) The proposed Plan Amendment contains an analysis of the Levels of Service for all public facilities and services; identifies the timing of improvements to maintain Levels of Service established by the Comprehensive Plan; and estimates the cost of such improvements to the City and to the developer.

(C) In the case of a proposed Plan Amendment to the Future Land Use Map, the proposed Land Use Classification at the proposed location has been analyzed to identify adverse impacts to adjacent land uses, the character of the neighborhood, parking, or other matters affecting land use compatibilities and the general welfare of the City. Said analysis must address land uses as they now exist, and as they may exist in the future, as a result of the implementation of the goals, objectives and policies of the Comprehensive Plan; and contains objectives and policies to mitigate or eliminate adverse impacts.

(D) The proposed Plan Amendment contains an analysis of community need for the development associated with the Amendment. The analysis is based on existing and proposed uses of a similar nature in the City, and an assessment of the need to provide or maintain a proper mix of uses both within the City of Mulberry and also in the immediate area in Polk County or another municipality.

(1) The proposed Plan Amendment shall not result in either a detrimental over concentration of a particular use within the City or within the immediate area.

(2) The Plan Amendment contains sufficient proof to convince the Planning Board and the City Commission that the proposed Plan Amendment and Land Use Classification supplants the analysis that supported the establishment of the existing Land Use Classification.
7.02.04 Public Hearings

No Plan Amendment may be considered by the Planning Board until due public notice has been given of a public hearing. All procedures for advertisement and notification of a public hearing shall be as delineated in Article 8, Section 8.06.00 of this Code.

7.02.05 Findings and Recommendation to Approve a Plan Amendment

The Planning Board may recommend approval of an application for a Plan Amendment only when all of the following conditions are met.

(A) The proposed Plan Amendment is, or proposes objectives and policies, that will be consistent with the City of Mulberry Comprehensive Plan.

(B) The proposed Plan Amendment will not degrade the Level of Service of one or more public facilities and services, or contains commitments to make improvements to maintain Levels of Service established by the Comprehensive Plan, and does not increase the cost of improvements to be undertaken by the City as stated in the Capital Improvements Element.

(C) There is a community need for the proposed Plan Amendment. This finding must be based on an analysis of existing and proposed land uses of a similar nature in the City, and an assessment of the need to provide or maintain a proper mix of land uses both within the City of Mulberry and also in the immediate area of Polk County.

7.02.06 Findings and Recommendation to Deny a Plan Amendment

The Planning Board may recommend denial of any application for a Plan Amendment for one or more of the following reasons:

(A) The proposed Plan Amendment is inconsistent with the City of Mulberry Comprehensive Plan.

(B) The proposed Plan Amendment will degrade the Level of Service of one of more public facilities and services, and contains no commitment to undertake improvements to maintain acceptable Levels of Service.

(C) No community need can be demonstrated for the proposed Plan Amendment at the proposed location.

7.02.07 Decision By City Commission

Within thirty (30) days of receipt of the Planning Board recommendation, the City Commission shall hold a public hearing, after due public notice, on all recommendations associated with a Plan Amendment from the Planning Board. It may accept, reject, modify, return or continue and seek additional information on those recommendations. No approval
of a Plan Amendment shall be granted unless approved by a majority of the Commissioners voting.

Plan Amendments are subject to review by the DCA under Chapter 163, F.S. The City Commission therefore, does not act to "adopt" a Plan Amendment, but rather to "transmit" the Plan amendment for review. For guidance in the submission of amendments for review by the State, see Article 8, Section 8.07.00. In the case of a Small Scale Plan Amendment, the City Commission does adopt the Amendment, transmit it to DCA, but may proceed to consider rezoning without waiting for the conclusion of State review. Small Scale Amendment criteria are contained in Section 8.07.05 of this Code.

[RESERVED]
7.03.00 Rezoning

7.03.01 Purpose and Intent

A rezoning may be initiated by the City, or by a property owner or agent of a property owner. The basis for review of application for rezoning entails a review of data and analysis in support of the rezoning; analysis of the impact of the rezoning on public facilities Levels of Service; and an analysis of the need for the proposed rezoning in relation to the goals, objectives and policies of the Comprehensive Plan.

7.03.02 Contents of the Application

Rezoning requests shall be submitted to the City Manager, or his/her designee, on an application form provided by the City, together with applicable fees, which shall have been established by resolution of the City Commission. The application shall contain, at a minimum, the following information:

1. A legal description of the property, including the size of the area in acres.
2. A description of the proposed rezoning, specifying the goals, objectives and policies of the Comprehensive Plan that it supports and advances.
3. A detailed map showing the location of the property in the City, existing land use, existing surrounding land uses; existing zoning and boundaries of the zoning district, and the proposed boundaries of the rezoned district.
4. A description and generalized site plan of any proposed development including; the number of units proposed and resulting net density; number of required parking spaces and location; footprint of all proposed buildings and structures on the site, including setbacks; required landscape and buffer yards; and sign locations.
5. The location of existing sewer service and potable water facilities to the development site and whether or not the existing facilities will serve the new development.
6. The functional classification of all roadways that will be impacted by development permitted by the proposed zoning district, with current and estimated future daily traffic volumes.
7. The location of all public and private streets, driveways and utility easements within and adjacent to the site.
8. A description of the terrain and the vegetation on the site, including a topographic map, when available.
(9) An inventory and description of surface water and wetlands; and any flood plains on the site.

(10) A general inventory of plant and animal species common to the area, any endangered plant and animal species, and habitats present on the site.

(11) A inventory of trees with an estimate of canopy that they provide, and an inventory of stands of mature trees and understory vegetation that may provide wildlife habitats or other environmentally unique areas.

7.03.03 Planning Board Standards for Evaluation

The Planning Board shall review every request for rezoning. In reviewing and formulating recommendations to the City Commission on rezoning applications, the Planning Board shall specifically consider and evaluate the proposed rezoning against the following standards.

(A) Consistency with the Comprehensive Plan. The proposed rezoning is consistent with the goals of the City of Mulberry Comprehensive Plan.

(B) Concurrency Analysis. The proposed rezoning contains an analysis of the Levels of Service for all public facilities and services; identifies the timing of improvements to maintain Levels of Service established by the Comprehensive Plan; and estimates the cost of such improvements to the City and to the developer.

(C) Impact Analysis. The proposed rezoning has been analyzed to identify future adverse impacts to adjacent land uses, the character of the neighborhood, parking, or other matters affecting land use compatibility and the general welfare of the City.

(D) Zoning and Use of Nearby Property. An analysis of the range of development that will occur as a result of the rezoning, in comparison to the existing pattern of development, and the future pattern established by the Comprehensive Plan. Depending on the uses permitted in the proposed zoning district, inconsistency in the two patterns may be created.

(E) Substantial Changes in Land Use Circumstances. Analysis of the effect of significant changes in land use in the vicinity of the proposed rezoning. Such changes are substantial if they include: widening of a street, expansion of existing permitted uses, the completion of a subdivision that was previously platted, the construction of a new public facility, such as a park, or any number of other examples. One such change may not be significant and may not justify the rezoning, but several would be and may justify rezoning to higher intensities.

(F) Time Vacant. If the property (site) is vacant, an analysis of the length of the vacancy versus the present zoning classification is important. In particular, an analysis should have been done to compare the rate of land development in the vicinity of the
property and the conversion of vacant land to development in the same zoning district in other parts of the City.

(G) **Effect on Property Values.** An analysis of the effect of the proposed rezoning on property values.

### 7.03.04 Public Hearings

**Due Public Notice.** No request for rezoning may be considered by the Planning Board until due public notice has been given of a public hearing. All procedures for advertisement and notification of a public hearing must be followed as delineated in Article 8, Section 8.06.00 of this Code.

### 7.03.05 Findings and Recommendation to Approve a Rezoning

The Planning Board may recommend approval of an application for a rezoning only when all of the following conditions are met.

(A) The proposed rezoning is consistent with the City of Mulberry Comprehensive Plan.

(B) The proposed rezoning will not degrade the Level of Service of one or more public facilities and services, or contains commitments to make improvements to maintain Levels of Service established by the Comprehensive Plan, **and** does not increase the cost of improvements to be undertaken by the City as stated in the Capital Improvements Element.

(C) The proposed rezoning and all permitted uses are compatible with development on surrounding property; **or** compatibility can be achieved by the imposition of conditions, buffers or limitations on the uses within the zone, which are specified in the Board's recommendation. By this analysis the Planning Board determines whether or not the proposed rezoning provides "appropriate use" of the property.

### 7.03.06 Findings and Recommendation to Deny a Rezoning

The Planning Board may recommend denial of any application for a rezoning for one or more of the following reasons:

(A) The proposed rezoning is inconsistent with the City of Mulberry Comprehensive Plan.

(B) The proposed rezoning will degrade the Level of Service of one of more public facilities and services, and contains no commitment to undertake improvements to maintain acceptable Levels of Service.
(C) The Public Welfare benefits in maintaining the present zoning classification are so great, that any hardship imposed on the property owner by denying the request for rezoning, is justified.

7.03.07 Decision By City Commission

Within thirty (30) days of receipt of the Planning Board recommendation, the City Commission shall hold a public hearing, after due public notice, on all recommendations associated with a rezoning from the Planning Board. It may accept, reject, modify, return or continue and seek additional information on those recommendations. No approval of an application for rezoning shall be granted unless approved by a majority of the Commissioners voting.

[RESERVED]
7.04.00 Site Development Plans

7.04.01 Purpose of Site Development Plan Requirements

The purpose of this Section is to provide requirements for preparing site development plans so that land development may be reviewed for compliance with City Land Development Code requirements.

7.04.01.01 Development Review Committee

The Development Review Committee (DRC) is responsible for reviewing Development Review Applications and site development plans that are the subject of this Section. Approval of site development plans shall be in the form of a Development Approval Certificate.

7.04.01.02 Pre-Application Conference

Unless otherwise waived, at the discretion of the City Manager, or his or her designee, a pre-application conference with the DRC shall be held for each new site plan submitted to the City for review. For purposes of the pre-application conference, the applicant shall present a concept plan in conformance with Section 7.04.01.03.

7.04.01.03 Concept Plan Requirements

The developer shall present a concept plan, drawn to an appropriate scale, to the City Manager, or his or her designee, for distribution to the DRC.

At a minimum, the plan shall show the following:

A. Total acreage;

B. Future Land Use and zoning districts of the proposed project site and abutting properties;

C. Project boundaries;

D. General lot layout, typical lot sizes;

E. Proposed use(s) and their general location(s) on the site, including building setbacks;

F. General street layout, as applicable;

G. Density or intensity, as applicable;
H. Significant physical conditions (e.g., wetlands, lakes, etc.).

The DRC shall meet with the applicant at a pre-application conference and shall provide information and comments to assist the applicant in the preparation of site development plans consistent with City Code requirements.

7.04.01.04 Development Review Application

A Development Review Application shall accompany all site plans which are the subject of this Section. Applicants shall submit the Development Review Application and all required exhibits and applicable fees, in the amount established by resolution by the City Council, to the City Manager, or his or her designee.

The Development Review Application shall, at a minimum, include the following information:

A. The property owner's name, address, telephone number and email address, if available;

B. If the property involved is owned by a corporation or company, the name, address, telephone number and email address, if available, of its president and secretary;

C. The name, address, telephone number and email address, if available, of the designated applicant, engineer, or project representative if other than the property owner;

D. Party having interest in the property (owner, buyer, etc.);

E. Property location, either physical street address, or if vacant, general location description;

F. Legal description and property tax identification number;

G. Purpose of application;

H. Future Land Use and zoning districts of the proposed project site and abutting properties;

I. Total acreage.

7.04.02 Site Development Plans

The site plan review procedure shall be required for specified residential and all nonresidential construction to ensure that all development projects meet the requirements
of this Code prior to the issuance of a building permit. It is the intent of this Section that
the site plan process be a part of the building permit application process, in that
the site plan is the instrument by which improvements to the site will be constructed and
inspected, and by which final inspection and Certificate of Occupancy shall be issued.
However, the Enforcing Official, or his or her designee, may at any time accept and
review building construction plans related to structural, mechanical, electrical and
plumbing systems, subject to the condition that no permits may be issued prior
to site plan approval.

For purposes of general site plan review, the developer shall present site plans to the City
Manager, or his or her designee, for distribution to the DRC. All required plans and
drawings for a project, such as but not limited to, architectural, landscaping and
engineering plans, shall be consistent with each other with regard to the layout of the site
elements both on the horizontal and vertical planes. Architectural, utility and engineering
plans shall not conflict with landscape requirements. In all cases, engineering plans
addressing stormwater management, road construction and other technical aspects of
development design shall be sealed by a civil engineer registered in the State of Florida.
If development is constructed in phases, a site development plan shall be submitted for
each successive phase of the development.

7.04.02.01 Development Requiring Site Plan Approval

Site plan approval shall be required prior to the issuance of a building permit for
the following:

A. A parcel of land proposed for a nonresidential use, including hotels, motels,
   and RV parks.

B. A parcel of land proposed for multiple-family residential use of three (3)
   dwelling units or more, or a mobile home park.

C. Assisted living facilities and group homes housing more than three (3)
   residents.

D. Clubhouses or similar facilities built on common property within a
   subdivision.

E. Division of an existing development site (such a division shall result in a new
   or modified site plan for previously existing development, in addition to a
   separate plan for new development).

F. An expansion or reconfiguration of any of those types of development which
   are subject to site plan requirements.

G. A change in the use of an existing development site from one (1) land use
category to another, as listed in Table 2.04.01.
7.04.02.02 Site Development Plan Requirements

A minimum of seven (7) copies of the site development plan, and any additional copies as may be required by the City, shall be submitted to the City Manager, or his or her designee, for processing and review. Site plans shall, at a minimum, contain the following information, as applicable:

A. Plans shall be submitted on twenty-four (24) by thirty-six (36) inch sheets drawn to a scale of not less than one (1) inch equals one hundred (100) feet, unless allowed otherwise at the discretion of the City;

B. When more than one sheet is required, an index sheet of the same size shall be included showing the entire parcel with individual sheet numbers referenced thereon;

C. Site plan name;

D. North arrow, scale and date prepared;

E. A certified boundary survey of the tract prepared by a surveyor registered with the State of Florida showing the location and type of boundary evidence related to the State Plane Coordinate System, if available, and the accurate legal description of the property with a computation of the total acreage of the tract to the nearest tenth of an acre. The survey shall have been prepared within one (1) year prior to filing the site plan;

F. A survey showing existing topographical features, including contours at one (1) foot intervals as well as spot elevations arranged in a grid system with thirty-five (35) foot spacing;

G. Spot elevations along the tract boundary and twenty-five (25) feet outside thereof (closer where necessary to depict irregularities in the elevations of the property or adjacent property);

H. Identification of natural features including watercourses, swales, catch basins, ditches, and significant stands of mature trees and understory vegetation that may provide wildlife habitats or other environmentally unique areas;

I. Delineation of all environmentally sensitive areas and identification of any soil limitations/characteristics, and endangered wildlife and plants, as determined by the appropriate agency;
J. Identification of all wetlands and flood-prone areas as delineated by the National Wetlands Inventory and the Flood Insurance Rate Maps published by the Federal Emergency Management Agency (FEMA);

K. Location of open space and recreation areas;

L. Location and dimensions of on-site parking, loading and unloading spaces;

M. Location and dimensions for traffic circulation, designated with arrows, all public and private streets, site access and driveways, pedestrian walks and utility easements within and adjacent to the site;

N. The footprint of all proposed buildings and structures on the site, including setbacks;

O. Sign locations and setbacks;

P. Fence and wall locations and heights;

Q. Phase lines, if the development is constructed in phases;

R. All existing and proposed utilities and utility tie-in locations, including but not limited to:
   1. Water and wastewater pipe sizes, rim and invert elevations, direction of flow and top and bottom elevations and fire hydrant locations and flows.
   2. Telephone, electric, gas and other utilities.

S. Location of major solid waste receptacles, including dumpster pads and enclosures;

T. Tabulations of the following, as applicable:
   1. Total square footage or acreage of project site;
   2. Total number of lots and average size;
   3. Number of units proposed, if any, and resulting gross density;
   4. Acreage of each type of land use and its percentage of total acreage;
   5. Total square footage of buildings and structures;
   6. Total floor area, in square feet, of residential and non-residential uses;
7. Total number of required and proposed on-site parking spaces;

8. Total square footage of building lot coverage and percentage of the overall site;

9. Total square footage of vehicular use areas (parking, sidewalks, etc.);

10. Square footage of open space and recreation areas and percentage of the overall site.

7.04.02.03 Development Site to be Unified

When requesting site development plan approval, the applicant shall furnish proof that the development site is unified by title and not spatially divided by ownership; however, multiple ownership is permissible so long as each owner or investor holds a percentage or proportionate interest in the site as a whole.

7.04.02.04 Modification of Approved Site Plans

Any modification, variation or adjustment of an approved site plan shall require a site plan amendment approval. The City Manager, or his or her designee, shall determine whether a proposed site plan modification is a major or a minor modification. The determination shall be based on, but shall not be limited to the following:

A. Major Modification includes any substantial change, including an increase in density, a change in permitted uses, a change in stormwater runoff characteristics, a change in traffic patterns and/or trip generation, or other similar changes;

B. Minor Modification includes any proposed changes in configuration or other similar changes as deemed not to alter the intent and purpose of the approved overall development plan.

The applicant shall submit the site plan modification request to the City Manager, or his or her designee. The City Manager, or his or her designee, may approve minor modifications. However, if the proposed modification is determined to be a major modification, the City Manager, or his or her designee, shall forward the site plan revisions to the DRC, and any other appropriate members of City staff and outside consultants, for review and determination of approval.

