

**APPENDIX B**  
**ZONING CODE\***

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\* **Editors Note:** Appendix B contains the zoning code of the city as adopted by Ord. No. 387, § 1, adopted Nov. 20, 1989. The zoning code is set out herein as enacted, with the exception that the editor has employed a uniform style of capitalization and has corrected obvious misspellings. Absence of a history note in parentheses following a particular section indicates that section derives unamended from Ord. No. 387. The presence of a history note indicates amendment. The former zoning ordinance of the city, being Ord. No. 466, was repealed by § 2 of Ord. No. 387.

**Cross References:** Signs, § 3-61 et seq.; alcoholic beverages, § 4-1 et seq.; animals, § 6-1 et seq.; buildings and building regulations, § 7-1 et seq.; community development, Ch. 11; floodplain management, § 14-1 et seq.; health and sanitation, Ch. 16; mobile homes, § 21-1 et seq.; planning and development, § 23-1 et seq.; subdivisions, § 26-1 et seq.

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**ARTICLE I.**

## **GENERAL PROVISIONS**

### **Sec. 1.1. Effect on pending or future prosecution.**

The adoption of this code shall not affect nor prevent any pending or future prosecution of, or action to abate violations of the previous City of Palmetto Zoning Code occurring prior to the effective date of this code.

### **Sec. 1.2. Legislative authority.**

This code is enacted pursuant to the provisions of Chapter 166, Florida Statutes and Chapter 63-1599, Laws of Florida, whereby authority is conferred on the Palmetto City Council for the purpose of promoting health, safety, morals and the general welfare of the citizens of Palmetto, to permit the city council to establish zoning classifications within the corporate limits of the City of Palmetto:

- (a) To regulate and restrict the erection, construction, alteration and repair of buildings.
- (b) To regulate and restrict the uses of land, buildings, and structures.
- (c) To regulate and restrict the percentage of lot occupancy, size of yards and open spaces, and density of population.
- (d) To preserve and facilitate transportation, water, sewerage, schools, and parks.
- (e) To lessen congestion on highways and secure safety from fires and other dangers.

### **Sec. 1.3. Intent and purpose.**

This code is adopted as one of the instruments of implementation of the public purposes and objectives of the Comprehensive Plan and is declared to be in conformance therewith.

It is the intent and purpose of the comprehensive plan and of this code, which aids in implementing the Comprehensive Plan, to promote the public health, safety, morals, convenience, comfort, amenities, prosperity, and general welfare of the citizens of Palmetto and to provide, among other matters, a wholesome, serviceable, and attractive community; to increase the safety and security of home life; to preserve and create a more favorable environment in which to rear children; to stabilize and enhance property and civic values; to develop meaningful and productive relationships between the private sector and city government; to provide for a more uniformly just land use pattern and tax assessment base; to aid in development and redevelopment of the city; to increase traffic safety and ease transportation problems; to provide more adequately for vehicular parking, parks, parkways, recreation, schools, public buildings and facilities, housing, job opportunities, light, air, water, sewerage, sanitation, and other public requirements; to lessen congestion, disorder, and danger which often occur in unplanned and unregulated suburban, urban, and rural development; to prevent overcrowding of land and undue concentration of population; to ensure compatibility of new development with existing development and open space; to conserve and enhance the manmade resources of the city; to provide for the appropriate utilization, conservation, and protection of natural resources in the city; and to provide more reasonable and serviceable means and methods of protecting and safeguarding the economic and social structure upon which the good of all depends.

To further the objective of the Comprehensive Plan and the intent and purpose of this code, the city is divided into districts of such number, shape, characteristics, area, common unity of purpose, adaptability, or use as will accomplish the objectives of the comprehensive plan and this code.

**Sec. 1.4. Conflicting regulations.**

When any provision of this code imposes more stringent or less stringent requirements, regulations, restrictions, or limitations than are imposed or required by the provisions of any other ordinance or law, the provisions which are more restrictive or which impose higher standards or requirements, shall govern.

**Sec. 1.5. Area of coverage.**

The regulations of this code shall apply throughout the corporate limits of the City of Palmetto.

**Sec. 1.6. Code affects all lands, water, structures, uses and occupancies.**

No building, structure, land or water shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected, reconstructed, moved, located, or structurally altered except in conformity with the regulations set out generally herein and for the district in which it is located.

**Sec. 1.7. Code affects height and bulk of buildings, population density, lot coverage, yards and other open spaces, off-street parking and loading, signs and other matters.**

In particular, no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, located, moved or structurally altered in any manner so as:

- (a) To exceed the permitted height, bulk or floor area;
- (b) To accommodate or house a greater number of families or other occupants, or to provide a greater number of dwelling units;
- (c) To occupy a greater percentage or portion of lot area;
- (d) To provide less lot area per dwelling unit or to occupy a smaller lot;
- (e) To provide narrower or smaller yards or other open spaces, or spaces of separations between buildings or portions thereof;
- (f) To provide less off-street parking or off-street loading space;
- (g) To display more signs, signs of greater area, or signs of a different character;
- (h) To permit the use of the building or structure for a use not permitted in the district in which it is located;

than herein required or limited, or in any other manner contrary to any provisions of this code.

**Sec. 1.8. Yard, area, open space, off-street parking and off-street loading space for one structure or use not to be used to meet requirements for another.**

No part of a yard, area, open space, or off-street parking or off-street loading space required for one (1) structure or use shall be included as meeting requirements for another, except where specific provisions therefor are made in this code.

**Sec. 1.9. Creation of new lots; reduction of lot or yard dimensions below minimum requirements prohibited.**

No new lot shall be created after the effective date of this code except in conformity with the requirements of applicable regulations. No yard or lot existing at the time of passage of these regulations shall be reduced by private action in width, depth, or area below the minimum requirements set forth herein.

**Sec. 1.10. Reduction of required off-street parking or off-street loading space prohibited.**

No off-street parking or off-street loading space affected by these regulations which meets all or part of the requirements of this code for such space shall be reduced or eliminated by private action, except where approved alternative off-street parking or off-street loading space meeting such requirements is provided, unless no longer required by this code.

**Sec. 1.11. Required accessory uses on same zoning lot with same zoning.**

All required accessory uses for any principal use, including, but not limited to, off-street parking and loading areas, retention or drainage areas, and private sewer or water systems shall be located on the same zoning lot as the principal use and shall have the same zoning district designation as the principal use, except as permitted elsewhere in this code.

**Sec. 1.12. Short title.**

This code may be referred to and cited as the Palmetto Zoning Code.

**ARTICLE II.**

**ESTABLISHMENT OF OFFICIAL ZONING ATLAS**

**Sec. 2.1. Establishment of zoning districts.**

In order to classify, regulate and restrict the uses of land, water and structures; and to restrict the height and density of structures and open areas around structures in the incorporated areas of the City of Palmetto, Florida, said territory is hereby divided into zoning districts which are set out as the following district titles:

*Establishment of Current Zoning District*

ER  
 RS-1  
 RS-2  
 RS-3  
 RS-4  
 RM-5  
 RM-6  
 MHP-1  
 GO  
 CN  
 CC  
 CG  
 CHI  
 PD-H  
 PD-MU

**Sec. 2.2. Relationship of current zoning districts to previous zoning districts.**

For the purpose of coordinating the provisions of this zoning code with the provisions of other existing codes and ordinances, and with the previous zoning code of the City of Palmetto (Ord. No. 466, as amended), the following table shall determine the applicability of those codes and ordinances to the zoning districts as provided by this zoning code.

Relationship of Current Zoning Districts To Previous Zoning Districts	
Establishment of Current Zoning Districts	Equivalent Zoning District as per the Previous Zoning Code
ER	No direct correlation
RS-1	R-1C
RS-2	R-1 and R-1B
RS-3	R-2
RS-4	R-3 and R-5
RM-5	R-3A and R-6
RM-6	R-4, R4-1A, and R-6
MHP-1	T, T-1, and T-2
GO	PR
CN	C-4
CC	No direct correlation
CG	C-2
CHI	C-1 and C-3
P	P-1
PD-H or PD-MU	PD
No direct correlation	FBH

- (a) All land having been zoned in the previous zoning code has been rezoned at the time of the adoption of this code to a district deemed appropriate and consistent with the comprehensive plan by the Palmetto City Council after all required procedures for public notice and hearings.

- (b) ER and CC districts are created with the adoption of this zoning code. The FBH district is deleted in its entirety with the adoption of this zoning code.

(Ord. No. 444, § 1, 11-19-90)

**Sec. 2.3. Adoption of official zoning atlas.**

The official zoning atlas, together with all lawfully adopted explanatory material shown thereon or therewith, is hereby adopted by reference and declared to be part of this code.

**Sec. 2.4. District regulations extend to all portions of districts surrounded by boundaries.**

A district symbol or name shown within district boundaries in the official zoning atlas indicates that district regulations pertaining to the district extend throughout the whole area surrounded by the boundary line, except as otherwise specifically provided.

**Sec. 2.5. Official zoning atlas; final authority.**

Regardless of the existence of purported copies of all or part of the official zoning atlas which may from time to time be made, published, or reproduced, the official zoning atlas shall be the final authority as to the current zoning status of all lands and waters in the corporate limits of the City of Palmetto.

**Sec. 2.6. Retention of earlier zoning maps or atlases.**

At least one (1) copy of all zoning maps or atlases, or remaining portions thereof, which have had the force and effect of official zoning maps or atlases for the city prior to the effective date of adoption or amendment of this code, shall be retained by the city clerk and preserved as a public record and as a guide to the zoning status of lands and waters prior to such dates.

**ARTICLE III.**

**DEFINITIONS**

**Sec. 3.1. Word usage.**

For the purposes of this ordinance, the terms and words herein shall be interpreted as follows, unless otherwise expressly stated:

- (a) Words in the present tense shall include the future tense.
- (b) The words "persons," "owner," or "developer" includes an individual person, a profit or nonprofit corporation, company, partnership, association, or governing body.
- (c) Words used in the singular shall include the plural.
- (d) The words "used" or "occupied" as applied to any land or building include the words "intended, arranged or designed to be used or occupied".