7.04.02.05 Effect of Site Plan Approval

A building permit shall be obtained within twelve (12) months of the approval date of a site plan or the plan shall become invalid. No building permit shall be issued until the site plan has been approved and is on file with the City. All
building and construction permits issued for any project requiring site plan review shall be consistent with the approved site plan and any stipulated conditions that are part of the approval. The approval of a site plan shall not, under any circumstance, be construed to waive or otherwise diminish the applicable City requirements for construction or installation of structures or materials. Whenever a conflict between the site plan and such construction details occurs, the more restrictive, or that requiring the higher standard, shall prevail.

The Building or Enforcing Official shall retain one (1) copy of the site plan to constitute a permanent record of said plan. A minimum of three (3) copies of the plan shall be reserved for the applicant, two (2) copies of which shall accompany the application for a building permit, and one (1) copy which shall be available for inspection at the job site.

**7.04.02.06 Non-Compliance**

Failure to comply with an approved site plan or any of the conditions upon which such approval was contingent, including time limits for performance, shall be cause to deny issuance of a building permit or, where a permit has been issued pursuant to an approved site plan, to render such building permit invalid. Any action, construction, development or use of property undertaken in violation of the provisions of this Code shall constitute a violation of this Code and may be subject to a stop-work order.

[RESERVED]
7.05.00 Subdivision Regulations

7.05.01 General

7.05.01.01 Purpose and intent

The purpose of this Section is to establish minimum procedures and standards to further the provisions of State Law that regulates and requires the platting of land for development; to further the goals and policies of the Mulberry Comprehensive Plan; and to set forth a process for approval of the subdivision of land within the jurisdiction of the City. Where provisions for subdividing land are either more restrictive or less restrictive than other land development codes, resolutions or rules adopted by the City, those provisions that are more restrictive and impose higher standards or requirements shall govern. Subdivision approval procedures are set forth herein as a three-step process, the concept plan review (optional), preliminary plat review and final plat approval. This process is intended to permit comprehensive review by the City and to benefit the developer by identifying potential problems and their solutions at appropriate times during the process. As with all stages of the development approval process, it is the responsibility of the developer to check all State and local regulations governing the subdivision of land and to adhere strictly to the procedures therein.

7.05.01.02 Applicability

These regulations shall apply to all subdivisions, including those intended for commercial and industrial development. The provisions of this Section are applicable to the division of a parcel of land, that is defined to mean the division of contiguous land holdings by a single owner or multiple owners, regardless of how said parcels are described or recorded, into three or more parcels, lots, tracts or sites for the purpose of transfer of ownership or building development.

7.05.02 Procedure

Whenever any subdivision of land is proposed and before any contract is made for the sale of any part thereof and before any permit for the installation of utilities, either public or private; construction; paving and drainage; or structures in a proposed subdivision shall be granted, the subdivider, or his authorized agent, shall apply for and secure approval of the proposed subdivision through submission of the following documents:

(A) Concept Plan Review (Optional)
(B) Preliminary Subdivision Plat
(C) Construction Plans
(D) Final Subdivision Plat
Final Subdivision Plat. Upon completion of all subdivision infrastructure improvements, or guarantee thereof, the subdivider shall apply for and receive approval of a Final Subdivision Plat before applying for permits to build structures on the lots thus created.

7.05.02.01 Pre-Application Conference

Unless otherwise waived, a pre-application conference with the DRC shall be held, in accordance with Section 7.01.00 of this Code, for each new proposed subdivision plat submitted to the City for review.

7.05.03 Concept Plan Review

The developer may present a subdivision concept plan to the City Manager, or his/her designee, who shall review the plan as to its conformance to the comprehensive plan, zoning and other applicable land development regulations. The plan shall show, at the minimum

(A) Proposed use
(B) Basic street layout
(C) Typical lot sizes
(D) Boundaries
(E) Significant physical conditions

The concept plan may be a sketch, but must be drawn to scale. Comments by the City Manager, or his/her designee, City engineer, fire official and other City staff reviewing the concept plan shall be detailed in a letter to the developer not less than ten (10) working days after submission, and shall form the basis for preparing the preliminary plat.

7.05.04 Administrative Approval of Minor Subdivisions

(A) The intent of this division is to establish an administrative review and approval process for small scale residential development and land subdivision.

(B) Within five days of submittal of plans for a building or land development permit, the City Manager, or his/her designee, shall determine if minor subdivision approval is applicable and shall state any requirements in a letter or memorandum, that shall be attached to the permit application.

(C) In requesting the administrative approval of a minor subdivision, the applicant shall provide the following information:
(1) A copy of the deed to the property. If the applicant does not own the property, he must obtain written permission from the owner, including a notarized signature, authorizing him to make the application.

(2) A copy of the official property appraiser's map indicating the subject property and all other properties within 200 feet.

(3) A certified survey.

(4) Any established application fee plus the per lot fee for subdivision shall be charged.

(D) The City Manager, or his/her designee, may administratively approve a minor subdivision property for residential use under the following conditions:

(1) The approval does not result in the creation of more than four new lots.

(2) The approval does not create a lot, or lots, that do not meet applicable zoning district standards for width, depth, and area.

(3) Each lot has frontage on a public road, and no new public streets are needed to serve either property.

(4) No extension of a public water or sewer system is needed.

(5) There will be no necessity for drainage facilities serving other properties to cross either the lot affected by the administrative approval. Certification shall be provided by a professional engineer registered in the State of Florida.

(E) In granting approval, the City Manager, or his/her designee, may impose such conditions, safeguards and requirements as deemed necessary to implement the intent and purpose of this Section. The City Manager, or his/her designee, may require any division or combination of previously platted property to comply with the complete platting process as set forth in this Section.

(F) The developer shall agree to prepare and submit a final minor subdivision plat to the City Manager, or his/her designee, within 45 days of the issuance of a land development permit. The City Manager, or his/her designee, shall be responsible for placing all minor subdivision plats on the City Commission agenda for approval and acceptance. The plat shall be recorded with the Clerk of the Circuit Court of Polk County prior to issuance of a certificate of occupancy.

(G) The minor subdivision plat for recording shall conform to all requirements set forth in F.S. 177.
7.05.05 Preliminary Subdivision Plat

The developer may present a preliminary subdivision plat at any time after receiving the comments of the City Manager, or his/her designee, the Consulting City Engineer, Fire Official and other City staff in response to the submission of a concept plan. The preliminary plat shall demonstrate the manner in which the comments from the concept plan review, if conducted, have been incorporated into the plat.

The purpose of the Preliminary Subdivision Plat is to provide sufficient information regarding a proposed development to enable the City to evaluate the proposed subdivision as it relates to the Comprehensive Plan and the Unified Land Development Code.

7.05.05.01 Submission of Preliminary Subdivision Plat

(A) Submittal. The Preliminary Subdivision Plat review shall be initiated when the following items have been submitted:

(1) Completed application forms with all necessary attachments.

(2) The preliminary subdivision review fee, as established by resolution of the City Commission.

(3) Four (4) copies of the Preliminary Subdivision Plat, a survey and a topographic map.

(B) Required Information. The Preliminary Subdivision Plat shall be drawn to a scale appropriate to displaying the proposal on a single 36" x 60" sheet and shall include the following:

(1) Name, address, and telephone number of the applicant and the person preparing the plan.

(2) Title block identifying the name and/or title of the proposed subdivision. The name shall not duplicate or closely approximate the name of any other subdivision recorded in the Public Records of Polk County, Florida.

(3) Date, north arrow, and scale.

(4) Layout and dimensions of proposed lots.

(5) Layout of proposed streets.

(6) All existing restrictions on the use of the land, including easements, rights-of-way, jurisdictional wetlands areas, either assumed or confirmed.
(7) Zoning classification.

Procedure.

(1) Planning Board Action: At a properly advertised public hearing, the Planning Board shall review exhibits, staff reports and comments by reviewing agencies and individuals and shall approve, approve with conditions or disapprove the Preliminary Plat. Approval of the preliminary plat shall be deemed an expression of approval of the subdivision layout, and nothing more, and shall be reported to the City Commission in the form of a recommendation for approval of the Preliminary Plat.

(2) City Commission Action: The City Commission shall review the action of the Planning Board and take action to approve, approve with conditions or disapprove the Preliminary Plat. Approval of the Preliminary Plat authorizes the developer to prepare construction plans for public infrastructure improvements. After approval of the construction plans by the DRC, the developer may proceed with construction of the infrastructure improvements.

(3) Planned Development Approval: When the proposed subdivision is submitted as a Planned Development (PD), the Preliminary Plat can be approved as part of the approval process for the PD as set forth in Section 2.04.02.12 of this Code.

7.05.05.02 Term of Preliminary Subdivision Plat

Preliminary Subdivision Plats shall remain valid for one year from the date of approval. Extensions for approval may be granted for a single period up to one year from the date the plan would otherwise expire. An extension may be granted if the Planning Board concludes that the owners or successors of the preliminary subdivision plat have proceeded with due diligence and in good faith and the conditions have not changed substantially as to warrant a new application. All such requests for extensions shall be submitted in writing not less than thirty (30) days before the expiration of the preliminary subdivision plat, stating the reason for the time extension request. Upon expiration of a preliminary subdivision plat, municipal services allocated thereto shall be forfeited.

Any amendment, variation or adjustment of a Preliminary Subdivision Plat shall require approval of an amended plat. The City Manager, or his/her designee, shall determine whether a proposed modification amounts to an amendment to the Preliminary Plat. The determination shall be based on, but not limited to the following: any substantial change to the plat, including increase in density, change in permitted uses, change in stormwater runoff characteristics, change in traffic patterns and trip generation, or other similar changes to the plat. The proposed
amendment shall, after staff review be placed on the agenda for review and approved, approved with conditions, or disapproved.

7.05.06 Construction Plans

After approval by the City Commission of the preliminary plat, the developer shall prepare and submit eight copies of the construction plans to the City for review by the DRC. The purpose of the construction plan is to allow City staff to review and approve all proposed site improvements prior to construction.

The construction plans shall consist of complete working drawings and design specifications, and shall be the basis for evaluating the quality and completeness of the proposed engineering design, compliance with all applicable regulations, the establishment of a construction schedule, and site improvement permitting.

7.05.06.01 Submission of Construction Plans

(A) Submittal. Construction Plans review will be initiated when the following information has been provided.

(B) Required Information. The construction plan shall be drawn to a scale of not more than 1 inch = 50 feet. The size of sheets shall be 24 inches by 36 inches and shall show, in addition to the data provided on the Preliminary Subdivision Plat, the following:

1. Name, address, and seal of registered engineer and surveyor responsible for the plan and accepted data.

2. Final alignments, dimensions, grades and profiles of proposed streets, utilities, drainage and other improvements to be constructed.

3. Such other calculations, computation and details as may be necessary to determine the limits of wetlands, the groundwater table, off-site impacts of the proposed development, and other technical matters that may be specified by the Consulting City Engineer.

4. Any permit or permits from an agency or agencies approving access to State, county, or local roadways.

5. Any permit or permits from an agency or agencies approving the proposed stormwater management system.

6. Any permits permitting agencies approving the utilities plan.

7. Any permits from environmental agencies having jurisdiction.
(C) Procedure. Upon approval of construction plans, the applicant may proceed with permitting for installation of improvements. Improvements shall include tree removal, clearing and grubbing, installation of streets and utilities and installation of stormwater management systems. Stormwater management facilities shall be constructed for the entire area of the plan regardless of any phasing plans relative to final plat recording. Final certificates of occupancy for models shall not be issued until the Final Plat has been accepted by the City and recorded with the Clerk of the Circuit Court for Polk County.

7.05.06.02 Performance Bond

If at the time of application for final plat approval all improvements are not satisfactorily installed, the subdivider shall post a bond in an amount estimated as sufficient to secure to the City the satisfactory construction, installation and dedication of all required improvements. Such performance bond shall comply with all statutory requirements and shall be satisfactory to the City Attorney as to form, sufficiency and manner of execution as set forth in these regulations. The period within which required improvements must be completed shall be specified by the City Commission as part of the approval action on the final plat and shall be incorporated in the bond and shall not in any event exceed two (2) years from date of final City approval. The City Commission may at any time during the period of such bond accept a substitution of principal or sureties on the bond upon recommendation of the City Attorney.

7.05.06.03 Construction Inspection

The City shall provide for periodic inspection of required improvements during construction to ensure their satisfactory completion. If it is found that any of the required improvements have not been constructed in accordance with the City's construction standards and specifications, the subdivider shall be responsible for modifying and/or completing the improvements so as to comply with such standards and specifications. Wherever the cost of improvements is covered by a performance bond, the subdivider and the bonding company shall be severally and jointly liable for completing the improvements according to specifications.

7.05.06.04 Engineering drawings

Three (3) sets of City-approved engineering as-built drawings shall be submitted with the final plat. All as-built drawings shall contain a certification by a professional engineer or registered land surveyor of personal verification of the exact location and dimensions of all completed improvements, as well as certification that all utilities have been installed in accordance with specifications.
**7.05.06.05 Maintenance Guarantee**

The developer shall guarantee the materials and workmanship of pavement, curb and gutter, sidewalks, water system, wastewater (sewage) system and the drainage system in the subdivision for a period of one (1) year after final acceptance by the City Manager, or his/her designee. A bond shall be required for the maintenance and repair requirements to cover faulty plans, materials or workmanship. The bond shall be effective for one (1) year and in an amount set by the City Manager, in consulting with his Consulting City Engineer.

**7.05.07 Final Plat**

Upon the acceptance by the Consulting City Engineer of all subdivision improvements, the developer may present a final plat for approval. The intent of the final plat is to establish a legal record of the subdivision. The Final Plat may not be approved unless it is in strict conformance to details of the preliminary plat and any changes required by, and approved by the City.

In addition, per a change made by the 1998 Florida Legislature to Section 177.081, F.S., the Final Plat must contain the signature of a professional surveyor and mapper who is employed by the City to review the plat for conformity to Chapter 177. The change is as follows:

“Prior to approval by the appropriate governing body, the plat shall be reviewed for conformity to this chapter by a professional surveyor and mapper either employed by or under contract to the local governing body, the costs of which shall be borne by the legal entity offering the plat for recordation, and evidence of such review must be placed on such plat.”

**7.05.07.01 Submission of Final Plat**

(A) **Submittal.** An application for final plat approval shall be submitted with an appropriate fee established by the City and with accompanying documents as specified herein to the City Manager, or his/her designee. The City Manager, or his/her designee shall forward copies of the final plat and the approved preliminary plan to the City attorney, the professional surveyor and mapper either employed by or under contract to the local governing body, and other staff, as appropriate, for their review and comments, and shall place the applications on the agenda of the Planning Board for final review and approval.

(B) **Required Information.** Although it may constitute only that portion of the preliminary plat that the developer proposes to record and develop at the time, the final plat for recording shall be prepared in conformance with the requirements specified herein. Eight (8) copies of the final plat shall be
submitted with the request for approval, and shall show, in addition to the data provided on the Preliminary Subdivision Plat, the following:

(1) The final plat shall be drawn on a linen tracing cloth or stable base film at least three (3) mils thick, twenty-four (24) inches wide by thirty-six (36) inches long. Preferred scale of the final plat is one inch equals one hundred feet (1" = 100'). If a different scale is used for the recorded plat, a facsimile scaled to one inch equals one hundred feet (1" = 100") on stable base film shall be provided to the City Manager, or his/her designee.

(2) Name of plat.

(3) Each plat shall show a description of lands platted and the description shall be the same in the title certification. The description shall be so complete that from it, without reference to the plat, the starting point and boundary can be determined.

(4) All required final permits and approvals issued by agencies and governing bodies having jurisdiction over properties being subdivided shall be furnished to the Consulting City Engineer. The final plat shall not be approved by the Planning Board without proper submission of the final permits and approvals.

(5) All easements or rights-of-way provided for public services or utilities, and limitations of such easements.

(6) All lots shall be numbered either by progressive numbers or, if in a block, progressively numbered or lettered in each block. Lot lines shall be marked with accurate dimensions in feet and hundredths of feet, and bearings or angles to street lines.

(7) A statement shall be included on the final plat indicating the final length of roads, water and sewer lines installed.

(8) The purpose of all areas dedicated must be clearly indicated or stated on the plat. Accurate descriptions of any such areas to be dedicated or reserved for public use shall state the purpose thereon.

(9) In the event the plat includes open space, clubhouses, playgrounds or other amenities to be owned and used in common by residents of the development, a plat note shall be added requiring the creation of a homeowners or property owners association that shall be responsible for such facilities.
(10) All interior excepted parcels shall be clearly indicated and labeled "Not A Part Of This Plat."

(11) Any existing or proposed private restrictions and trusteeships and their periods of existence shall be filed as a separate instrument, and reference to such instrument shall be noted on the Final Plat.

(12) City signature spaces for the Mayor, City Clerk, Consulting City Engineer, and the Chairman of the Planning Board.

(13) The Clerk of the Circuit Court of Polk County of the Circuit Court certificate and the land surveyor's certificate and seal.

(14) City signature spaces for the professional surveyor and mapper either employed by or under contract to the local governing body.

(C) Plat Documentation Requirements. The following documentation shall accompany the Final Plat:

(1) The final plat for recording shall conform with all requirements set forth in Florida Statutes, Chapter 177, including dedications and reservations executed by the developer and certification by a registered land surveyor.

(2) A title opinion by an Attorney at Law, licensed in Florida, or a certification by an abstractor or title company stating that the court records identify that the title of the land as described and shown on the plat is in the name of the person or persons or corporation executing the dedication. In addition, a document entitled, "Consent to Platting of Lands and Partial Release of Mortgage," shall be filed together with the Final Plat for each person or corporation holding a mortgage on all land included on the plat, where such person or corporation has not signed the Final Plat.

(3) Certification by a registered land surveyor that the plat represents a survey made by that individual and, further, that all necessary monuments, lot sizes and lot dimensions are correctly shown thereon. Impressed thereon, and affixed thereto, shall be the personal seal and signature of the registered land surveyor by whom, or under whose authority and direction, the plat was prepared.

(4) Certification that all real estate taxes have been paid.

(D) Procedure

(1) Planning Board. The Planning Board shall review the final plat and
staff comments pertaining thereto, and shall take action to approve or disapprove the plat. Any conditions of approval shall be stated with the motion to approve the plat and shall be made clear to the developer. The Planning Board may defer action if additional information, staff review, subdivision improvements or completion assurances are needed. In any case, the Planning Board shall be provided with a written statement by the building official to the effect that all required public improvements have been completed to his satisfaction or that satisfactory guarantees of completed installation have been provided.

(2) City Commission Action. The City Commission shall review the action of the Planning Board and take action on the final plat. Approval of the plat and acceptance of public improvements and dedications shall be by resolution and shall authorize the Mayor and City Clerk to sign the copy of the plat to be recorded.

(3) Recording. Upon approval by the City Commission, the final plat shall be filed and recorded with the City clerk. The developer shall be responsible for recording the final plat and for returning one reproducible copy of the recorded plat to the building official. The Final Plat shall be recorded prior to the issuance of any building permits within the subdivision.

7.05.08 Vacating of Plats and Replats

7.05.08.01 Vacating of Plat by Owner

The owner of any land subdivided into lots may petition the City under the provisions of Chapter 177.101, Florida Statutes, to remove (vacate and annul) the existing plat, or portion thereof, from the official records of the City of Mulberry and Polk County. The applicant vacating a plat, or a part thereof, shall file the petition, proof of publication of notice of intent, certificate of title, Statement of taxes and resolution, and shall pay the appropriate filing fee as established by Resolution of the City Commission. Following review by the appropriate City departments and recommendation by the Planning Board, the petition shall be acted on by the City Commission. The applicant shall be responsible for recording the petition and the proof of publication with the Clerk of the Circuit Court for Polk County.

7.05.08.02 Vacating of Plat by City

The City Commission may, on its own motion, order the vacation and annulment of all or any part of a subdivision within its jurisdiction. Such action may include the vacation of dedicated rights-of-way and easements, provided that:
(A) The subdivision plat was lawfully recorded not less than five (5) years before the date of such action by the City Commission; and

(B) No more than 10 percent of the total subdivision, or part thereof, has been sold as lots by the original subdivider or his successor in title. Such action shall be based on a finding by the Commission that the proposed vacation and annulment of the plat will result in greater conformity with the comprehensive plan of the City, and the public health, safety, and welfare will be promoted.

Before acting on a proposal for vacation and annulment of subdivided land the Commission shall hold a public hearing, with notice of intent as set forth by Chapter 166, F.S. Notwithstanding these provisions, the City may require conformity with existing standards for all or parts of subdivisions as outlined in this Section.

7.05.09 Access to Individually Owned Parcels

No owner of any parcel of land in a subdivision shall be deprived by the vacation and annulment of a plat, or a portion of a plat, of reasonable access to such parcel, nor of reasonable access therefrom to existing facilities to which such parcel presently has access; provided that such access remaining or provided after such vacation need not be the same as that previously existing.

[RESERVED]
7.06.00 Procedure for Obtaining a Special Exception

Special exceptions shall be granted only for those activities specified as Special Exception uses in the Table of Land Uses 2.04.01(A), Article 2.

The Planning Board shall hear and decide applications for special exceptions authorized under this Code in the manner prescribed below.

7.06.01 Application

(A) Application and Fees. All requests for special exceptions shall be submitted in writing to the City Manager, or his/her designee, together with all applicable fees as provided by resolution.

(B) Contents. The application shall contain the following items, as applicable:

(1) A legal description and street address of the property.

(2) Notarized authorization of the owner if the applicant is other than the owner or an attorney for the owner.

(3) Site plan or sketch plan drawn to scale showing:

   a. The dimensions of the property;

   b. The existing and proposed location of structures on the property including signage, vehicular accessways and circulation areas, off-street parking and loading areas, sidewalks, refuse and service areas, required yards and other open spaces, and landscaping or buffer areas;

   c. The measurements of existing and proposed adjacent rights-of-way, setbacks, distances between buildings, widths of accessways and driveways, and sidewalks.

(4) A tabular summary describing the proposed use of the property including:

   a. Existing and proposed use of property;

   b. Conditions on the use, such as hours of operation, numbers of residents, etc.;

   c. Area of the property, pervious and impervious areas, and existing and proposed structures.

   d. Number of required and provided off-street parking and loading
spaces, existing and proposed density, and number of existing and proposed units.

**7.06.02 Review of Proposed Special Exception**

(A) *Completeness Review.* Within five (5) working days of receipt of an application for a special exception, the City Manager, or his/her designee, shall:

1. Determine that the information is incomplete and inform the applicant in writing of the deficiencies.

2. Determine that the plan is complete and proceed with the following procedures.

(B) *Report to Planning Board.* The City Manager, or his/her designee, shall submit a written report containing his/her recommendations on the proposed special exception to the Planning Board prior to the meeting at which the application will be heard. A copy of the report shall be made available to the applicant. The Planning Board review shall include a concurrency management review of the proposed use pursuant to the standards and procedures in Article 6 of this Code.

(C) *Planning Board Hearing.* The Planning Board shall hold a public hearing on each application and shall forward its recommendations to the City Commission.

(D) *Decision by City Commission.* The City Commission shall hold a public hearing after due public notice on all recommendations for special exceptions from the Planning Board. By majority vote, it may accept, reject, modify, return or continue and seek additional information on those recommendations.

(E) *Conditions and Safeguards.* The development and use of the site of an approved special exception shall be in accordance with the approved site plan and application materials. The approved site plan shall be filed with the City Manager, or his/her designee, and all development shall be in compliance with that plan. The Planning Board may recommend and the City Commission may impose on the grant of any special exception any conditions or safeguards found to be necessary to ensure the compatibility of the special exception with surrounding properties or the community in general. These may include, but are not limited to, requiring restrictions on hours of operation and size of buildings, additional landscape and buffer areas, limiting vehicular access points and location of off-street parking, and similar conditions. Violation of any such condition or safeguard shall be deemed a violation of this Code and may result in a revocation of any special exception, in addition to any other remedy for such violation provided in this Code.

(F) *Denial.* The Planning Board may recommend denial of any application for any special exception, and the City Commission may deny any application for special exception, for one or more of the following reasons:
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(1) It is inconsistent with the City of Mulberry Comprehensive Plan.

(2) It would violate the concurrency management standards in Article 6 of this Code.

(3) It does not meet the requirements of the applicable special exception regulations.

(G) Findings. The City Commission shall make written findings, based on one or more of the reasons listed above, in support of a denial of an application for a special exception.

7.06.03 Expiration or Abandonment of Special Exception Use

If a special exception does not begin to serve the purpose for which it was granted permission within 180 days from the date of approval, it shall expire. Once initiated, the special exception use may continue indefinitely or until the expiration of any time limit established as a condition of approval. However, if such use is abandoned for 180 days, it shall expire.

[RESERVED]
7.07.00 Home Occupations

Authorized home occupations shall comply with all of the following provisions:

(A) No person other than a member of the family residing on the premises shall be employed in the home occupation.

(B) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to the use of the unit for residential purposes by its occupants. Under no circumstances shall the residential character of the property be changed by the home occupation.

(C) No sign or display shall be provided to indicate from the exterior that the building is being used in whole or in part for any purposes other than that of a dwelling.

(D) Business activities associated with a home occupation, including storage of merchandise and materials, shall take place only in the principal structure.

(E) No home occupation shall occupy more than a total of 500 square feet of floor area.

(F) Traffic shall not be generated by the home occupation in greater volumes than would normally be generated by a dwelling unit in a residential area. No additional parking spaces shall be provided in excess of those required to serve the residential unit under Section 3.03.00.

(G) No equipment or process shall be used in a home occupation that creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses. In case of electrical interference, no equipment or process shall be used that creates visual or audible interference in radio or television receivers or causes fluctuations in line voltages off the premises.

(H) No articles or materials pertaining to the home occupation shall be stored on the premises, except inside the principal structure.

7.07.01 Procedure for Approval of a Home Occupation

A home occupation may be approved administratively by the City Manager, or his/her designee, upon payment of a review fee established by the City Commission and submission of an application containing the following information and documentation:

(A) Name(s) of owner(s) and a copy of the deed to the property.

(B) Legal description of the property.

(C) Complete written description of the activity proposed as a home occupation.
(D) Copy of Polk County Property Appraiser's map showing subject property and all surrounding properties within a 100-foot radius of subject property's boundaries.

(E) Certified survey of subject property (at City Manager, or his/her designee's discretion).

(F) Signatures of all property owners within 100 feet on a petition indicating no objection to the home occupation.

The City Manager, or his/her designee, may refer the matter to the Planning Board for approval if signatures from all property owners within 100 feet of the subject property cannot be obtained, or for any other reason that may justify such referral. Home occupation approvals shall be handled through the same process as a zoning district change or special exception approval.

[RESERVED]
7.08.00 Variances

Any person, firm or corporation owning property in the City of Mulberry may apply for a variance from specific provisions of this Code, excepting those relating to permitted land uses, concurrency and consistency with the Comprehensive Plan. Variances shall be granted only by the Zoning Board of Appeals in a public hearing that has been advertised in accordance with Section 8.06.00 of this Code. Variances granted by the Board shall be the minimum necessary to provide a reasonable use of the property and may be approved subject to time limits or any other conditions that the Board deems appropriate.

7.08.01 Criteria for Granting a Variance

The granting of a variance shall be based on a determination by the Zoning Board of Appeals that the request will not be contrary to the public interest and the intent of this Code, and that strict enforcement of the regulation in question would create an undue and unnecessary hardship for the applicant. Considerations of health, convenience or economics shall not be considered as justification for a variance. Approval of a variance shall be based solely on the following criteria, all of which must be fully satisfied:

(A) Special conditions and circumstances exist that are peculiar to the land or structure involved and that are not applicable to other lands or structures in the same land use classification.

(B) The special conditions and circumstances do not result from the actions of the applicant.

(C) The requested variance, if approved, will not confer on the applicant any special privilege that is denied by the provisions of this Code to other lands or structures in the same land use classification.

(D) Literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the identical land use classification and will constitute an unnecessary and undue hardship on the applicant.

(E) That the variance granted is the minimum variance that will make possible a reasonable use of the land or structure.

(F) That the granting of the variance will be in harmony with the general intent of this Code, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

For each variance granted, the Zoning Board of Appeals shall approve, and the chairman shall sign, a resolution listing the above criteria and attesting that each has been satisfied.
7.09.00 Nonconformities

Nonconformities are land uses, structures, lots and other elements of development that do not conform to the provisions of this Code but were created in accordance with those land development regulations (if any) in effect at the time of their establishment. Subject to the provisions listed below, nonconformities may continue to exist if otherwise lawful and in existence on the date of adoption of this Code. The casual, intermittent, temporary or illegal use of land or structures prior to the effective date of this Code shall not qualify such use or structure for the privileges outlined in this Section.

7.09.01 Nonconforming Uses

Nonconforming uses shall not be:

(A) Enlarged, increased or expanded to occupy a greater land or floor area than at the effective date of this Code or amendment to the Code, whichever date created the nonconformity.

(B) Enlarged or intensified through the erection of any additional structure or use that is not permitted under the provisions of this Code.

(C) Re-established if destroyed or if use is discontinued for 90 consecutive days.

(D) Moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of this Code.

Nonconforming uses of land where no principal structure exists, other than Agriculture, shall be discontinued within two (2) years of the adoption of this Code or amendment thereto, whichever date rendered the use nonconforming.

7.09.02 Nonconforming Lots of Record

Lots not meeting the standards established in this Code for minimum width, depth and area but recorded in the public records of Polk County prior to the date of adoption of this Code or amendment thereto may be used for building purposes with the following provisions:

(A) Single family dwelling units shall not be built on lots of less than 50 feet in width and 5,000 square feet in size without a variance authorized by the Zoning Board of Appeals.

(B) All other structures shall be built on lots of no less than 60 feet in width and 6,000 square feet in size without a variance authorized by the Zoning Board of Appeals.

(C) Contiguous lots that are of single ownership, and do not separately meet width, depth and area requirements of the applicable land use classification, shall be considered a single lot for development purposes.
(D) Nonconforming lots of record shall not be reduced in size, width or depth without a variance authorized by the Zoning Board of Appeals.

(E) All development permitted on nonconforming lots of record shall be subject to normal setbacks and all other requirements of this Code.

7.09.03 Nonconforming Structures

Structures qualifying as nonconforming shall not be:

(A) Moved in whole or in part, if nonconforming by use, to another location on the same parcel or lot that it occupies.

(B) Transported to any other parcel of land unless such transport would render the structure conforming to all applicable provisions of this Code.

(C) Enlarged or expanded in any manner, unless such enlargement reduces the degree of nonconformity and is carried out in accordance with the provisions of this Code.

(D) Rebuilt, repaired or renovated in excess of 50 percent of the assessed value of the structure, as determined by the Polk County Property Appraiser.

Structures that are nonconforming by size, but not by use, may be enlarged if the addition will reduce a nonconformity of floor area and will meet required setbacks. Structures that are nonconforming by setback, but not by use, may be enlarged if all new construction meets required setbacks.

7.09.04 Nonconforming Manufactured (mobile) Home Parks

Existing manufactured (mobile) home parks that are nonconforming by use shall not be redesigned, expanded in area, or modified to accommodate additional manufactured (mobile) homes. Replacement of existing manufactured (mobile) homes in such parks shall be prohibited.

Manufactured (mobile) home parks that are nonconforming by design only may be expanded in area and/or modified so as to reduce or eliminate those aspects of design that render it nonconforming. The City Manager, or his/her designee, may authorize additional manufactured (mobile) home sites in such parks upon submission of a site development plan showing a redesign of the park that substantiates the following:

(A) Overall density of the park will not exceed the allowable density established in the Comprehensive Plan and the appropriate section of this Code.

(B) An area comprising 20 percent of the development site or 5 acres, whichever is less, shall be set aside as common open space as defined in Article 9.
(C) No new manufactured (mobile) home will be placed within 20 feet of any property line.

(D) Where possible, all development standards of the zoning district have been met, or the degree of nonconformity reduced. In no case shall the degree of nonconformity of any design aspect be increased.

A redesign proposal that does not include the addition of new manufactured (mobile) home spaces shall not be subject to conditions A and B above.

**7.09.05 Nonconforming Manufactured (mobile) Homes**

The replacement of an existing manufactured (mobile) home on property that is not designated for manufactured (mobile) home use on the Official Zoning Map shall be prohibited.
Unified Land Development Code Update

ARTICLE 8

Administration and Enforcement
ARTICLE 8
ADMINISTRATION AND ENFORCEMENT

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ARTICLE 8
ADMINISTRATION AND ENFORCEMENT

8.01.00 Development Officials and Committees

At the option of the City Commission Members, both of the positions established in this Section may be assigned to one person.

8.01.01 City Manager, or his/her designee

The City Manager, or his/her designee shall supervise and administer all staff activities regarding comprehensive planning, zoning, development review, issuance of permits, and code enforcement. He/she shall perform duties prescribed by this Code, as well as any others assigned by the City Manager. The City Manager, or his/her designee shall be duly qualified for these responsibilities through appropriate education and work experience. The City Manager, or his/her designee shall have a thorough knowledge of the provisions of the Comprehensive Plan and this Code, and shall have the authority to interpret the intent and meaning of this Code in situations where its applicability is not clear. Appeals of administrative decisions of the City Manager, or his/her designee may be made to the Zoning Board of Appeals.

Other specific duties of the City Manager, or his/her designee are as follows:

(A) Advise and cooperate with the City Manager in the implementation, amendment and enforcement of this Code and the Comprehensive Plan.

(B) Attend all public hearings at which zoning and comprehensive planning matters are discussed, including meetings of the Planning Board, Zoning Board of Appeals, and City Commission. He will attend meetings of the Code Enforcement Board when necessary.

(C) Accept and process all applications for amendments to the Comprehensive Plan, zoning actions, and variances.

(D) Certify the accuracy of the Official Zoning Map and amendments thereto.

(E) Collect and account for all required application fees.

(F) Grant such administrative approvals as are allowed under the provisions of this Code.

(G) Receive applications and application fees for Site Development Plan, subdivision plat, Conditional Use approval and others as identified in this Code.
(H) Evaluate each proposed Site Development Plan, subdivision plat and Conditional Use for consistency with this Code and the Comprehensive Plan and others as identified in this Code.

(I) Evaluate each application for a development order, including building permits, to determine whether it meets applicable Concurrency requirements.

(J) Ensure that all time limits prescribed by this Code are met.

(K) Monitor the progress of all development applications through the review process and be available to respond to inquiries from interested persons.

(L) Any other duties assigned by the City Manager.

8.01.02 Building Director

The Building Director shall be responsible for review of building construction plans, the issuance of building permits and certificates of occupancy, and the inspection of construction sites and buildings under construction. He/she shall have a working knowledge of the Florida Building Code and be familiar with electrical, fire, zoning and other codes having a bearing on building construction in the City of Mulberry. The Building Official shall be duly qualified for these responsibilities through appropriate certification, education, and work experience. Alternatively, the City may retain a licensed professional contractor/builder on a part-time basis to perform technical review of building activities.

8.02.00 Administrative Approvals by the City Manager, or his/her designee and/or Building Director

The City Manager, or his/her designee and/or Building Director shall have the authority to approve the following, subject to conditions set forth below and in applicable provisions of this Code.

(A) Setback Adjustments. In single family land use classifications only, the City Manager, or his/her designee and/or Building Director may approve reduction of side and rear setbacks for principal and accessory structures (excluding swimming pools) by no more than 10 percent subject to the following conditions. At his discretion, the City Manager, or his/her designee may deny the request and refer the application to the Zoning Board of Appeals as a variance.