- (e) The word "lot" includes the words "plot" or "parcel".
- (f) The word "building" includes structure.
- (g) The words "shall" and "will" are always mandatory.
- (h) The word "may" is permissive.
- (i) Words not defined in section 3.2 shall have the meaning commonly assigned to them.

### **Sec. 3.2. Definitions of terms.**

Unless otherwise expressly stated, for the purposes of this code, the following words, terms and phrases shall have the meaning herein indicated.

*Abut:* To physically touch or border upon; or to share all or part of a common lot line or parcel of land.

*Accessory:* Having a subordinate function. See also Building, accessory; Structure, accessory; and Use, accessory.

*Adult entertainment establishment:* Those business operations whose primary business is to provide adult entertainment predominantly involving "specified sexual activities" or "specified anatomical areas". Such establishment shall include, but shall not be limited to, cabarets, adult bookstores, adult theaters, and adult photographic studios, which terms are more specifically defined as follows:

- (a) *Adult bookstore:* An establishment having as a substantial or significant portion of its stock in trade, books, magazines and other periodicals, printed matter, films, video tapes or photographic materials, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".
- (b) *Adult theater:* An enclosed building or an enclosed space within a building used for presenting either filmed or live material or performances which are distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- (c) *Adult photographic studio:* Any establishment which offers or advertises the use of its premises for the purpose of photographing or exhibiting "specified sexual activities" or "specified anatomical areas".
- (d) *Cabarets:*
  - (1) Any bar, dancehall, restaurant or other place of business at which food or beverages are served, which features nude dancing, topless or bottomless dancers, strippers or similar entertainers, topless waitresses; or

- (2) Any such establishment which is advertised or identified through the use of a sign or signs employing the words "Adult", "Topless", "Bottomless" or other words of similar import; or
  - (3) Any such establishment which provides adult entertainment involving the exposure of "specified anatomical areas."
- (e) *Specified sexual activities* is defined as:
- (1) Human genitals in a state of sexual stimulation or arousal;
  - (2) Acts of human masturbation, sexual intercourse or sodomy;
  - (3) Fondling or other erotic touching of the human genitals, pubic region, buttocks or female breast.
- (f) *Specified anatomical areas* is defined as:
- (1) Less than completely and opaquely covered:
    - a. Human genitals or pubic region,
    - b. Buttocks, or
    - c. Female breast below a point immediately above the top of the areola; and
  - (2) Human male genitals in a discernibly erect state, even if completely and opaquely covered.

*Adjacent:* A lot or parcel of land which shares all or part of a common lot line with another lot or parcel of land. Adjacent shall also include any property separated by a public or private right-of-way.

*Agriculture:* The use of land for farm and truck gardens and maintaining bovine and equine animals not exceeding two (2) farm animals per acre.

*Agricultural commodity:* Any and all agricultural, horticultural (including floricultural), viticultural, fruit, citrus and vegetable products produced in this state.

*Alcoholic beverages:* Those beverages containing more than one (1) percent of alcohol by weight including, but not limited to, beer, wine, malt beverages, liquor and distilled spirits.

*Alley:* A public right-of-way that is intended to provide only a secondary means of access to abutting property and not intended for general traffic circulation.

*Alteration:* Any physical change to a building, structure, or site, including, but not limited to, access, size, floor area, height, projections, rearrangement or moving of parts.

*Amusement park:* A permanent facility with rides and other devices for entertainment.

*Animal hospital:* Any structure and land used for the medical and surgical care of ill, injured or disabled animals and the housing or boarding of domestic animals.

*Bed and breakfast home:* A dwelling unit or portion thereof where, for compensation, guest lodging, rooms, and meals are provided. The operator of the bed and breakfast shall live in the dwelling unit or in an adjacent dwelling unit.

*Board of adjustment:* The legally constituted and appointed board of adjustment of the City of Palmetto, State of Florida.

*Boarding/rooming house:* A building or group of buildings containing in combination three (3) or more lodging units intended primarily for rental or lease for a period of longer than one (1) week, with or without board.

*Body shop, automotive:* Automotive body work, straightening of frames or body parts, steam cleaning, painting, welding, storage of automobiles not in operating condition for a reasonable period of time during which they are actively being restored to operating condition.

*Building:* Any structure, having a roof, designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property.

*Building, accessory:* A subordinate building or a portion of the main building on a lot, the use of which is customarily incidental to that of the main or principal building.

*Building, principal:* A building, or where the context so indicates, a group of buildings in which is conducted the principal use of the lot on which such building(s) is located.

*Business services:* An establishment offering primarily services to the business community and to individuals. Such services include, but are not limited to, advertising agencies, blueprinting and photocopying services, interior cleaning services, computer and data processing services, detective agencies and security services, insurance agencies, management consulting and public relations services, news syndicates, personnel services, financial services (other than banks), and real estate services.