(1) The setback requirement is established by the land use classification and no other section of this Code;

(2) The total structural coverage of the lot or building site shall not exceed 25 percent;

(3) The approval would not result in the encroachment of a structure into an existing utility or drainage easement held by the City;
(4) A certified survey shall be submitted by the applicant verifying building locations and structural coverage;

(5) A statement of no objection shall be provided with notarized signatures of owners of all adjoining properties.

(B) Temporary Office or Construction Trailer. The City Manager, or his/her designee and/or Building Director may authorize the use of a manufactured (mobile) home or other temporary structure not meeting the requirements of the Florida Building Code at the construction site of an approved Site Development Plan. The temporary structure may be used only as an office, tool shed or other facility in support of construction work, and shall not be used for living accommodations, for sales/rental of lots or offices, or for any other purpose.

The applicant shall designate the exact location of the temporary structure on the Site Development Plan, and shall place it only in the approved location. The temporary structure shall not be installed prior to issuance of the building permit for the development site, and shall be removed upon expiration of the building permit or issuance of the Certificate of Occupancy, whichever comes first. If a manufactured (mobile) home is to be used, the wheels and axles shall not be removed.

(C) Temporary Manufactured (mobile) Home for Use During Construction of a Residence. The City Manager, or his/her designee and/or Building Director may authorize the use of a manufactured (mobile) home as a temporary residence during construction of a permanent residence under the following conditions:

(1) The lot or building site is at least one-half (½) acre in size;

(2) The applicant has received approval of a building permit for construction of a single family residence on the property;

(3) The manufactured (mobile) home shall be placed at least 20 feet from all lot lines, and 10 feet from any other existing or planned structure.

(4) The manufactured (mobile) home must be connected to a public sewer system or, upon approval of the City Manager, or his/her designee, have received a septic tank permit from the Polk County Health Department.

(5) Wheels and axles shall not be removed.

(6) The manufactured (mobile) home shall be removed from the building site within 30 days of the Certificate of Occupancy for the permanent residence, or at the end of a one-year period commencing at the date of its installation, whichever comes first.
(7) This administrative approval may not be renewed or granted a second time for the same building site.

(D) Commercial Use Zoning Permits for Occupational Licenses. The City Manager, or his/her designee shall issue a Commercial Use Zoning Permit to each applicant for an occupational license within the City. This permit shall not attest to the applicant's ownership or legal right to make use of the property, but shall serve only as notice to the City Clerk that the proposed business is a permitted use at the specified location. The owner(s) of the property, if different from the applicant, may request revocation of the Commercial Use Zoning Permit at any time.

(1) The applicant shall provide:
   a. A description of the proposed or existing business;
   b. Exact legal description and address of the property on which the business will be located; and,
   c. Floor area of the building in which the business will operate.

(2) Commercial Use Zoning Permits shall not be granted for property without an existing structure at least 300 square feet in size.

(3) The City Manager, or his/her designee may revoke a Commercial Use Zoning Permit if it is determined that the applicant provided incorrect information prior to approval.

(4) In cases where the business is a nonconforming use, the applicant must provide documentation or otherwise satisfy the City Manager, or his/her designee that the commercial operation was established legally and meets all the requirements of Section 7.09.00 (Nonconformities).

8.03.00 Development Boards

8.03.01 Planning Board

(A) Functions, Powers and Duties

(1) Act as Local Planning Agency pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, Ch. 163, Part II, F.S., and perform all functions and duties prescribed in the statute.

(2) Advise and make recommendations to the City Commission regarding applications for amendments to the Comprehensive Plan or the Official Zoning Map and requests for Conditional Uses or other special designations.
on property within the City.

(3) At the request of the City Manager, or his/her designee, interpret and determine the intent of provisions of this Code that are unclear or in conflict with other regulations.

(4) Consider the need for revision or addition of regulations in this Code, and recommend changes to the City Commission.

(5) Consider the need for revision of the Comprehensive Plan, and recommend changes to the City Commission.

(6) Other duties as assigned by the City Commission.

(B) Appointment of Members

(1) The Planning Board shall have seven members, to be appointed by the City Commission. In addition, the Planning Board shall include a representative of the school district appointed by the school board as a nonvoting member to attend those meetings at which the Board considers comprehensive plan amendments and rezonings that would, if approved, increase residential density on the property that is the subject of the application.

(2) Four members of the Planning Board shall reside or own a business in the City. At least three members of the Board shall reside in the City.

(3) Each member shall be appointed to a three year term. In the event that all members are appointed at the same time, two members shall be appointed for a term of one year, two members shall be appointed for a term of two years, and three members shall be appointed for a term of three years.

(4) The terms of all appointments, except those made to fill vacancies, shall expire on July 1.

(5) If a position becomes vacant before the end of a 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 may continue to serve until a successor is appointed and qualified.

(6) Members may be removed without notice and without assignment of cause by a majority vote of the City Commission.

(7) At the first meeting held after July 1 of each year, the Board shall elect a Chairman, Vice-Chairman and such other officers as deemed necessary. The Chairman, or in his absence the Vice-Chairman, shall preside over all meetings of the Board. Officers shall serve terms of one year.
(8) The Chairman will establish subcommittees and appoint members as needed to carry out the purposes of the Board.

(9) Members shall not be compensated. Voting members may be reimbursed for travel and other expenses incurred on Board business.

(10) If any member fails to attend three successive meetings, the Board may declare the member's office vacant and notify the City Commission.

(C) Procedures

(1) The Board shall adopt procedures to carry out its purposes. All rules must conform to this Code, other City ordinances, and state law.

(2) The Board shall meet at least once each month, unless a meeting is canceled by a decision of the Board at a regular meeting or by decision of the Chairman.

(3) The Board shall keep minutes of its proceedings, indicating the attendance of each member, and the decision on every question.

(4) Four (4) voting members shall constitute a quorum.

(5) Each decision of the Board must be approved by a majority vote of the members present at a meeting in which a quorum is present and voting.

(D) Notice of Public Hearings

(1) Section 8.06.00 addresses notice requirements.

8.03.02 Zoning Board of Appeals

(A) Functions, Powers and Duties

(1) To authorize specific variances from appropriate provisions of this Code as will not be contrary to the public interest, in cases where literal enforcement of the Code will result in unnecessary hardship for the applicant.

(2) To hear and decide upon appeals of administrative decisions where it is alleged there is an error in an order, requirement or policy of City staff. The Board may reverse or affirm, wholly or in part, the order, requirement or policy of the administrative official.
(B) Appointment of Members

(1) The Zoning Board of Appeals shall have seven members, to be appointed by the City Commission. In making appointments, the City Commission may appoint any or all of the members of the Planning Board to serve as members of the Zoning Board of Appeals, and to serve jointly in the two capacities.

(2) Four members of the Zoning Board of Appeals shall reside or own a business in the City. At least three members of the Board shall reside in the City.

(3) Each member shall be appointed to a three year term. In the event that all members are appointed at the same time, one member shall be appointed for a term of one year, two members shall be appointed for a term of two years, and two members shall be appointed for a term of three years.

(4) Regular vacancies shall be filled by appointments made at the last regular meeting of the City Commission in October of each year. All members shall serve until their successors are appointed.

(5) If a position becomes vacant before the end of a 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 may continue to serve until a successor is appointed and qualified.

(6) Members may be removed without notice and without assignment of cause by a majority vote of the City Commission.

(7) At the first meeting held after November 1 of each year, the Board shall elect a Chairman and Vice-Chairman. The Chairman, or in his absence the Vice-Chairman, shall preside over all meetings of the Board. Officers shall serve terms of one year.

(8) Members shall not be compensated, but may be reimbursed for travel and other expenses incurred on Board business.

(9) If any member fails to attend three successive meetings, the Board may declare the member's office vacant and notify the City Commission.

(C) Procedures

(1) The Board shall adopt procedures to carry out its purposes. All rules must conform to this Code, other City ordinances, and state law.

(2) The Board shall meet at least once each month, unless a meeting is canceled by a decision of the Board at a regular meeting or by decision of the
Chairman.

(3) The Board shall keep minutes of its proceedings, indicating the attendance of each member, and the decision on every question.

(4) Four members shall constitute a quorum.

(5) Each decision of the Board must be approved by a majority vote of the members present at a meeting in which a quorum is present and voting.

(6) All decisions of the Zoning Board of Appeals are final. Variance requests, once acted upon, may not be reheard unless the applicant can demonstrate that the decision resulted from an error in substantive or procedural law, or provides new evidence or information not discoverable prior to the initial hearing. A different or more effective presentation of the same evidence or information shall not be considered grounds for a rehearing.

(7) Any person or persons aggrieved by any decision of the Zoning Board of Appeals may, within 30 days after the date of the public hearing at which the decision was rendered, but not thereafter, apply to the courts for relief in the manner provided by the laws of the State of Florida.

8.03.03 Code Enforcement Boards and Special Magistrates

Membership and administration of code enforcement boards and special magistrates shall be as follows. Additional information for code enforcement is found in the City of Mulberry Code of Ordinances, Part II, Chapter 2, Article V – Code Enforcement.

(A) Creation; composition; residency requirements; compensation. There is hereby created a Code Enforcement Board for the City to enforce the provisions of this Code pursuant to Chapter 162, F.S. The board shall consist of seven members, to be appointed by the City Commission. Four members of the Board shall reside or own a business in the City. At least three members of the Board shall reside in the City. Board members shall serve without compensation but may be reimbursed for such travel, mileage and per diem expenses as may be authorized by the City Commission or as are otherwise provided by law. Up to two alternates may be appointed to serve in place of absent board members.

(B) Membership composition based on expertise. The membership of the Code Enforcement Board shall whenever possible, consist of experts in the following fields:

   (1) An architect.

   (2) A business person.

   (3) An engineer.
(4) A general contractor.
(5) A subcontractor.
(6) A realtor.

(C) **Appointments.** Appointments shall be made as follows:

1. The initial appointments to the Code Enforcement Board shall be as follows:
   a. Two members shall be appointed for terms of one year.
   b. Three members shall be appointed for terms of two years.
   c. Two members shall be appointed for terms of three years.

2. Thereafter, each term shall be for a period of three years. A member may be reappointed upon approval of the City Commission. Appointments to fill any vacancies on the Code Enforcement Board shall be for the remainder of the unexpired terms of office.

(D) **Removal; vacancies.** Members of the Code Enforcement Board may be removed from office by the City Commission by majority vote for cause, upon written charges and after public hearing. If any member fails to attend two out of three successive meetings without cause and without prior approval of the chairman, the board shall declare the member’s office vacant, and the City Commission shall promptly fill such vacancy.

(E) **Meetings; quorum.** At the first meeting of the Code Enforcement Board, the members of the board shall elect a chairperson and a vice-chairperson to preside in the absence of the chairperson. The presence of four or more members shall constitute a quorum of the code enforcement board necessary to take action. Meetings of the board should occur not less frequently than once every two months, but the board may meet more often when necessary.

(F) **Special meetings; notice.** Special meetings of the board may be convened by the chairperson upon the giving of notice thereof to each other member of the board. Unless waived by a majority of the board, notice of a special meeting shall be given at least 24 hours prior thereto.

(G) **Code enforcement special magistrates.** The City Commission may also appoint as many code enforcement special magistrates as it deems prudent. Special magistrates shall have all the powers of a Code Enforcement Board under this Code and F.S. ch. 162. References in this chapter to an enforcement board, except in subsections (a) through (e) of this section shall include a special magistrate if the context permits. Special magistrates shall be attorneys licensed in the State of Florida with no less than five years’ experience as an attorney or three years of substantial trial experience. Special magistrates shall serve at the pleasure of the City Commission, being removed for any lawful reason by a majority vote.
The City Manager may choose an interim special magistrate to serve from month-to-month prior to the conclusion of a formal request for qualifications selection of the special magistrate as provided by City Code, which shall proceed with reasonable haste.

(H) **Choice of cases.** The code enforcement officer may choose which cases shall be heard by the Code Enforcement Board or by a special magistrate.

(I) **Minutes; hearings.** Minutes shall be maintained of all hearings held by the Code Enforcement Board, and all hearings shall be open to the public.

(J) **Clerical staff.** The City Manager shall assign clerical staff to the Code Enforcement Board for performance of clerical and administrative duties. The clerical staff shall not be code enforcement officers.

### 8.04.00 Duties of City Commission

(A) **Powers and Duties in the Areas of Development and Land Use Regulation**

(1) Adopt and amend the Comprehensive Plan.

(2) Adopt and amend the Land Development Code.

(3) Appoint members of the Planning Board, Zoning Board of Appeals, Code Enforcement Board and Special Magistrates.

(4) Determine the need for and appoint members of additional Boards, committees and subcommittees to investigate and make decisions on various land use/development issues.

(5) Establish, by Resolution, fees for Plan Amendments, zoning actions, Site Development Plan reviews, Conditional Use reviews, variances, special exceptions, and other activities carried out under the provisions of this Code.

(6) Make final decisions on requested changes to the Comprehensive Plan, Zoning Ordinance and Map, Planned Unit Developments, Conditional Uses, and other special designations on property within the City.

(7) Make final decisions on acceptance of public improvements constructed pursuant to the platting of approved subdivisions.

### 8.05.00 Official Zoning Map

The districts listed in Article 2 and the boundaries thereof are shown upon the Official Zoning Map or series of maps of the City enacted as law immediately upon enactment of this Code and made a
part thereof, such maps being designated as the "Zoning Map of the City of Mulberry." This map or maps and all notations, references and other information properly inscribed thereon are hereby incorporated as a part of this Article.

The boundaries of such districts as are shown on the Official Zoning Map, together with all regulations in this Code that are applicable in such districts, are hereby established and declared to be in effect upon all land included within the boundaries of each and every district shown upon said map(s).

Within 20 working days of action by the City Commission or Zoning Board of Appeals, the Official Zoning Map will be amended to reflect all approved changes in zoning classifications, land uses, variances, and any other relevant information pertaining to permitted uses or development standards in the City of Mulberry.

(A) Rules of Interpretation of District Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply. The legal description advertised for public hearing purposes on a zoning action or variance on any parcel of property shall override any and all of the rules for interpretation of district boundaries.

(1) boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines;

(2) boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

(3) boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

(4) boundaries indicated as following shore lines shall be construed to follow the high water line, and in the event of a lowering of the water level shall be construed as moving downward to the current water level;

(5) boundaries indicated as following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines; and

(6) boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed.

(7) Where a district boundary line, as appearing on the Official Zoning Map, divides a lot which is in single ownership at the time of this enactment, the use classification of a larger portion may be extended to the remainder by the City Manager, or his/her designee, or his designee, without recourse to the amendment procedure.
(8) In case the exact location of a boundary cannot be determined by the foregoing methods, the City Commission shall, upon application, determine the location of the boundary.

8.06.00 Public Hearings / Public Notice

Due Public Notice. No change in land use classification or designation, zoning classification or designation, variance, special exception, plan amendment, or amendment to this Code, may be considered by the Planning Board, Zoning Board of Appeals or the City Commission until due public notice has been given of a public hearing; and, all changes, except special exceptions and variances, are made by ordinance. Public Hearings for Comprehensive Plan amendments are regulated under Section 8.07.00. An emergency ordinance or a resolution may not be used to make Comprehensive Plan amendment changes. Specific regulations pursuant to Chapter 166.041, F.S., are listed below.

(A) All ordinances acted on by the City must be read on two separate days and shall, at least 10 days before adoption, be noticed once in a newspaper of general circulation in the municipality. The notice of proposed enactment shall state the date, time, and place of the meeting; the title or titles of proposed ordinances; and the place or places within the municipality where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance. All requests shall be submitted in writing to the City Manager, or his/her designee, together with applicable fees, which will have been established by the City Commission.

(B) Notice of Planning Board public hearings shall be given at least ten (10) days in advance of the meeting and public hearing. Additionally, notice of the public hearings shall be posted at City Hall, and on the City’s website at least ten (10) days prior to the public hearing.

(C) For each zoning or variance application to be considered at a public hearing, a notice shall be mailed to all property owners of record within a radius of 500 feet of the affected property, provided, however, that failure to receive such notice shall not invalidate any action or proceedings taken at the public hearing. A sign stating the date and location of the hearing, the type of request for zoning or variance being considered, and the name of the owner requesting the hearing shall be posted on the affected property seven (7) days prior to the hearing in a conspicuous location.

(D) Other Local Government Notification. When a proposed zoning action, variance, or Special Exception lies within 200 feet of the jurisdiction of another local government, the Planning Board or local governing body of that local government shall be notified, so that it may have an opportunity to send a representative to the public hearing to speak on its behalf.
8.06.01 Advertisement of Public Hearings for Zoning Changes that are Petitioner Initiated – (F.S. 166.041)

(A) In cases in which the proposed ordinance changes the actual zoning map designation for a parcel(s) of land, public notice shall be enacted pursuant to Section 8.06.00 (A).

8.06.02 Advertisement of Public Hearings for Zoning Changes Involving Less than 10 Acres that are City Initiated – (F.S. 166.041)

(A) Notice By Mail: In cases in which the City initiated proposed ordinance changes the actual zoning map designation for a parcel(s) of land involving less than 10 contiguous acres of the total land area of the municipality, the governing body shall direct the clerk of the governing body to notify by mail each real property owner whose land will be redesignated by enactment of the ordinance and whose address is known by reference to the latest ad valorem tax records. Notice shall be mailed to all property owners whose land will be affected at least 30 days prior to the date of the public hearing.

(B) Contents of the Notice. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a time and place for one or more public hearings on such ordinance. A copy of the notice shall be kept available for public inspection during the regular business hours of the office of the clerk.

(C) Public Notice. The public notice shall be enacted pursuant to Section 8.06.00 (A)

8.06.03 Advertisement of Public Hearings for Zoning Changes Involving 10 Acres or More that are City Initiated – (F.S. 166.041)

(A) In cases in which the City initiated proposed ordinance changes the actual zoning map designation for a parcel(s) of land involving 10 contiguous acres or more of the total land area of the municipality: the governing body shall hold two advertised public hearings on the proposed ordinance.

(B) At least one hearing shall be held after 5 p.m. on a weekday, unless the local governing body, by a majority plus one vote, elects to conduct that hearing at another time of day, and the first hearing shall be held at least seven days after the day that the first advertisement is published. The second hearing shall be held at least ten days after the first hearing and shall be advertised at least five days prior to the public hearing. The day, time, and place at which the second public hearing will be held shall be announced at the first public hearing.

(C) The required advertisements shall be no less than two columns wide by ten inches long in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall
not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper of general circulation in the City and of general interest and readership in the municipality.

(D) *Advertisement Form.*

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NOTICE OF (TYPE OF) CHANGE

The City of Mulberry proposes to adopt the following ordinance:
(title of the ordinance).

A public hearing on the ordinance will be held on (date and time) at
(meeting place).
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(E) The advertisement shall contain a geographic location map that clearly indicates the area covered by the proposed ordinance. The map shall include major street names as a means of identification of the general area.

(F) *Mail-out May Be Done.* In lieu of publishing the advertisement as outlined above, the City may mail a notice to each person owning real property within the area covered by the ordinance. Such notice shall clearly explain the proposed ordinance and shall notify the person of the time, place, and location of both public hearings on the proposed ordinance. If mail-outs are completed, the Ordinance must be advertised per the requirements of Section 8.06.00(A).

8.06.04 Advertisement of Public Hearings for Changes to the Actual List of Permitted, Conditional, or Prohibited Uses within a Zoning Category

(A) In cases in which the proposed ordinance changes the actual list of permitted, conditional, or prohibited uses within a zoning category, public notice shall be enacted pursuant to Section 8.06.02, except a geographic location map is not required.

8.07.00 Statutory Requirements for Comprehensive Plan Amendments

There are three general types of Comprehensive Plan Amendments: Expedited State Review, State Coordinated Review, and Small Scale. The Expedited State Review Process is utilized for the majority of Comprehensive Plan amendments adopted by local governments. The State Coordinated Review Process is utilized for amendments that are in an area of critical state concern, amendments that propose a rural land stewardship area, amendments that propose a sector plan, or amendments that update a comprehensive plan based on an Evaluation and
Appraisal Report. The Small Scale process is utilized for amendments that qualify as small-scale development amendments.

All requests for Comprehensive Plan Amendments shall be submitted in writing to the City Manager, or his/her designee, together with applicable fees, which will have been established by resolution of the City Commission. Specific regulations for Comprehensive Plan Amendments applications are detailed in Article 7, Section 7.02.00. Comprehensive Plan Amendments may be submitted by the City to DEO for review according to the procedures established in Chapter 163 F.S. The following sections outline the requirements for each type of Comprehensive Plan Amendment.

8.07.01 Expedited State Review Process (consistent with F.S. 163.3184)

The Expedited State Review Process is utilized for all Comprehensive Plan amendments except amendments that are in an area of critical state concern, amendments that propose a rural land stewardship area, amendments that propose a sector plan, amendments that update a comprehensive plan based on an Evaluation and Appraisal Report, or amendments that qualify as small-scale development amendments.

Public Notice Requirements: All procedures for advertisement of a public hearing to adopt an ordinance must be followed as adopted by the City and set forth in Section 8.06.00 above and in keeping with Florida Statutes Chapter 166. According to State Law, the following section (A) must be adhered to:

(A) The local governing body shall hold at least two advertised public hearings, advertised per the requirements of Section 8.06.03, on the proposed comprehensive plan or plan amendment as follows:

1. The first public hearing shall be held at the transmittal stage. It shall be held on a weekday at least 7 days after the day that the first advertisement is published pursuant to the requirements of Florida Statutes Chapter 166.

2. The second public hearing shall be held at the adoption stage. It shall be held on a weekday at least 5 days after the day that the second advertisement is published pursuant to the requirements of Florida Statutes Chapter 166.

First Public Hearing: After the initial public hearing, the local government shall transmit the amendment and all supporting data and analysis within 10 days to the review agencies and any local governments that have filed a written request.

Comments: Comments from agencies and local governments reviewing the proposed amendment must be received by Mulberry no later than 30 days from the date on which the agency or government received the amendment from Mulberry.
Second Public Hearing: The local government shall hold its second public hearing, which shall be a hearing on whether to adopt one or more comprehensive plan amendments. If the local government fails, within 180 days after receipt of agency comments, to hold the second public hearing, the amendments shall be deemed withdrawn unless extended by agreement with notice to the DEO and any affected person that provided comments on the amendment. The 180-day limitation does not apply to DRI amendments.

Adoption Transmittal: All adopted Comprehensive Plan amendments, along with the supporting data and analysis, shall be transmitted within 10 days after the second public hearing to DEO and any other agency or local government that provided timely comments. DEO shall notify the local government of any deficiencies within 5 working days after receipt of an amendment package. For purposes of completeness, an amendment shall be deemed complete if it contains a full, executed copy of the adoption ordinance or ordinances; in the case of a text amendment, a full copy of the amended language in legislative format with strike-thru/underline changes; in the case of a Future Land Use Map amendment, a color copy of the Future Land Use Map clearly depicting the parcel, its existing future land use designation, and its adopted designation; and a copy of any data and analyses the local government deems appropriate.

Effective Date: An amendment adopted under the Expedited State Review Process does not become effective until 31 days after DEO notifies the local government that the plan amendment package is complete. If timely challenged, an amendment does not become effective until DEO or the Administration Commission enters a final order determining the adopted amendment to be in compliance.

8.07.02 State Coordinated Review Process (consistent with F.S. 163.3184)

The State Coordinated Review Process is utilized for Comprehensive Plan amendments that are in an area of critical state concern, amendments that propose a rural land stewardship area, amendments that propose a sector plan, or amendments that update a comprehensive plan based on an evaluation and appraisal report.

Public Notice Requirements: All procedures for advertisement of a public hearing to adopt an ordinance must be followed as adopted by the City and set forth in Section 8.06.00 above and in keeping with Florida Statutes Chapter 166. According to State Law, the following section (A) must be adhered to:

(A) The local governing body shall hold at least two advertised public hearings, advertised per the requirements of Section 8.06.03, on the proposed comprehensive plan or plan amendment as follows:

1. The first public hearing shall be held at the transmittal stage. It shall be held on a weekday at least 7 days after the day that the first advertisement is published pursuant to the requirements of Florida Statutes Chapter 166.
2. The second public hearing shall be held at the adoption stage. It shall be held on a weekday at least 5 days after the day that the second advertisement is published pursuant to the requirements of Florida Statutes Chapter 166.

First Public Hearing: After the initial public hearing, the local government shall transmit the amendment and all supporting data and analysis within 10 days to the review agencies and any local governments that has filed a written request. The transmitted document shall clearly indicate on the cover sheet that this plan amendment is subject to the state coordinated review process.

Comments: Comments from agencies and local governments reviewing the proposed amendment must be received by DEO not later than 30 days from the date on which the DEO received the amendment.

DEO Review: If DEO elects to review an amendment, DEO shall issue a report giving its objections, recommendations, and comments regarding the proposed plan or plan amendment within 60 days after receipt of the amendment. DEO may make objections, recommendations, and comments in its report regarding whether the amendment is in compliance and whether the amendment will adversely impact important state resources and facilities.

Second Public Hearing: The local government shall hold its second public hearing, which shall be a hearing on whether to adopt one or more comprehensive plan amendments. If the local government fails, within 180 days after receipt of agency comments, to hold the second public hearing, the amendments shall be deemed withdrawn unless extended by agreement with notice to DEO and any affected person that provided comments on the amendment. The 180-day limitation does not apply to DRI amendments.

Adoption Transmittal: All adopted Comprehensive Plan amendments, along with the supporting data and analysis, shall be transmitted within 10 days after the second public hearing to the DEO and any other agency or local government that provided timely comments. DEO shall notify the local government of any deficiencies within 5 working days after receipt of an amendment package. For purposes of completeness, an amendment shall be deemed complete if it contains a full, executed copy of the adoption ordinance or ordinances; in the case of a text amendment, a full copy of the amended language in legislative format with strike-thru/underline changes; in the case of a Future Land Use Map amendment, a color copy of the Future Land Use Map clearly depicting the parcel, its existing future land use designation, and its adopted designation; and a copy of any data and analyses the local government deems appropriate.

Notice of Intent: After DEO makes a determination of completeness regarding the adopted plan or plan amendment, DEO shall have 45 days to determine if the plan or plan amendment is in compliance. Unless the amendment is substantially changed from the one commented on, DEO’s compliance determination shall be limited to objections raised
in the objections, recommendations, and comments report. During the 45 days, DEO shall issue, through a senior administrator or the secretary, a notice of intent to find that the amendment is in compliance or not in compliance. DEO shall post a copy of the notice of intent on the agency’s Internet website. Publication by DEO of the notice of intent on DEO’s Internet site shall be prima facie evidence of compliance with the publication requirements of Florida Statutes.

Effective Date: An amendment adopted under the State Coordinated Review Process shall go into effect pursuant to DEO’s notice of intent. If timely challenged, an amendment does not become effective until DEO or the Administration Commission enters a final order determining the adopted amendment to be in compliance.

8.07.03 Small Scale Plan Amendments Exempt from DEO Review (consistent with F.S. 163.3184 and 163.3187)

Plan amendments that are defined as Small Scale Amendments do not have to be submitted to DEO for review. The amendment is adopted by ordinance and sent to DEO and the Central Florida Regional Planning Council. DEO will not issue a Notice of Intent for the small scale amendment.

(A) Definition. Small Scale Plan Amendments are defined by Florida Statue as:

1. Encompassing the use of 10 or fewer acres of any land use category; and

2. Does not include any text change to the Comprehensive Plan's goals, objectives, and policies;

3. Is not located within an area of critical state concern; and

4. The local government can approve the amendment without exceeding its yearly maximum of 120 acres of small scale amendments.

(B) Reviewing Board. Proposed Small Scale Plan Amendments are heard by the Planning Board and are recommended to the City Commission by the Board. Then the amendments are heard at one Public Hearing and adopted by Ordinance. The amendments become law after the waiting period for the ordinance has expired, which is 31 days after adoption.

(C) Public Notice Requirements. The public notice required for the amendment is:

1. A newspaper notice as outlined in Sections 8.06.01 or 8.06.02; and

2. The City must mail the owners of the property notice; and

3. There is no size requirements for the newspaper advertisement; and
4. Notice must be given of: the date, place and time of the meeting; the title of the proposed ordinance; the location where the proposed ordinance can be inspected by the public; and that interested parties can appear and be heard.

(D) Challenges. Challenges will be heard by the Division of Administrative Hearings. Any affected person may file a petition with the Division of Administrative Hearings to challenge the small scale development amendment within 30 days following the local government’s adoption of the amendment per Section 163.3184(5). An administrative law judge shall hold a hearing in the affected jurisdiction not less than 30 days nor more than 60 days following the filing of a petition and the assignment of an administrative law judge. The parties to a hearing held pursuant to this subsection shall be the petitioner, the local government, and any intervener. In the proceeding, the plan amendment shall be determined to be in compliance if the local government’s determination that the small scale development amendment is in compliance is fairly debatable. DEO may not intervene in any proceeding initiated pursuant to this section.

If the administrative law judge recommends that the small scale development amendment be found not in compliance, the administrative law judge shall submit the recommended order to the Administration Commission for final agency action. If the administrative law judge recommends that the small scale development amendment be found in compliance, the administrative law judge shall submit the recommended order to DEO.

8.08.00 Public Records

All resolutions, ordinances and records involving permitted land uses, development regulations and development approval are hereby declared to be public information and shall be maintained in an orderly fashion by the City Clerk or his designee(s). Such materials shall be available for public inspection between the hours of 8 a.m. and 5 p.m. on weekdays at City Hall. Copies shall be made available at a price reflecting the City's reproduction costs.

8.09.00 Fees

The City Commission shall, by separate resolution, establish and revise as necessary a schedule of fees for zoning changes, review/approval of plans, administrative approvals, and appropriate other actions undertaken under the provisions of this Code. All fees shall be set, at a minimum, at levels that cover the City's costs of administration, inspection, and enforcement.

8.10.00 Enforcement of Development Permits and Orders

The City Manager, or his/her designee is the enforcement officer for all regulations contained in this Code. The City Manager, or his/her designee shall implement a procedure for periodic inspection
of development work in progress to ensure compliance with the development permit and final development order that authorized the activity.

8.10.01 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 City Manager, or his/her designee for a certificate of occupancy. The City Manager, or his/her designee shall inspect the work and issue the certificate, if all work is found to be in conformity with the permit or order.

8.10.02 Administrative Approval of Minor Field Adjustments

The City Manager, or his/her designee has the authority to approve minor field adjustments. A minor field adjustment is a deviation from a final development order that falls within the following limits and that is necessary in light of technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process:

(A) Alteration of the location of any road, walkway, landscaping or structure by not more than five feet.

(B) Reduction of the total amount of open space by not more than five percent (5%), or reduction of the yard area or open space associated with any single structure by not more than five percent (5%); provided that such reduction does not permit the required yard area or open space to be less than that required by this Code.

(C) If the work is found to have one or more minor field adjustments, the City Manager, or his/her designee shall request a revised site plan from the applicant showing the deviations and amend the development order to conform to actual development. The City Manager, or his/her designee may, however, refer any minor field adjustment that significantly affects the development's compliance with the purposes of this Code to the Planning Board for treatment as a major deviation.

(D) Major Deviation Defined. A major deviation is a deviation other than a minor field adjustment, from a final development order.

8.10.03 Major Deviation from Development Permits and Development Orders

(A) If the work is found to have one or more major deviations, the City Manager, or his/her designee shall:

   (1) Place the matter on the next agenda of the City Commission, allowing for adequate notice, and recommend appropriate action for the Commission to take.
(2) Issue a stop work order and/or refuse to allow occupancy of all or part of the development if deemed necessary to protect the public interest. The order shall remain in effect until the City Manager, or his/her designee determines that work or occupancy may proceed pursuant to the decision of the City Commission.

(3) Refer the matter to the code inspector, if it appears that the developer has committed violations within the jurisdiction of the Code Enforcement Board.

(B) The Code Enforcement Board shall hold a public hearing on the matter and shall take one of the following actions:

(1) Order the developer to bring the development into substantial compliance (i.e. having no or only minor deviations) within a reasonable period of time. The development order or permit may be revoked if this order is not complied with.

(2) Amend the development order or permit to accommodate adjustments to the development made necessary by technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process. Amendments shall be the minimum necessary to overcome the difficulty, and shall be consistent with the intent and purpose of the development approval given and the requirements of this Code.

(3) Revoke the relevant development order or permit based on a determination that the development cannot be brought into substantial compliance and that the development order or permit should not be amended to accommodate the deviations.

8.10.04 Revocation of Development Order

Should a development order or permit be revoked, development activity shall not proceed on the site until a new development order or permit is granted in accordance with procedures for original approval.

[RESERVED]
Unified Land Development Code Update

ARTICLE 9

Definitions
ARTICLE 9

DEFINITIONS

For the purposes of this Code, the following terms shall have the meanings set forth below. Included are pertinent definitions adopted in the Comprehensive Plan, in addition to others applicable to this Code but not covered in the Plan. It is the intent of this Article to incorporate Comprehensive Plan definitions in substantially the same form in which they were adopted, although some terms may be defined here in a more detailed or restrictive manner. In the event a Comprehensive Plan amendment conflicts with a definition contained herein, the definition in the Comprehensive Plan shall take precedence, and shall be incorporated into this Code by reference. Definitions relating to sign regulation shall be found in Chapter 17, and are hereby incorporated into these definitions as if fully described herein.

AASHTO: American Association of State Highway and Transportation Officials.

Accessory Use or Structure: A use or structure on the same lot, with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Adjusted for Family Size: Adjusted in a manner which results in an income eligibility level which is lower for households with fewer than four people, or higher for households with more than four people, than the base income eligibility otherwise determined, based upon a formula as established by the US Dept. of HUD.

Adjusted gross income: All wages, regular cash or noncash contributions from persons outside the household, and such other resources and benefits as may be determined to be income by the US Dept. of HUD, adjusted for family size, less deductions allowable under s.62 of the Internal Revenue Code.

Adult Day Care Center: Any building or buildings, or part of a building, whether operated for profit or not, which undertakes through its ownership or management, therapeutic programs of social and health services as well as activities for adults in a non-institutional setting. Participants may utilize a variety of services offered during any part of the 24-hour day, but less than a 24-hour period. These services are provided to three or more adults who are 18 years of age or older, who are not related to the owner/operator by blood or marriage, and who require such services. (Section 429.901, F.S.)

Adult Entertainment Establishment: Any business which excludes minors by virtue of age due to the presence or display of films, photographs, published materials, or activities of a sexual nature. This definition shall include adult bookstores and theaters, and establishments offering massage, body rubs, any display of nudity, and similar activities to the exclusion of minors. Establishments which offer medical and therapeutic services provided by state licensed practitioners are excluded from this definition. Any business qualifying as an incidental adult materials vendor shall also be excluded from this definition.

Adult Family-Care Home: (Pursuant to Section 429.65, F.S.): A full-time, family-type living arrangement, in a private home, under which a person who owns or rents the home provides, room, board, and personal care, on a 24-hour basis, for no more than five disabled adults or frail elders who are not relatives. The following family-type living arrangements are not required to be licensed as an adult family-care home:
(a) An arrangement whereby the person who owns or rents the home provides room, board, and personal services for not more than two adults who do not receive optional state supplementation under s. 409.212. The person who provides the housing, meals, and personal care must own or rent the home and reside therein.

(b) An arrangement whereby the person who owns or rents the home provides room, board, and personal services only to his or her relatives.

(c) An establishment that is licensed as an assisted living facility under Florida Statutes Chapter 429.65. (c. 429.65, F.S.)