*Certificate of concurrency:* The certificate issued by the City of Palmetto upon finding that an application for a building permit will not result in the reduction of the level of service standards set forth in the comprehensive plan for public facilities and services.

*Certificate of occupancy:* A document issued by an authorized official setting forth that land, a building or structure legally complies with the Palmetto Building Code, this code and other pertinent local and state requirements and that the same may be used for the purpose stated therein.

*Child care center:* Any establishment that provides on a regular basis supervision and care for more than five (5) children unrelated to the operator for a period of less than twenty-four (24) hours a day and which

receives a payment, fee or grant for any of the children receiving care and whether or not operated for profit, except that the following are not included: public school and nonpublic schools which are in compliance with the compulsory school attendance law, Chapter 232, Florida Statutes; summer camps having children in full-time residence; summer day camps; and Bible schools normally conducted during vacation periods. The term includes kindergartens, nurseries, nursery schools, day care centers and day nurseries.

*Church/synagogue:* Tax exempt buildings used for nonprofit purposes by a recognized and legally established sect for purpose of worship, including educational buildings when operated by such church/synagogue.

*Commercial vehicle:* Any vehicle other than domestic vehicles, as defined in this code, or any vehicle over one (1) ton in weight or twenty (20) feet in length.

*Comprehensive plan:* The City of Palmetto Comprehensive Plan adopted by Ordinance No. 368B [Code Section 23-3] on May 15, 1989 by the city council pursuant to Chapter 163, Part II, Florida Statutes, as said plan may be amended from time to time.

*Concurrency determination:* An evaluation of the available capacity minus the demand of the proposed project. This determination will be made during the development permit application procedure. However, a draw-down of facility capacity and a certificate of concurrency will be issued only when a building permit is issued.

*Concurrency facilities and services:* Public facilities and services for which level of service standards have been established in the comprehensive plan:

- (a) Potable water.
- (b) Wastewater.
- (c) Solid waste.
- (d) Recreation/open space.
- (e) Stormwater management.
- (f) Transportation.

*Concurrency management system:* The procedures and processes utilized by the City of Palmetto to determine that development permits, when issued, will not result in the reduction of the level of service standards set forth in the comprehensive plan.

*Conditional use:* A use which is not permitted as a matter of right in a zoning district but which is permitted only where approved by the Palmetto City Council and where such use complies with the conditional use standards set forth in the Palmetto Zoning Ordinance and Ordinance No. 196, as amended.

*Congregate living facility:* Any building, buildings, section of a building, or distinct part of a building,

residence, private home, boardinghouse, home for the aged or other place, whether operated for profit or not, which undertakes through its ownership or management to provide for a period exceeding twenty-four (24) hours housing, food services, and one (1) or more personal care services (as defined by this code) to persons not related to the owner or operator by blood, marriage, or adoption. Said use shall be licensed, certified or approved by the state department of health and rehabilitative services.

Such facilities shall contain congregate kitchen, dining and living areas only, with separate sleeping rooms. Further, such facilities shall not be used for those persons in need of a structured environment. For purposes of this code, congregate living facilities shall not be deemed to include boarding/rooming houses; fraternities sororities; monasteries; convents; hotels/motels; professional residential facilities; or nursing, convalescent and extended care facilities.

*Cultural facility:* The use of land, buildings or structures to provide educational and informational services to the general public, including, but not limited to, art galleries, museums, and libraries.

*Density:* The number of dwelling units per square measure of land, usually in acreage or number of feet. For purposes of this code, density shall be gross.

*Development:* Any construction, reconstruction or any use of real property which requires issuance of a development permit.

*Development permit:*

- (a) Building permit.
- (b) Commercial site plan review.
- (c) Rezoning.
- (d) Subdivisions.
- (e) Conditional use.
- (f) Development orders for developments of regional impact, as defined in Section 380.06, Florida Statutes.

*Domestic vehicle:* Any vehicle licensed as a private vehicle for operation on streets or waterways and may include, but not be limited to automobiles, private pickup trucks, and vans, and private pleasure craft.

*Drinking establishment:* An establishment where alcoholic beverages are obtainable within or thereon and where such beverages are consumed on the premises. If the facility also sells food, and the sale of food products represents more than fifty (50) percent of the facility's total sales, the facility shall be considered an eating establishment.

*Dry-cleaning plant:* An establishment engaged in providing laundry, dyeing and dry-cleaning services on a large scale for institutions, businesses or other such establishments.

*Dry cleaners:* An establishment engaged in providing laundry, dyeing and dry-cleaning services to individual customers.

*Dry cleaners, small:* An establishment engaged on a small scale in providing laundry, dyeing and dry-cleaning services to individual customers which employs not more than five (5) persons. The maximum number of employees shall not exceed five (5) persons on any shift.

*Dwelling, multi-family:* A structure containing three (3) or more attached dwelling units either stacked vertically above one another, or attached by side and rear walls, or both.

*Dwelling, single-family attached:* A structure containing three (3) or more dwelling units with both side walls (except end units of building) attached from ground to roof (i.e., townhouse).

*Dwelling, single-family detached:* A structure containing one (1) dwelling unit with open space on all sides.

*Dwelling, single-family:* Where used in this code, it shall mean single-family attached and single-family detached.

*Dwelling, two-family:* A structure containing two (2) dwellings attached by a common side or rear wall.

*Dwelling unit:* A room or group of rooms forming a single independent habitable unit used for, or intended to be used for living, sleeping, sanitation, cooking, and eating purposes by one (1) family only; for owner occupancy or for rental, lease, or other occupancy on a weekly or longer basis; and containing independent kitchen, sanitary and sleeping facilities.

*Easement:* Any strip of land created for public or private utilities, drainage, sanitation, or other specified uses having limitations, the title to which shall remain in the name of the property owner, subject to the right of use designated in the reservation of the servitude.

*Eating establishment:* Any establishment whose principal business is the sale of food, frozen desserts or beverages to the customer in a ready-to-consume state.

Sit-down eating establishments are those at which food and/or beverages are served by waitresses or waiters to patrons seated at booths or tables.

Walk-in/drive-in eating establishments are those at which the customers receive, but do not consume, the food and/or beverages at a counter, bar, or from a drive-in window.

*Family:* Any number of people related by blood, marriage or adoption or not more than five (5) unrelated persons living together as a single housekeeping unit, using a single facility in a dwelling unit for culinary purposes. The term "family" shall not be construed to include a fraternity or sorority, club, rooming house, institutional group or the like.

*Family day care home:* A residence within which child care and supervision is provided for no more

than five (5) children, unrelated to the caregiver, for less than a twenty-four-hour period.

*Farm animal:* Animals that are useful to man, including, but not limited to, dairy animals; poultry; or livestock, including beef cattle, sheep, swine, horses, mules, or goats.

*Farm labor camp:* One (1) or more buildings or structures, or any portion thereof, together with the land appertaining thereto, established, operated, furnished as an incident of employment or used as living quarters for seasonal, temporary or migrant farm workers or their families, whether or not rent is paid or reserved in connection with the use or occupancy of such premises.

*Funeral home:* A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

*Garage, private residential:* A structure which is accessory to a residential building and which is used for the parking and storage of vehicles owned and operated by the residents thereof, and which is not a separate commercial enterprise available to the general public.

*Garage, public:* A building, or portion thereof, other than a private customer and employee garage or private residential garage, used primarily for the parking and storage of vehicles and available to the general public.

*Gas station:* An establishment where gasoline and/or diesel fuel is supplied and dispensed at retail and where no servicing or repair of vehicles is permitted. Convenience goods may be sold at such facilities but the sales shall be accessory to the sale of gasoline or diesel fuel.

*Golf club:* A recreational facility containing a golf course and may contain accessory uses such as offices, a pro shop, locker rooms and golf cart rental.

*Golf course:* A tract of land for playing golf, improved with tees, greens, fairways, and hazards.

*Hazardous waste:* As defined at 40 CFR 261.3, a waste, or a combination of wastes, which because of its quantity, concentration, 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 substantial present or potential hazard to human health or the environment when improperly transported, disposed, stored, treated or otherwise managed.

*Height:* The vertical distance of a building measured from the average elevation of the proposed finished grade within twenty (20) feet of the structure to the highest point of the roof.

*Home occupation:* An occupation conducted as an accessory use in a dwelling unit in a manner clearly incidental and accessory to the residential use. (See section 6.12 for regulations.)

*Hospital:* An institution providing physical and/or mental health services; primarily human inpatient medical or surgical care for the sick and injured. Hospitals may also include related facilities such as laboratories, outpatient services, training facilities, central service facilities, emergency services and staff offices.

*Hotel or motel:* A building or group of buildings containing lodging units intended primarily for rental or lease to transients by the day or week, and providing additional services such as restaurants, meeting rooms and recreation facilities.

*Junk:* Any worn, cast-off or discarded article or material which is ready for destruction or which has been collected or stored for sale, resale, salvage or conversion to some other use.

*Junkyard:* The use of more than one thousand (1,000) square feet of the area of any lot for the storage, keeping or abandonment of junk, including scrap material from the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof. A "junkyard" shall include an automobile or motor vehicle graveyard. (See section 6.13 for regulations.)

*Laundromat:* An establishment providing washing, drying and/or dry-cleaning machines on the premises for rental use to the general public for family laundering or dry-cleaning purposes.

*Loading, off-street:* Space located outside of any street right-of-way or easement and designed to accommodate the temporary parking of vehicles used for bulk pickups and deliveries.

*Lot:* A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit.

*Lot area:* The total area within the lot lines of a lot, excluding any street right-of-way.

*Lot, corner:* A lot or parcel of land abutting upon two (2) or more streets at their intersection, or upon two (2) parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees.

*Lot line:* A line that marks the boundary of a lot.

*Lot line, interior:* Any lot line that is not a street lot line; a lot line separating a lot from another lot.