Adverse Effects: Any modifications, alterations, or effects on waters, associated wetlands, or shorelands, 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. The term includes secondary and cumulative as well as direct impacts.

Affordable Housing: Housing for which monthly rents or monthly mortgage payments, including taxes, insurance and utilities, do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for households or persons indicated in s. 420.004, F.S. (1991).

Agricultural Uses: The use of land for producing or harvesting crops or plants; for raising, livestock or fish; for dairying; for forestry, fisheries, animal specialty farms or hunting, trapping and game propagation. Intense agricultural activities such as feed lots and egg production are not allowed within the City Limits, unless they are pre-existing uses of the land prior to annexation.

Agricultural Uses, Limited: Land uses in residential areas that are characterized as agricultural in nature and are limited to: orchards; vineyards; nurseries; ornamental horticulture areas; groves; noncommercial greenhouses, bee keeping and raising of exotic species with the exception of venomous reptiles.

Alley: A narrow thoroughfare dedicated or used for public use upon which service entrances of buildings abut which is not generally used as a thoroughfare by both pedestrians and vehicles or which is not used for general traffic circulation and is not otherwise officially designated as a street.

Alteration or Alter: Any change in size, shape, character, occupancy, or use of a building or structure.

Amendment: Any action of a local government which has the effect of amending, adding to, deleting from or changing an adopted comprehensive plan element or map or map series, including an action affecting a prior plan or plan amendment adoption ordinance, but shall not mean a legislative act which only codifies local legislation or makes corrections, updates and modification of the capital improvements element concerning costs, revenue sources, acceptance of facilities or facility construction dates consistent with the plan as provided in
Annexation: The adding of real property to the boundaries of an incorporated municipality, such addition making such real property in every way a part of the municipality. (§171-031 F.S.)

Antique Car/ Vehicle: Any vehicle 25 years or older, as defined by the State for registration.

Apartment Building: A building which is used or intended to be used as a home or residence for three (3) or more families living in separate apartments.

Apartment, Efficiency: A dwelling unit in a multiple dwelling, consisting of not more than one (1) habitable room together with kitchen or kitchenette and sanitary facilities.

Apartment Garage: A building designed and used exclusively for the housing of automobiles belonging to the occupants of an apartment building on the same premises.

Aquifer: A water-bearing stratum of permeable rock, sand, or gravel.

Area of Shallow Flooding: Areas located within the areas of special flood hazard having special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate.

Area of Special Flood Hazard: The Area of Special Flood Hazard shall include:

1. All areas designated as an area of special flood hazard pursuant to Section 5.01.01(C). The relevant Flood Hazard Boundary Map and Flood Insurance Rate Maps, and any revisions thereto, are adopted by reference and declared to be a part of this Code.

2. Other areas of the community designated on a map by the City Manager, or his/her designee as having a one (1) percent or greater chance of flooding in any given year. This may include isolated topographic depressions with a history of flooding or a high potential for flooding.

Arterial Road: A roadway providing service which is relatively continuous and of relatively high traffic volume, long trip length, and high operating speed. In addition, every United States numbered highway is an arterial road. Arterial roads are designated as such on the Future Traffic Circulation Map of the City of Mulberry Comprehensive Plan.

Assisted Living Facility (aka Adult Congregate Living Facility): Any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator. (§429.02, F.S.)
Automotive Repair, Major: Includes activities listed under Service Station, as well as removal and major overhaul of engines, transmissions and drive systems, and all types of paint and body work.

Automotive Repair, Minor: See Service Station. A business which performs minor automotive repair may include the sale of motor fuels.

Automotive Restoration/Antique or Classic (Private and "Not for Profit"):: Restoring of classic vehicles (more than 20 years old) or antique vehicles (more than 25 years old) by a private individual and "not for profit". All activities must take place under cover. Stored vehicles must be screened. Vehicles may not be stored in front of the principal structure and must be setback ten feet (10') from side and rear property lines. An individual who is restoring a classic or antique vehicle, may have 3 inoperable vehicles as long as they are of the same make and model of the vehicle he is restoring.

Auto Salvage Yard: A commercial business which disassembles inoperable vehicles for the purpose of resale of automobile parts. Not more than three (3) inoperable vehicles may be stored at any one time. See "Junkyard" for a business which stores more than three inoperable vehicles.

Availability or Available: With regard to the provision of facilities and services concurrent with the impacts of development, means that at a minimum the facilities and services will be provided in accordance with the standards set forth in Rule 9J-5.0055(2), Florida Administrative Code.

Bar or Saloon: Any place devoted primarily to the retailing and drinking of malt, vinous, or other alcoholic beverages or any place where any sign is exhibited or displayed indicating that alcoholic beverages are obtainable for consumption on the premises.

Base Flood: The flood having a one (1) percent chance of being equaled or exceeded in any given year.

Bed and Breakfast: An owner-occupied dwelling unit containing no more than six (6) guest rooms where lodging, with or without meals, is provided for compensation.

Beneficial Functions Of A Wetland: Those functions, described in the Conservation Element of the Comprehensive Plan and in this Code that justify protection of wetlands.

Best Management Practice (BMP): A practice or combination of practices that are determined to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

Buffer: An area or strip of land established to separate and protect one type of land use from another with which it is incompatible. A buffer area typically is landscaped and contains vegetative plantings, berms, and/or walls or fences to create a visual and/or sound barrier between the two incompatible uses.
**Building:** Any structure either temporary or permanent having a roof and used or built for the shelter or enclosure of persons, animals, chattels or property of any kind. This definition shall include tents, awnings or vehicles situated on private property and serving in any way the function of a building.

**Building Line:** The rear edge of any required front yard or the rear edge of any required setback line. Except as specifically provided by this zoning ordinance, no building or structure may be extended to occupy any portion of a lot street ward or otherwise beyond the building line.

**Camping trailer:** See Recreation Vehicle.

**Canopy:** Canopy refers to the area shaded by the crown of mature tree, which is listed among the approved species.

**Capital Budget:** The portion of each local government's budget which reflects capital improvements scheduled for a fiscal year.

**Capital Improvement:** Physical assets constructed or purchased to provide, improve or replace a public facility and which are large scale and high in cost. The cost of a capital improvement is generally nonrecurring and may require multi-year financing. For the purposes of this rule, physical assets which have been identified as existing or projected needs in the individual comprehensive plan elements shall be considered capital improvements.

**Capital Improvement Program (CIP):** A five year listing of proposed capital improvement projects.

**Carport:** A private garage not completely enclosed by walls and doors.

**Cemetery:** A plot or parcel of land used or intended for use as a burial place in or above the ground for dead human bodies, whether or not markers or monuments are used.

**Central Business District:** A compact urban core area of a municipality or unincorporated urbanized area which serves as the primary center for economic activity in the jurisdiction.

**Child Care:** The care, protection, and supervision of a child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care. (402.302, F.S.)

**Child Care, Drop-in:** Child care provided occasionally in a child care facility in a shopping mall or business establishment where a child is in care for no more than a 4-hour period and the parent remains on the premises of the shopping mall or business establishment at all times. Drop-in child care arrangements shall meet all requirements for a child care facility unless specifically exempted. (402.302, F.S.)

**Child Care, Evening:** Child care provided during the evening hours and may encompass the hours of 6:00 p.m. to 7:00 a.m. to accommodate parents who work evenings and late-night shifts. (402.302, F.S.)
**Child Care, Weekend:** Child care provided between the hours of 6 p.m. on Friday and 6 a.m. on Monday. (402.302, F.S.)

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

(a) Public schools and nonpublic schools and their integral programs, except as provided in s. 402.3025, F.S.;
(b) Summer camps having children in full-time residence;
(c) Summer day camps;
(d) Bible schools normally conducted during vacation periods; and
(e) Operators of transient establishments, as defined in chapter 509, which provide child care services solely for the guests of their establishment or resort, provided that all child care personnel of the establishment are screened according to the level 2 screening requirements of chapter 435. (402.302, F.S.)

**City:** City of Mulberry.

**Classic Car/ Vehicle:** A vehicle 20 years or older, as defined by the State for registration purposes.

**Club, night:** A restaurant, dining room, bar or other similar establishment providing food or refreshments wherein floor shows or other forms of entertainment by persons are provided for guest after 11:00 p.m.

**Club, private:** Pertains to and includes those associations and organizations of a fraternal or social character, not operated or maintained for profit. The term private club shall not include casinos, night clubs or other institutions operated as a business.

**Cluster Development:** A development pattern in which residential uses are grouped or "clustered" through a density transfer, rather than spread evenly throughout a parcel as a conventional lot-by-lot development.

**Clustering:** The grouping together of structures and infrastructure on a portion of a development site.

**Collector Road:** A roadway providing service which is of relatively moderate traffic volume, moderate trip length, and moderate operating speed. All collector roads are designated as such on the Future Traffic Circulation Map of the City of Mulberry Comprehensive Plan.

**Commercial Uses:** Activities within land areas which are predominantly connected with the sale, rental and distribution of products, or performance of services.

**Commercial Vehicle:** A vehicle designed, intended or used for transportation of people, goods or things other than private vehicles and trailers for private nonprofit transport of goods and boats.
Compatibility: A condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition.

Concurrency: The necessary public facilities and services to maintain the adopted level of service standards are available when the impacts of development occur.

Concurrency Management System: The procedures and/or process that the local government will utilize to assure that development orders and permits are not issued unless the necessary facilities and services are available concurrent with the impacts of development.

Cone of Influence: An area around one or more major water wells the boundary of which is determined by the government agency having specific statutory authority to make such a determination based on groundwater travel or drawdown depth.

Conservation Uses: Activities or conditions within land areas designated for the purpose of conserving or protecting natural resources or environmental quality, including areas designated for such purposes as flood control, protection of quality or quantity of groundwater or surface water, floodplain management, commercially or recreationally valuable fish and shellfish, or protection of vegetative communities or wildlife habitats.

Convenience Store with Gas: See Gasoline Sales (No Service).

Coverage: The percentage of the plot area covered or occupied by buildings or roofed portions of structures.

Density: An objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre; "Density Control" is a limitation on the occupancy of land, and is generally implemented through zoning. Specific methods include use restrictions, such as single or multiple family dwellings, minimum lot-size requirements, floor area ratio, setback or yard requirements, minimum house size requirements, lot area requirements, or other means. The average density over an area or parcel remains constant, but internal variations are allowed.

Density, Net: Number of units per build-able acre of land, excluding supporting facilities such as subdivision road right-of-way, water and wastewater treatment plants, and property owned or used in common by the residents of a development (e.g., clubhouse or golf course).

Depth and Width: The depth of a lot is the distance between its mean front street line and its mean rear line. The width of a lot is the distance between the sidelines thereof if such lines are parallel to each other. If sidelines are not parallel, width shall be construed as mean width.

Developer: Any person, including a governmental agency, undertaking any development. (§380.031 F.S.)

Development: The carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels.
The following activities or uses shall be taken to involve "development:"

A reconstruction, alteration of the size, or material change in the external appearance of a structure on land; a change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land; alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, including any "coastal construction"; commencement of drilling, except to obtain soil samples, mining, or excavation on a parcel of land; demolition of a structure; clearing of land as an adjunct of construction; deposit of refuse, solid or liquid waste, or fill on a parcel of land.

The following operations or uses shall not be taken to involve "development":

Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way; work by any utility and other persons engaged in the distribution or transmission of gas or water, for the purpose of inspecting, repairing, renewing, or constructing on established rights of way any sewers, mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks, or the like; work for the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure; the use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling; the use of any land for the purpose of growing plants, crops, trees, and other agricultural or forestry products, raising livestock, or for other agricultural purposes; a change in use of land or structure from a use within a class specified in an ordinance or rule to another use in the same class; a change in the ownership or form of ownership of any parcel or structure; the creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land.

Development as defined for purposes of Section 5.01.00, Development in Flood-Prone Areas, means any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

"Development" as designated in an ordinance, rule, or development permit includes all other development customarily associated with it unless otherwise specified. When appropriate to the context, "development" refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. (§380.04 F.S.)

**Development Controls:** Standards in the comprehensive plan which control the development or use of land and which are in addition to the densities, intensities, and uses assigned to land by the future conditions maps.
**Development Order:** Any order granting, denying, or granting with conditions an application for a development permit. (§380.031 F.S.)

**Development Permit:** Includes any building permit, zoning permit, plat approval, or rezoning, certification, variance, or other action having the effect of permitting development. (§380.031 F.S.)

**District:** A portion of the territory of the city for which certain uniform regulations and requirements or various combinations thereof apply under the provisions of the zoning ordinance.

**D.O.T.:** The Florida Department of Transportation.

**D.O.T. Specifications:** Florida Department of Transportation Standard Specifications for Road and Bridge Construction, current edition.

**DRI, Development of Regional Impact:** Any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county or jurisdiction. Thresholds that define when a proposed development would be a DRI, according to the number of dwelling units, parking spaces or square feet, are established for each county by State Statute.

**Drive-in Restaurant or Refreshment Stand:** Any place or premises used for sale, dispensing or serving of good, refreshments or beverages in automobiles.

**Duplex:** A building designed and intended for or occupied exclusively by two (2) families living independently of each other.

**Dwelling:** A building or portion thereof designed exclusively for residential occupancy including one-family, two-family and multiple-family dwellings but not including hotels, boarding, lodging houses or house trailers whether such trailers be mobile or located in a stationary fashion on blocks or other foundation.

**Dwelling, unit:** A space, area or portion of a building designed for and occupied by one (1) family as a dwelling with cooking facilities for the exclusive use of such family.

**Easement:** A right given by the owner of land to another party for specific limited use of that land. For example, a property owner may give or sell an easement on his property to allow utility facilities like power lines or pipelines, or to allow access to another property. A property owner may also sell or dedicate to the government the development rights for all or part of a parcel, thereby keeping the land open for conservation, recreation, scenic or open space purposes.

**Educational Uses:** Activities and facilities of public or private primary or secondary schools, vocational and technical schools, and colleges and universities licensed by the Florida Department of Education, including the areas of buildings, campus open space, dormitories, recreational facilities or parking.
Environmentally Sensitive Land: Wetlands, floodplains or critical habitat for plant or animal species listed by the Florida Department of Agriculture and Consumer Services (FDACS), the Florida Game and Fresh Water Fish Commission (FGFWFC), or the United States Fish and Wildlife Service (USFWS) as endangered, threatened, or species of special concern. A Critical Habitat means the specific area within a geographic area occupied by plant or animal species listed by FDACS, FGFWFC or USFWS as endangered, threatened, or species of special concern on which are found those physical or biological features essential to the conservation of the species and which may require management considerations or protection.

Erected: Includes built, constructed, reconstructed, moved upon or any physical operations on the premises required for building. Excavations, fill, drainage, and the like shall be considered a part of erection.

Essential Services: The erection, construction, alteration or maintenance by private utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems collection, communication, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal or governmental agencies or for the public health or safety or general welfare but not including buildings.

FAC: Florida Administrative Code.

Facility Availability: Whether or not a facility is available in a manner to satisfy the concurrency management system.

Factory-built Housing: Shall mean any residential building, or building component or building system therefor, which is of closed construction and which is made or assembled in manufacturing facilities for installation, or assembly and installation, on the building site. Factory-built housing may also mean any residential building, or building component or building system therefor of open construction made or assembled in manufacturing facilities for installation or assembly and installation on the building site.

Family: One (1) person or a group of two (2) or more persons living together and interrelated by bonds of blood, marriage or legal adoption occupying the whole or part of a dwelling as a separate housekeeping unit with a single set of culinary facilities. The persons thus constituting a family may also include gratuitous guests and domestic servants.

Family Day Care Home: (Pursuant to Section 402.302, F.S.); The operation of a residence as a family day care home, as defined by law, registered or licensed with the Department of Children and Family Services shall constitute a valid residential use for purposes of any local zoning regulations, and no such regulation shall require the owner or operator of such family day care home to obtain any special exemption or use permit or waiver, or to pay any special fee in excess of $50, to operate in an area zoned for residential use (Section 166.0445, F.S.).
An occupied residence in which child care is regularly provided for children from **at least two unrelated families** and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. A family day care home shall be allowed to provide care for one of the following groups of children, which shall include those children under 13 years of age who are related to the caregiver:

(a) A maximum of four children from birth to 12 months of age.
(b) A maximum of three children from birth to 12 months of age, and other children, for a maximum total of six children.
(c) A maximum of six preschool children if all are older than 12 months of age.
(d) A maximum of 10 children if no more than 5 are preschool age and, of those 5, no more than 2 are under 12 months of age. (402.302, F.S.)

**Family Foster Home:** A private residence in which children who are unattended by a parent or legal guardian are provided 24-hour care. Such homes include emergency shelter family homes, family foster group homes, and specialized foster homes for children with special needs. The following are not considered a family foster home: a person who cares for a child of a friend for a period not to exceed 90 days; a relative who cares for a child and does not receive reimbursement for such care from the state or federal government; or an adoptive home which has been approved by the state or by a licensed child-placing agency for children places for adoption. (c. 409.175, F.S.)

**Farmworker(s):** means a person(s) who has worked twenty-five days or more, earning at least one-half (1/2) of their income in agricultural work in the last twelve (12) months and was not employed year round by the same employer.

**Farm Worker Housing:** The living accommodations of farm employees and their families, on one (1) lot or parcel without regard to duration, which occurs exclusively in association with the performance of agricultural labor.

**FDEP:** The Florida Department of Environmental Protection.

**Fill:** Depositing of any materials by any means in any waterbody or wetland.

**Filling Station:** See Gasoline Sales (No Service).

**Flood or Flooding:** A temporary partial or complete inundation of normally dry land from the overflow of lakes, rivers, or other water bodies, or from the unusual and rapid accumulation of runoff or surface waters from any source. (Also defined in FBC, B, Section 1612.2)

**Flood Hazard Boundary Map (FHBM):** The map issued by the Federal Emergency Management Agency showing flood-prone areas. Drawn from United States Geological Survey Maps, it does not provide flood elevations and is intended to be used only until the FIRM is produced.