*Lot line, street:* Any lot line separating a lot from a street right-of-way or general access easement. Where a lot line is located within such street right-of-way or easement, the right-of-way or easement boundary adjacent to the lot shall be considered the street lot line.

*Lot of record:* A lot which is part of a subdivision, the plat of which has been recorded in the office of the clerk of the circuit court of Manatee County, or any parcel of land, whether or not part of a subdivision, that has been officially recorded by a deed in the office of the clerk, provided such lot was of a size which met the minimum dimensions for lots in the district in which it was located at the time of recording or was recorded prior to the effective date of zoning in the area where the lot is located.

*Lot width:* A horizontal distance measured along a straight line connecting the points where the minimum front yard line meets the interior lot lines or, if on a corner, the other front yard line.

*Manufacturing, processing and assembling:* The mechanical or chemical transformation of materials or substances into new products. The land uses engaged in these activities are usually described as plants,

factories, or mills and characteristically use power-driven machines and materials handling equipment. Establishments engaged in assembling component parts of manufactured products are also considered under this definition if the new product is neither a fixed structure nor other fixed improvement. Also included is the blending of materials such as lubricating oils, plastics, resins or liquors.

*Marinas:* A facility for storing either dry or wet or a combination of both, servicing, fueling, berthing and securing and launching of private pleasure craft which may include the sale of fuel and incidental supplies for the boat owners, crews and guests. Boats available for charter or rental are included in the phrase "private pleasure craft." Boat sales, as an accessory use, are permitted.

*Migrant farm worker:* Any person employed or engaged in the planting, cultivation or harvesting of agricultural crops or packing of harvested agricultural commodities who is not indigenous to or domiciled in, the locale where so employed or engaged.

*Mobile home:* A manufactured structure, transportable in one (1) or more sections, which is at least eight (8) feet in width and thirty-two (32) feet in length and built on an integral chassis and designed to be used as a dwelling unit, with or without a foundation, connected to the required utilities.

*Mobile home subdivision:* A parcel of land which has been planned and improved for the placement of mobile homes for nontransient use.

*Motor vehicle repair--Minor.*

- (1) Sale and service of spark plugs, batteries, and distributor and ignition system parts.
- (2) Sales, service and repair of tires, but not recapping or regrooving.
- (3) Replacement of mufflers, tail pipes, water hoses, fan belts, brake fluids, lightbulbs, fuses, floor mats, seat covers, windshield wipers and blades, grease retainers, wheel bearings, mirrors and the like.
- (4) Radiator cleaning, flushing, and fluid replacement.
- (5) Greasing and lubrication.
- (6) Providing and repairing fuel pumps, oil pumps, and lines.
- (7) Minor adjustment and repair of carburetor.
- (8) Emergency repair of wiring.
- (9) Adjusting brakes and installing exchange brake shoes.
- (10) Minor motor adjustment not involving removal of the head, engine, transmission, rear end, or crankcase and grinding valves.

- (11) Wheel balancing.
- (12) Battery recharging.
- (13) Warranty maintenance and safety inspections.
- (14) Other minor servicing of a similar intensity to those listed above.

*Motor vehicle repair--Major:* Any automotive repairs or servicing not listed under "Minor," above, including, but not limited to, body shops.

*Nonconformities:* Those characteristics of the property, structure or use which are not permitted in the schedule of permitted uses or do not conform to the schedule of area, height, bulk and placement regulations or other provisions of this code but were legal at the time they were established.

*Nursery:* Land devoted to the raising of plants, trees, and shrubs for personal use, wholesale use, wholesale sale, or sale to individuals. A nursery shall not include the sale of fertilizers, mulch, tools, pots, or any other such items.

*Nursing, convalescent or extended care facility:* Any facility which provides nursing services, as defined in Chapter 464 of the Florida Statutes. Facility means any institution, building, residence, private home, or other place, whether operated for profit or not, including those places operated by a county or municipality, which undertakes through its ownership or management to provide nursing care, personal care, or custodial care for persons not related to the owner or manager by blood or marriage, who for reason of illness, physical infirmity, or advanced age require such services. Use does not include any place providing care and treatment primarily for the acutely ill.

*Office, business or professional:* An establishment offering services or knowledge to the business community or to individuals. Such activities would include, by way of illustration, accounting, brokerage, insurance, physician, lawyer, dentist, architect and psychologist.

*Open space:* Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

*Open space, common:* Land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development and may include such complementary structures and improvements as are necessary and appropriate.

*Open storage:* The storage outside of a building, or within buildings with less than three (3) sides, of materials; supplies; merchandise; equipment; commercial, recreational, or domestic vehicles, boats and like items, but excluding junk.

*Parking, accessory:* Any garage, carport, or surface level lot designed to accommodate the parking of motor vehicles on the same lot as the principal use.

*Parking, off-street:* Space located outside of any street right-of-way or easement and designed to accommodate the parking of domestic vehicles.

*Parking, principal:* Any garage or surface level lot used as the principal use of the property, whether it operates for commercial or private purposes.

*Personal services:* An establishment that primarily provides services generally involving the care of a person or a person's apparel, including, but not limited to, barbershops, beauty salons, seamstress shops, shoe repair and shining shops, dry-cleaning and laundry pickup facilities, coin-operated laundry and dry-cleaning facilities and small dry cleaners.

*Place of assembly:* A place designed to accommodate the assembly of persons attending athletic events, musical performances, dramatic or dance performances, speeches or ceremonies, and other such entertainment events, and including, but not limited to, coliseums, athletic centers, concert halls, and auditoriums.

*Planned development:* Land under unified control to be planned and developed as a whole in a single development operation or a definitely programmed series of development operations or phases. A planned development includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. A planned development is built according to general and detailed plans which include not only streets, utilities, lots and building location, and the like, but also site plans for all buildings, as they are intended to be located, constructed, used, and related to each other, uses and improvements on the land as related to the buildings. A planned development includes a program for the provisions, operations, and maintenance of such areas, facilities, and improvements as will be for common use by some or all of the occupants of the planned development district, but which will not be provided, operated, or maintained at general public expense.

*Porch:* A roofed open area, which may be glazed or screened, usually attached to or part of, and with direct access to or from, a building.

*Printing, heavy:* Those uses that do printing, book publishing, perfect (glue) book binding, magazine publishing, lithography or any other type of publishing or printing with use of heavy chemicals with no size limitation.

*Printing, light:* Those uses that do photocopying, printing, staple binding, etc. on a small scale in a building no larger than five thousand (5,000) square feet, with no use or storage of noxious chemicals or noise that may affect adjacent properties.

*Printing, medium:* Those uses that do photocopying, printing, binding, etc. on a medium scale in a building no larger than fifteen thousand (15,000) square feet, with no use or storage of noxious chemicals.

*Private pleasure craft:* A vessel which is privately owned or leased primarily for recreational purposes. Private pleasure craft do not include commercial, official, or scientific vessels.

*Public facilities:* The use of land, buildings or structures for uses such as, but not limited to, public services facilities and public use facilities.

*Public service facility:* The use of the land, buildings, or structures by a public utility, railroad, or governmental agency, including water treatment plants or pumping stations, sewage treatment plants or pumping stations, substations, telephone exchanges, resource recovery facilities, and other similar public service structures, but not including land, buildings, or structures devoted solely to the storage and maintenance of equipment or equipment and materials.

*Public use facility:* The use of land, buildings, or structures by a municipal or other governmental agency to provide protective, administrative, social, and recreational services directly to the general public, including police and fire stations, municipal buildings, and any other public facility providing the above services, but not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and not including public cultural facilities or public service facilities.

*Radio or television receiving antenna and dish, accessory:* An antenna or dish designed for the aboveground reception of airborne radio or television signals and serving only the needs of the occupants of a single building or of a single residential development.

*Recreation and amusement services:* A commercial facility providing recreational activities, including, but not limited to, public swimming pools, public tennis clubs, public gymnasiums, amusement arcades, discotheques, bowling alleys, shuffleboard courts, baseball hitting ranges, miniature golf, golf driving ranges, billiards or pool halls, dance schools or classes, skating rinks, zoos, and indoor movie theaters.

*Recreational vehicle:* A vehicular-type portable structure without permanent foundation, which can be towed, hauled or driven, and primarily designed as temporary living accommodation for recreational, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.

*Retail:* The use of land, buildings or structures for the sale of merchandise to the consumer of the merchandise.

*Retail sales, convenience goods:* Commercial establishments that generally serve the day-to-day commercial needs of a residential neighborhood, including, but not limited to, convenience stores, tobacco shops, newsstands, bakeries, candy, nut and confectionery stores, delicatessens, dairy products, meat and seafood markets, produce markets, and eating establishments.

*Retail sales, shoppers' goods:* Commercial establishments that, in addition to serving day-to-day commercial needs of a community, also supply the more durable and permanent needs, including, but not limited to, apparel and footwear stores, appliance repair and sale stores; art supplies stores; automotive supply stores; book and stationery stores; camera and photography supplies stores; department stores; discount stores; drugstores, drinking establishments; farm supplies stores; florists; furniture and home furnishing stores; gift shops; gun and ammunition sales; hardware stores; hobby, toy, and crafts stores; jewelry stores; lawn and garden supply stores; musical instruments and supply stores; novelty and souvenir shops; office equipment stores; optician and optical supplies stores; paint and wallpaper stores; pet shop; radio and television sales and repair stores; sporting goods stores; supermarkets; trading stamps redemption stores; and variety stores.

*Roadside stand:* Structures located along roadways but outside of the right-of-way that are used for the

display and sale of fruits, vegetables, and similar food products.

*School:* A facility which is in compliance with the compulsory school attendance law, Chapter 232, Florida Statutes, and provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high schools.

*Service station:* An establishment where gasoline and/or diesel fuel is supplied and dispensed at retail and where, in addition, services may be rendered and sales made accessory to the sale of gasoline and/or diesel fuel.