**Flood Insurance Rate Map (FIRM):** The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section 1612.2.]
Flood Protection Elevation: The elevation of the base flood plus one (1) foot.

Floodprone Areas: Areas inundated during a 100-year flood event or areas identified by the National Flood Insurance Program as an A Zone on Flood Insurance Rate Maps or Flood Hazard Boundary Maps, produced by FEMA.

Floodways: The channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. [Also defined in FBC, B, Section 1612.2].

Foster Care Facility: A residential facility which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of its residents. The capacity of such a facility shall not be more than three residents. (c. 393.063, F.S.)

Frontage of a Building: The side or wall of a building approximately parallel and nearest to a street. When on a corner, frontage of a building shall be determined by the building and zoning director.

FS: Florida Statutes.

Garage, private: An accessory structure designed or used for inside parking of self-propelled private passenger vehicles by the occupants of the main building. A private garage attached to or a part of the main structure is to be considered part of the main use. An unattached private garage is to be construed as an accessory building.

Garden home: see Single Family Attached Dwelling Unit.

Gasoline Sales (No Service)/ Gas Station/ Filling Station/ Convenience Store with Gas: A building and land used or intended for use to dispense, sell, or offer for sale any motor fuels, oils, or automotive accessories, and retail sale of grocery store items; but where no major automotive repair, body rebuilding, welding, tire capping, or painting is or is intended to be performed.

Gas Station: See Gasoline Sales (No Service).

Golf course: Public or private golf course and par 3 courses including clubhouse, parking lots and maintenance facilities.

Grade, established: The average elevation of the public sidewalks around or abutting a plot or in the absence of sidewalks, the average elevation of the public streets abutting the plot.

Grade, finishing: The finished grade of premises improved by a building is the elevation of the surface of the ground adjoining the building. Where the finished grade is below the level of the established grade, the established grade shall be used for all purposes of this chapter.
Group Home Facility: A residential facility which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of its residents. The capacity of such a facility shall be at least four residents but not more than 15 residents. For the purposes of this chapter, group home facilities shall not be considered commercial enterprises. (c. 393.063, F.S.)

Hardship: Conditions peculiar to a property and not the result of the actions of the applicant, previous owners, or physical circumstances.

Hazardous Material: Any hazardous chemical, toxic chemical, or extremely hazardous substance, as defined in s. 329 of Title III. (§252.82 F.S.)

Hazardous Waste: 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.

Height of Building: The height of a building shall be the vertical distance measured from the mean level of the finished grade to the level of the highest point of the underside of the finished ceiling line. Where a structure is set back from the street line, the mean level of the finished grade of the premises along the line of that part of the structure nearest the street line may be substituted for the established grade for the purpose of determining the height of a building.

High Recharge Area or Prime Recharge Area: An area so designated by the appropriate water management district governing board. High recharge and prime recharge areas shall receive a level of protection commensurate with their significance to natural systems or their status as current or future sources of potable water.

Highest Adjacent Grade: The highest natural elevation of the ground surface adjacent to the proposed walls of a structure.

Historic Resources: All areas, districts or sites containing properties listed on the Florida Master Site File, the National Register of Historic Places, or designated by a local government as historically, architecturally, or archaeologically significant.

Home Occupation: An occupation for gain or support conducted solely by immediate members of a family residing in a dwelling, provided no article is sold or offered for sale except as may be produced on the premises by members of the family or used in performance in the service; where no evidence of the home occupation is noticeable from off of the premises except a sign as regulated in Article 4. In general, home occupations shall include, but not be limited to, personal services such as are furnished by a musician, artist, beauty operator, seamstress, home party makeup sales such as Avon or Mary Kay, home party clothing sales, home party appliance sales like Tupperware, home party cleaning product sales like Amway, insurance work, and computer work.
**Hospice**: A centrally administered corporation not for profit (“not-for profit” as defined in c. 617, F.S.) providing a continuum of palliative and supportive care for the terminally ill patient and his or her family. (400.601, F.S.)

**Hospice Residential Unit**: A homelike living facility, or other facility licensed under other parts of c. 400, F.S., or c. 395, F.S. (Hospitals), or under Chapter 429, F.S. (Assisted Care Communities), that is operated by a hospice for the benefit of its patients and is considered by a patient who lives there to be his or her primary residence. (Section 400.601, F.S.)

**Hotel**: A building, or part thereof, in which sleeping accommodations are offered to the public with no cooking facilities for use by the occupants and in which there may be a public dining room for the convenience of guests. Access to sleeping rooms shall be through the inside lobby or office.

**Hurricane Shelter**: A structure designated by local officials as a place of safe refuge during a storm or hurricane.

**Impervious Surface**: Impervious surfaces shall include all land paved with concrete or asphalt that is used for off-street parking, driveways, sidewalks, patios, and service areas.

**Industrial Uses**: The activities within land areas predominantly connected with manufacturing, assembly, processing, or storage of products.

**Incompatible Land Uses**: Land uses which, if occurring adjacent to one another, have a detrimental effect on one or both of the uses.

**Industrial Uses**: The activities within land areas predominantly connected with manufacturing, assembly, processing, or storage of products.

**Inoperable vehicle**: A motor vehicle which does not have a current state license plate; or a vehicle which is licensed but is disassembled or wrecked in part or in whole and is unable to move under its own power.

**Intensity**: An objective measurement of the extent to which land may be developed or used, including the consumption or use of the space above, on or below ground; the measurement of the use of or demand on natural resources; and the measurement of the use of or demand on facilities and services.

**Isolated Wetland**: Any wetland that has no hydrological or vegetative connections with any water of the state as defined in §327.02(28) F.S.

**Junkyard**: A place where junk, waste, discarded, or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including automobile wrecking yards, house wrecking and structural steel materials and equipment, but not including the purchase or closed storage of used furniture and household equipment, used cars in operable condition, used or salvaged materials as part of manufacturing operations. Storage of more than three (3) inoperable vehicles constitutes a junkyard.
[Note: An individual who is restoring, not for profit, a classic or antique vehicle, may have 3 inoperable vehicles as long as they are of the same make and model of the vehicle he is restoring.]

**Kennel:** A facility for the overnight boarding of animals, where outside runs or pens are provided.

**Level of Service (LOS):** An indicator of the extent or degree of service provided by, or proposed to be provided by a facility based on and related to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility.

**Local Road:** A roadway providing service which is of relatively low traffic volume, short average trip length or minimal through traffic movements, and high volume land access for abutting property.

**Lodging House:** A building, or part thereof, other than a motel or hotel where sleeping accommodations are provided for hire more or less transiently without provisions for cooking by guests or for meals for guests.

**Lot:** For zoning purposes, as covered by this chapter, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area and to provide such yards and other open spaces as herein required. In no case shall any residential lot or parcel be created which does not meet the requirements of this chapter. Such lot shall have frontage on an improved public street and may consist of:

1. A single lot of record;
2. A portion of a lot of record;
3. A combination of complete lots of record, of complete lots of record and portions of lots of record or of portions of lots of record;
4. A parcel of land described by metes and bounds descriptions.

**Low Income Persons:** One or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater. For the City of Mulberry, the median income of Polk County is used. (420.004, F.S. 1991)

**Lowest Floor:** The lowest enclosed floor of a structure, including a basement, but not including the floor of an area enclosed only with insect screening or wood lattice as permitted by the flood damage prevention regulations in this Code.

**Major Trip Generators or Attractors:** Concentrated areas of intense land use or activity that produces or attracts a significant number of local (vehicle) trip ends. (s. 9J-5.003 F.A.C.)

**Manufactured building:** A closed structure, building assembly, or system of subassemblies, which may include structural, electrical, plumbing, heating, ventilating, or other service systems manufactured in manufacturing facilities for installation or erection as a finished
building or as part of a finished building, which shall include, but not be limited to, residential, commercial, institutional, storage, and industrial structures. The term includes buildings not intended for human habitation such as lawn storage buildings and storage sheds manufactured and assembled offsite by a manufacturer in conformance with Chapter 553, Part I, Florida Statutes as shown by the proper insignia. This definition does not apply to mobile homes.

**Manufactured (Mobile) Home:** A pre-constructed dwelling unit, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width, and which is built on a metal frame and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. If manufactured after June 15, 1976, each section must bear a U.S. Department of Housing and Urban Development (HUD) label certifying that it is built in compliance with the federal Manufactured Home Construction and Safety Standards. Manufactured (mobile) homes shall be used for single family residential purposes only in the City of Mulberry and shall be licensed pursuant to Chapter 320.01, F.S.,1992 Supplement. In the event a manufactured (mobile) home becomes ineligible for a title certificate under Chapter 319, F.S., it shall no longer be considered a manufactured (mobile) home. Those units with a HUD label may only be used as single family homes and permitted in single family zoning districts where manufactured homes are allowed. This definition also includes those units licensed by the DCA, containing a DCA label and known in the industry as “modular homes.” Those units with a DCA label may only be used as single family homes and permitted in single family zoning districts where manufactured homes are allowed. However, to accommodate existing uses within the City, manufactured buildings may be used as classrooms on existing school sites.

**Manufactured (Mobile) Home Park:** Development site on which manufactured (mobile) homes are installed and organized around a common set of amenities, including private internal roads, clubhouse or recreation facility, and common open space. A manufactured (mobile) home park may not be platted or otherwise divided by fee simple ownership; however, the sale of interests or memberships on a condominium basis is permitted. All facilities, including roads, are privately owned or owned in common by residents of the park.

**Manufactured (Mobile) Home Subdivision:** A platted subdivision where manufactured homes are sited, either those with a HUD label or DCA label, with no common amenities, including private internal roads, clubhouse and/or recreation facility, or common open space. A manufactured (mobile) home subdivision is not allowed or permittable within the city limits of the City of Mulberry at this time.

**Mean Sea Level:** The average height of the sea for all stages of the tide. For purposes of this Section the term is synonymous with National Geodetic Vertical Datum (NGVD)

**MGD:** Million gallons per day.

**Minerals:** All solid minerals, including clay, gravel, phosphate rock, lime, shells (excluding live shellfish), stone, sand, heavy minerals, and any rare earths, which are contained in the soils or waters of the state.

**Mining:** The act of taking mineral substances from a pit or excavation in the earth.
Mini-Warehouse: A self-service facility consisting of individual self-contained units used for storage and no other purpose, plus an office/residence for a manager.

Mitigation: Any action, including but not limited to, restoration, enhancement, or creation of wetlands, required to be taken in order to offset environmental impacts on permitted activities.

Moderate Income Persons: One or more natural persons or a family, the total annual adjusted gross household income of which does is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater. For the City of Mulberry, the median income of Polk County is used. (420.004, F.S. 1991)

Modular Home or Building: A home or building is considered “modular” if a portion of that structure was constructed off-site and brought to the site for incorporation into the standard construction building. The portion of the building constructed off-site that makes the structure “modular” may be a portion of the electrical, plumbing, heating, or ventilating systems, or roof or wall trusses or wall sections. These are generally built off-site in a manufacturing facility and are produced for installation and erection as part of a finished building. Modular buildings must be constructed to meet all the requirements of the Florida Building Code (FBC) and any other design standards the City may adopt that apply to conventional construction. Modular homes/buildings are subject to inspection schedules by the City of Mulberry as a conventionally built home would be inspected. Modular buildings can include residential, commercial, institutional, storage, and industrial structures. For the purposes of this Code and the City of Mulberry, modular buildings shall not include manufactured homes, mobile homes and “modular” homes labeled and licensed by HUD and DCA. (See Also Manufactured Building).

Motel: A building, or part thereof, in which sleeping and/or living accommodations are offered to the public primarily on a short term or transient basis with access to the individual units from the exterior of the building and parking facilities for use of guests near their quarters.

Motor Home: See Recreation Vehicle.

MPO: Metropolitan Planning Organization for the Lakeland/Winter Haven Urbanized Areas.

National Register of Historic Places: Established by Congress in 1935, the National Register of Historic Places is a listing of culturally significant buildings, structures, objects, sites, and districts in the United States. The listing is maintained by the U.S. Department of Interior.

Natural Drainage Features: The naturally occurring features of an area which accommodate the flow of significant amounts of stormwater, such as streams, rivers, lakes, sloughs, floodplains, and wetlands.

Natural Drainage Flow: The pattern of surface and stormwater drainage through or from a particular site before the construction or installation of improvements or prior to regrading.
Natural Reservations: Areas designated for 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.

New Construction: Structures or substantial improvements for which the "start of construction" occurred on or after the effective date of this Code, and any alteration, repair, reconstruction or improvements to a structure which is in compliance with these flood damage prevention regulations.

New Town: A new urban activity center and community designated on the future land use map and located within a rural area or at the rural-urban fringe, clearly functionally distinct or geographically separated from existing urban areas and other new towns. A new town shall be of sufficient size, population and land use composition to support a variety of economic and social activities consistent with an urban area designation. New towns shall include basic economic activities; all major land use categories, with the possible exception of agricultural and industrial; and a centrally provided full range of public facilities and services. A new town shall be based on a master development plan, and shall be bordered by land use designations which provide a clear distinction between the new town and surrounding land uses.

Nonconforming Structure: A structure, or portion thereof, existing at the effective date of the ordinance from which this chapter was derived or any amendments thereto, which was occupied, designed, erected, intended or structurally altered for a use not permitted at its location by the provisions of this chapter for a new use and/or which does not conform to all of the regulations applicable to the district in which it is located.

Nonconforming Use: The use of a structure or premises, existing at the effective date of the ordinance from which this chapter was derived or any amendments thereto, for any purpose not permitted for a new use in the district in which it is located.

Nursery School: See Child Care Facility.

Nursing Home Facility: Any facility which provides nursing services as defined in Chapter 464, F.S., and which is licensed according to Chapter 400, F.S. Facility means any institution, building, residence, private home, or other place, whether operated for profit or not, including a place operated by a county or municipality, which undertakes through its ownership or management to provide, for a period exceeding 24-hours, nursing care, personal care, or custodial care for three or more persons not related to the owner or manager by blood or marriage, who by reason of illness, physical infirmity, or advanced age require such services; but does not include any place providing care and treatment primarily for the acutely ill. A facility offering services for fewer than three persons is within the meaning of this definition if it holds itself out to the public to be an establishment which regularly provides such services. (c. 400, F.S.)
Open Space: Undeveloped lands suitable for passive recreation or conservation uses.

Package Store: A place where alcoholic beverages are dispensed or sold in containers for consumption off the premises.

Parcel of Land: Any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit. (§380.031 F.S.)

Parking: The temporary, transient storage of private passenger motor vehicles used for personal transportation, while their operators are engaged in other activities. It shall not include storage of new or used cars for sale, service, rental or any other purposes other than specified above.

Park Model RV/ Park Model Recreation Vehicle/ Park Trailer/ Park Model Mobile Home: A transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. The total area of the unit in a setup mode, when measured from the exterior surface of the exterior stud walls at the level of maximum dimensions, not including any bay window, does not exceed 400 square feet when constructed to ANSI A-119.5 standards, and 500 square feet when constructed to U.S. Department of Housing and Urban Development (HUD) standards. The length of a park trailer means the distance from the exterior of the front of the body (nearest to the drawbar and coupling mechanism) to the exterior of the rear of the body (at the opposite end of the body), including any protrusions. (s. 320.01, FS)

Person: Any individual, group of individuals, firm, corporation, association, organization, or any legal entity.

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

Places of Worship: Any area, building, or structure where people assemble for religious purposes.

Planned Unit Development (PUD): A form of development characterized by a unified site design for a number of housing units, clustering buildings, and providing common open space, density increases, and a mix of building types and land uses. It permits the planning of a project and the calculation of densities over the entire development, rather than on an individual lot-by-lot basis. Also, a process in which public officials have considerable involvement in determining the nature of development through site plan review. It includes aspects of both subdivision and zoning regulation and is administered through a zoning
process.

**Plat:** A map or drawing depicting the division of land into lots, blocks parcels, tracts, sited, or other divisions set forth in Chapter 177, F.S.

**Playground:** A recreation area with play apparatus.

**Pollution:** The presence in the outdoor atmosphere, ground or water of any substances, contaminants, noise, or manmade or man induced alteration 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 unreasonably interfere with the enjoyment of life or property.

**Porch:** A roofed-over space attached to the outside of an exterior wall of a building which has no enclosure other than the exterior walls of such building. Open mesh screening shall not be considered an enclosure.

**Potable Water:** Water suitable for human consumption and which meets water quality standards determined by the Department of Health and Rehabilitative Services, provided through a public system or by private well.

**Potable Water Facilities:** A system of structures designed to collect, treat, or distribute potable water, and includes water wells, treatment plants, reservoirs, and distribution mains.

**Potable Water Wellfield:** The site of one or more water wells which supply potable water for human consumption to a water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

**Public Access:** The ability of the public to physically reach, enter or use recreation sites including beaches and shores.

**Public Buildings and Grounds:** Structures or lands that are owned, leased, or operated by a government entity, such as civic and community centers, hospitals, libraries, police stations, fire stations, and government administration buildings. In the City of Mulberry, permitted uses include schools; government buildings; fire and police stations; public recreation with its associated buildings and grounds, such as community centers, city pools, parks, playgrounds, courts, ballfields, indoor recreation facilities, nature preserves; all city, county, state and national parks located within the City limits; and, open space. The floor area ratio for public buildings shall not exceed 2.0; density shall not exceed one single family dwelling unit per ten acres for a caretaker on public recreation lands or on school grounds.

**Public Facilities:** Transportation systems or facilities, sewer systems or facilities, solid waste systems or facilities, drainage systems or facilities, potable water systems or facilities, educational systems or facilities, parks and recreation systems or facilities and public health systems or facilities.
Public Supply Water System: A public water system which serves at least 15 service connections used by year round residents or regularly serves at least 25 year-round residents. (§403.852 F.S.)

Public Recreation Sites: Sites owned or leased on a long-term basis by a federal, state, regional or local government agency for purposes of recreational use.

Purchase of Development Rights: The acquisition of a governmentally recognized right to develop land which is severed from the realty and held or further conveyed by the purchaser.

Recreation: The pursuit of leisure time activities occurring in an indoor or outdoor setting.

Recreation Facility: A component of a recreation site used by the public such as a trail, court, athletic field or swimming pool.

Recreation Uses, indoor: Uses run by the city or other government entity as a service to the community. Indoor recreation uses include areas for recreation activities including, but not limited to, aquariums, day or youth camps, community or recreation centers, gymnasiums, libraries or museums, indoor skating rinks, indoor swimming pools, indoor tennis, racquetball, handball courts, and all other institutional, indoor recreation.

Recreation Uses, indoor commercial: Uses run by a private company as a business. This category consists of uses that share land use characteristics such as traffic-generation rates and bulk (buildings) requirements. These uses include but are not limited to, bowling alleys, dance studios, schools for martial arts, physical fitness centers, private clubs or lodges, movie theater, theaters and auditoriums, and indoor skating rinks.

Recreation Uses, outdoor: Uses run by the city or other government entity as a service to the community. Outdoor recreation uses include areas for recreation activities including, but not limited to, arboretums, basketball courts, boat launching ramps, areas for cycling, docks, fairgrounds, fish camps, hiking, and jogging, outdoor nature areas, parks, picnic areas, piers, playfields, playgrounds, outdoor swimming pools and springs, tennis courts, tot lots, wildlife sanctuaries, and all other institutional, outdoor recreation uses. Specifically excluded are outdoor movie theaters, firing ranges, miniature golf courses, golf driving ranges, and marinas.

Recreation Uses, outdoor commercial: Uses run by a private company as a business. This group includes recreation uses that are greater nuisances than conventional outdoor recreation activities because of their size and scale, traffic volumes, noise, lights, or physical hazards such as flying objects or use of weapons. These uses include, but are not limited to, amusement parks, drive-in theaters, commercial stables, golf driving ranges (including miniature golf), marinas, outdoor theaters (or amphitheaters), race tracks (e.g., auto, dog, go-kart, harness, horse, motorcycle), ranges (skeet, rifle, or archery), sport arenas, and all other outdoor commercial recreation uses.

Recreation Vehicle (RV): A unit primarily designed as temporary living quarters for recreation, camping, or travel use, which either has its own motive power or is mounted on or drawn by
another vehicle. The basic entities of recreation vehicles are: travel trailer, fifth-wheel travel trailer, camping trailer, truck camper, motor home, private motor coach, van conversion, and park model RV/park trailer. (s. 320.01, FS)

**Recreation Vehicle (RV) Campgrounds:** A development designed specifically to accommodate RVs for overnight or limited vacation-season stays. However, RVs may be accommodated in a permanent area, intended for permanent residential rather than vacation/seasonal residential use, in which case they are known as RV “parks.”

**Recreation Vehicle (RV) Parks:** A development designed specifically to accommodate recreation vehicles in which recreation vehicles and/or "park model" mobile homes are permanently sited and occupied year round. However, RV parks may be designed for overnight or limited vacation/seasonal stays, in which case they are known as RV “campgrounds.”

**Recreation Vehicle (RV) Unit:** Those units primarily designed as temporary living quarters for recreation, camping or travel use, which either have their own mode of power or are mounted on or drawn by another vehicle. When traveling on the public roadways of Florida, recreational vehicle units shall comply with the length and width provisions of Section 316.515, F.S., and as that Section may hereafter be amended. Unless stated otherwise, the following definitions are provided in Section 320.01, F.S.:

1. **Travel trailer:** A vehicular portable unit mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motorized vehicle. It is primarily designed and constructed to provide temporary living quarters for recreation, camping, or travel use. It is of a body width, not more than eight feet and a body length of no more than forty feet when factory equipped for the road.

2. **Fifth-Wheel Trailer:** A vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit, of gross trailer area not to exceed four hundred (400) square feet in the setup mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

3. **Camping trailer:** A vehicular portable unit mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreation, camping or travel use.

4. **Truck camper:** A truck equipped with a portable unit, designed to be loaded onto, or affixed to, the bed or chassis of a truck, constructed to provide temporary living quarters, for recreation, camping, or travel use.

5. **Motor home:** A vehicular unit which does not exceed the length, height, and width limitations provided in F.S. 316.515 that is built on a self-propelled motor vehicle chassis, primarily designed to provide temporary living quarters for recreation, camping or travel use. Motor homes shall comply with the length and width provisions of Section 316.515, F.S., and as that Section may hereafter be
amended. For the purposes of this Code, motor home shall NOT refer to “mobile home” or “manufactured home”.

6. Park Model RV or Park Model Mobile Home: See Park Model RV.

7. Private Motor Coach: A vehicular unit which does not exceed the length, width, and height limitations provided in Section 316.519 (9), F.S., is built on a self-propelled bus type chassis having no fewer than three load-bearing axles, and is primarily designed to provide temporary living quarters for recreational, camping, or travel use.

8. Van Conversion: A vehicular unit which does not exceed the length and width limitations provided in Section 316.515, F.S., is built on a self-propelled motor vehicle chassis, and is designed for recreation, camping, and travel use.

Regulatory Floodway: The channel of a river or other watercourse and the adjacent land areas that must be unobstructed in order to discharge the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.

Remodeling, Redecorating or Refinishing: Any change, removal, replacement or addition to walls, floors, ceilings and roof surfaces or coverings which do not support any beam, ceiling, floor load, bearing partition, columns, exterior walls, stairways, roofs or other structural elements of a building or structure.

Residential Uses: Activities within land areas used predominantly for housing.

Restaurant: A building or room, not operated as a dining room in connection with a hotel where food is prepared and served for pay for consumption on the premises.

Right-of-Way: Land in which the state, a county, or a municipality owns the fee simple title or has an easement dedicated or required for a transportation or utility use.

Roadway Functional Classification: The assignment of roads into categories according to the character of service they provide in relation to the total road network. Basic functional categories include limited access facilities, arterial roads, and collector roads, which may be subcategorized into principal, major or minor levels. Those levels may be further grouped into urban and rural categories.

Room: An unsubdivided portion of the interior of a dwelling excluding bathrooms, kitchens, closets, hallways and service porches.

Rural Areas: Low density areas characterized by social, economic and institutional activities which may be largely based on agricultural uses or the extraction of natural resources in unprocessed form, or areas containing large proportions of undeveloped, unimproved, or low density property.

Rural Village or Rural Activity Center: A small, compact node of development within a rural area containing development, uses and activities which are supportive of and have a
functional relationship with the social, economic and institutional needs of the surrounding rural areas.

**Sanitary Sewer Facilities:** Structures or systems designed for the collection, transmission, treatment, or disposal of sewage and includes trunk mains, interceptors, treatment plants and disposal systems.

**Seasonal Population:** Part-time inhabitants who utilize, or may be expected to utilize, public facilities or services, but are not residents. Seasonal population shall include tourists, migrant farmworkers, and other short-term and long-term visitors.

**Septic Tank:** A watertight receptacle constructed to promote separation of solid and liquid components of wastewater, to provide limited digestion of organic matter, to store solids, and to allow clarified liquid to discharge for further treatment and disposal in a soil absorption system.

**Service Garage:** See Automotive Repair, Major.

**Service Station:** Includes activities listed under "Gasoline Sales (No Service)", plus: activities conducted at a service garage including the sale of any motor fuels, oils, or automotive accessories and maintenance or small-scale mechanical work on motor vehicles. This shall include inspection, maintenance, repair or replacement of the following: brake systems; ignition and electrical systems; carburetors and fuel systems; batteries; oil, antifreeze and other fluids; and, tires. Also included are auto washing and detailing, and the tuning and adjustment, but not disassembly or removal, of engines and transmissions.

**Services:** The programs and employees determined necessary by local government to provide adequate operation and maintenance of public facilities and infrastructure as well as those educational, health care, social and other programs necessary to support the programs, public facilities, and infrastructure set out in the local plan or required by local, state, or federal law.

**Single Family Attached Dwelling Unit:** Residential dwelling unit designed and constructed to meet Southern Standard Building Code requirements for single family attached structures, sharing a common side wall with at least one other unit, and having a designated yard and entrance which are not shared with other units. Such units shall be built only on property which is platted according to applicable subdivision regulations provided in Article 7, Section 7.00, “Subdivision Regulations.”

**Single Family Dwelling Unit, standard construction:** Residential dwelling unit designed and constructed to meet Southern Standard Building Code requirements for single family homes and any other design standards the City may adopt that apply to conventional construction. Such units shall be built only on property which is platted according to applicable subdivision regulations provided in Article 7, Section 7.00, “Subdivision Regulations.”

**Site:** The location of a significant event, activity, building, structure, or archaeological resource.
Site Development Plan: A plan, to scale, showing uses and structures proposed for a parcel of land as required by land development regulations. It includes lot lines, streets, building sites, reserved open spaces, buildings, major landscape features; both natural and man-made; and, depending on requirements, the locations of proposed utility lines.

Site Plan Review: The process whereby local officials review the site plans and maps of a developer to assure that they meet the stated purposes and standards of land development regulations, provide for the necessary public facilities, and protect and preserve topographical features and adjacent properties through appropriate siting of structures and landscaping.

Solid Waste: Sludge from a waste treatment works, water supply treatment plant, or air pollution control facility or garbage, rubbish, refuse, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

Solid Waste Facilities: Structures or systems designed for the collection, processing or disposal of solid wastes, including hazardous wastes, and includes transfer stations, processing plants, recycling plants, and disposal systems.

Start Of Construction: The date the construction permit was issued, provided the "actual start of construction" was within 180 days of the permit date. The "actual start of construction" means the first placement of permanent elements of a structure on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or of the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; installation of streets and/or walkways; excavation for a basement, footings, piers or foundations; erection of temporary forms; or the installation of accessory structures.

Stormwater: The flow of water which results from a rainfall event.

Stormwater Basin (formerly Drainage Basin): The area defined by topographic boundaries which contributes stormwater to a watershed, drainage system, estuarine waters, or oceanic water, including all areas artificially added to the basin.

Stormwater Management Detention Structure (formerly Drainage Detention Structure): A structure which collects and temporarily stores stormwater for the purpose of treatment through physical, chemical or biological processes with subsequent gradual release of the stormwater.

Stormwater Management Facilities: Manmade structures that are part of a stormwater management system designed to collect, convey, hold, divert, or discharge stormwater, and may include stormwater sewers, canals, detention facilities and retention facilities.

Stormwater Management Retention Structure (formerly Drainage Retention Structure): A structure designed to collect and prevent the release of a given volume of stormwater by complete on-site storage.
**Street:** A thoroughfare used for public foot and vehicular traffic other than an alley as herein defined shall be deemed a street.

**Street Line:** The line between the street and abutting property as determined by the city engineer.

**Structure:** Anything constructed or installed which is rigidly and permanently attached to the ground or to another object which is rigidly and permanently attached to the ground. This shall include but not be limited to supporting walls, signs, screened or unscreened enclosures covered by a permanent roof, swimming pools, poles, and pipelines.

**Subdivision:** Any tract or plot of land divided into two or more lots or parcels less than one acre in size for sale, lease or rent for residential, industrial or commercial use, regardless of whether the lots or parcels are described by reference to recorded plats, metes and bounds description, or by any other legal method. (§10D-6 F.A.C.)

**Substantial Improvement:** Any combination of repairs, reconstruction, alteration, or improvements to a structure, taking place during the life of a structure, in which the cumulative cost equals or exceeds 50 percent of the market value of the structure. The market value of the structure is the appraised value of the structure prior to the start of the initial repair or improvement, or, in the case of damage, the value of the structure prior to the occurrence of the damage. For the purposes of this definition, "substantial improvement" occurs when the first alteration of any wall, ceiling, floor, or other structural part of the structure commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any improvement of a structure to comply with existing health, sanitary, or safety codes, or any alteration of a structure listed on the National Register of Historic Places, the Local Register of Historic Places, or a State Inventory of Historic Places, unless that alteration will cause the structure to lose its historical designation.

**SWFWMD:** The Southwest Florida Water Management District.

**25-Year Frequency, 24-Hour Duration Storm Event:** A storm event and associated rainfall during a continuous 24-hour period that may be expected to occur once every 25 years. Its associated floodplain is that land which may be expected to be flooded during the storm event.

**Townhouse:** A design term, referring to the physical form of more than two single family attached homes with a ground floor entry. Also, see Single Family Attached Dwelling Unit.

**Transfer of Development Rights:** A governmentally recognized right to use or develop land at a certain density, or intensity, or for a particular purpose, which is severed from the realty and placed on some other property.

**Transportation Disadvantaged:** Those individuals who because of physical or mental disability, income status, or age are unable to transport themselves or to purchase transportation and are, therefore, dependent upon others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities.
Travel trailer: See Recreation Vehicle.

Truck camper: See Recreation Vehicle.

Truck stop: Any facility offering fuel for sale for commercial vehicles, trucks and automobiles and constructed and designed for the maneuverability and fueling of tractor trailer vehicles; has the capacity to fuel three (3) or more tractor trailer vehicles at the same time and parking facilities for three (3) or more vehicles. The facility may include provisions for one (1) or more of the following: (a) sleeping accommodations for commercial vehicle or truck crews; (b) sale of parts and accessories for commercial vehicles or trucks; (c) a restaurant; or (d) truck parking or storage area.

Unique Natural Habitats: "Habitat" means the environment in which an animal normally lives and in which it meets its basic need for food, water, cover, breeding space, and group territory. "Unique" means the occurrence is rare or infrequent or is of special social/cultural, economic, educational, aesthetic or scientific value. Areas where endangered, threatened or rare species, or remnant native plant species, occur.

Unique Natural Resources: Natural resources which are rare or infrequent in occurrence, or are of special social/cultural, economic, educational, aesthetic or scientific value.

Urban Areas: An area of or for development characterized by social, economic and institutional activities which are predominantly based on the manufacture, production, distribution, or provision of goods and services in a setting which typically includes residential and nonresidential development uses other than those which are characteristic of rural areas.

Urban Sprawl: Urban development or uses which are located in predominantly rural areas, or rural areas interspersed with generally low-intensity or low-density urban uses, and which are characterized by one or more of the following conditions: (a) The premature or poorly planned conversion of rural land to other uses; (b) The creation of areas of urban development or uses which are not functionally related to land uses which predominate the adjacent area; or (c) The creation of areas of urban development or uses which fail to maximize the use of existing public facilities or the use of areas within which public services are currently provided. Urban sprawl is typically manifested in one or more of the following land use or development patterns: leapfrog or scattered development; ribbon or strip commercial or other development; or large expanses of predominantly low-intensity, low-density, or single-use development.

Used Car Lot: A lot or group of contiguous lots used for the display and sale of used automobiles and where no repair work is done, except the necessary reconditioning of cars to be displayed and sold on the premises.

Variance: A modification of the zoning ordinance regulations when such variance will not be contrary to the public interest, and when, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. A variance is authorized only for height, area, size of structure or size of yards and open spaces, or other dimensional requirements. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance
nor shall the variance be granted because of the presence of nonconformities in the zoning district or classification or in the adjoining zoning districts or classifications.

**Vegetative Communities:** Ecological communities, such as freshwater marsh, oak hammocks, and cypress swamps, which are classified based on the presence of certain soils, vegetation and animals.

**Vested Right:** A right is vested when it has become absolute and fixed and cannot be defeated or denied by subsequent conditions or change in regulations, unless it is taken and paid for. There is no vested right to an existing zoning classification or to have zoning remain the same forever. However, once development has been started or has been completed, there is a right to maintain that particular use regardless of the classification given the property. In order for a nonconforming use to earn the right to continue when the zoning is changed, the right must have been vested before the change. If the right to complete the development was not vested, it may not be built, no nonconforming use will be established, and the new regulations will have to be complied with.

**Very-low Income Family, Very-low Income Household:** One or more natural persons or a family, not including students, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the metropolitan statistical areas (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater. For the City of Bartow, the median income of Polk County is used. (420.004, F.S.)

**Veterinary Clinic:** Facility for the treatment of animals where all animals are kept within a completely enclosed structure. No outside runs or pens are allowed. When in conjunction with a kennel, the regulations for kennels shall apply.

**Water Recharge Areas:** Land or water areas through which groundwater is replenished.

**Water Wells:** Wells excavated, drilled, dug, or driven for the supply of industrial, agricultural or potable water for general public consumption.

**Wellhead Protection Area:** An area designated by local government to provide land use protection for the groundwater source for a potable water wellfield, as defined in this code, including the surface and subsurface area surrounding the wellfield. Differing levels of protection may be established within the wellhead protection area commensurate with the capacity of the well and an evaluation of the risk to human health and the environment. Wellhead protection areas shall be delineated using professionally accepted methodologies based on the best available data and taking into account any zones or contribution described in existing data.

**Wetlands:** Those areas that are inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to
areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptations, have the ability to grow, reproduce or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas.

Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto. The delineation of actual wetland boundaries may be made by any professionally accepted methodology consistent with the type of wetlands being delineated but shall be consistent with any unified statewide methodology for the delineation of the extent of wetlands ratified by the Legislature.

**Wetland Vegetation:** Vegetation identified as wetland species in Rule 17-301.400 Florida Administrative Code.

**Yard:** An open space on the same lot with a building unoccupied and unobstructed from the ground upward except by trees or shrubbery or as otherwise provided herein.

**Z-lot development:** see Single Family Attached Dwelling Unit.

**Zero Lot Line:** A development approach in which a building is sited on one or more lot lines having no yard with the intent to allow more flexibility in site design and to increase the amount of usable open space on the lot.