Uses permissible at a service station do not include body work, straightening of body parts; painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in service stations.

*Setback:* The required minimum horizontal distance between the building line and the related front, side or rear property line.

*Setback line:* That line that is the required minimum distance from the street right-of-way or any other lot line that establishes the area within which the principal structure must be created or placed.

*Stable, private:* A building, structure or area for the housing of farm animals including accessory facilities, but not including rental or commercial boarding.

*Stable, public:* A building, structure or area for the housing of farm animals including accessory facilities, other than a private stable, and including riding academies and private riding clubs.

*Story:* The portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

*Street, public* A dedicated and accepted right-of-way maintained by the City of Palmetto, Manatee County or the State of Florida and providing access to adjacent property.

*Street, private:* A roadway, not dedicated to the public, providing primary access to adjacent properties and meeting the regulations of the City of Palmetto for private street development.

*Structural alteration:* Any change, except for repair or replacement, in the supporting members of a structure, such as, but not limited to, bearing walls, columns, beams, or girders.

*Structure:* Anything constructed or erected which requires location on the ground or attachment to something having a fixed location on the ground, including, but not limited to, principal accessory buildings, signs, fences, walls, bridges, monuments, flagpoles, antennas, transmission poles, towers, and cables.

*Structure, accessory:* A subordinate structure detached from, but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure. An accessory structure(s) shall not occupy more than forty (40) percent of the lot area.

*Structure, principal:* A structure or, where the context so indicates, a group of structures in or on which is conducted the principal use of the lot on which such structure is located.

*Swimming club:* A recreational facility containing one (1) or more swimming pools and may contain accessory uses such as diving facilities, administrative offices, or locker rooms.

*Tennis club:* A recreational facility containing one (1) or more tennis courts and may contain accessory uses such as administrative offices, or locker rooms.

*Theater:* A building or part of a building devoted to the showing of moving pictures or theatrical productions on a paid admission basis.

*Theater, outdoor drive-in:* An open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures or theatrical productions, on a paid admission basis, to patrons seated in automobiles or on outdoor seats.

*Use:* The specific activity or function for which land, a building, or a structure is designated, arranged, occupied, or maintained.

*Use, accessory:* A use on the same lot or in the same structure with, and of a nature and extent customarily incidental and subordinate to, the principal use of the lot or structure. The accessory use shall not occupy more than forty (40) percent of the net floor area in the principal structure(s).

*Use, principal:* The primary use and chief purpose of a lot or structure.

*Variance:* A relaxation by the board of adjustment of the dimensional regulations of this code where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions or the situation of the applicant, a literal enforcement of this code would result in unnecessary and undue hardship.

*Vehicle repair:* An establishment whose principal use is the service, repair, and/or painting of any vehicle such as an automobile, ambulance, boat, farm machinery, motorcycle, motor home, truck or travel trailer.

*Visibility triangle:* The triangular area formed by the intersection of two (2) roadways or by a roadway and driveway that must be free from obstructions (refer to section 5.4).

*Warehouse:* A building or group of buildings for the storage of goods or wares belonging either to the owner of the facility or to one (1) or more lessees of space in the facility or both, with access to contents only through management personnel.

*Warehouse, distribution:* Establishments engaged in selling merchandise to retailers, to industrial, commercial, institutional or professional business users or to other wholesalers.

*Warehouse, mini:* A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized and controlled access stalls or lockers for the storage of

goods belonging to the individual lessees of the stalls and accessible to the lessees through individual doors.

*Warehouse, shippers:* A building or group of buildings for the storage or transfer of goods or wares not owned by the owner or lessor of the facility.

*Yard:* An open space unoccupied and unobstructed by any structure or portion of a structure from thirty-six (36) inches above the general ground level of the graded lot upward (except as otherwise provided by these regulations), provided, however, that fences and walls may be permitted in any yard subject to height limitations established herein, and chapter 7, article VIII of the Palmetto Code of Ordinances, and further provided that poles, posts, and other customary yard accessories, ornaments, and furniture shall be permitted in any required yard, if they do not constitute substantial impediments to free flow of light and air across the yard to adjoining properties.

*Yard, front:* A yard extending along the full width of a front lot line between side lot lines and from the front lot line to the front building line in depth. On an interior or a corner lot, the yard(s) abutting a street, or on a through lot the yard abutting the street providing the primary access to the lot, or on a flag lot the interior lot line most parallel to and nearest the street from which access is obtained.

*Yard, rear:* A yard extending across the full width of the lot and lying between the side lot lines. The rear yard shall be at the opposite end of the front yard.

*Yard, side:* A yard extending along the side of a lot between the front yard and the rear yard except on corner lots where the side yard is the yard along any interior lot line which intersects with a street lot line.

*Zoning districts:* Areas of land or water whose boundaries are indicated on the official zoning atlas, within which all properties are regulated by the general regulations of this code and the specific regulations of the individual district.  
(Ord. No. 420, §§ 1--3, 8-6-90; Ord. No. 444, § 2, 11-19-90; Ord. No. 517, § 1, 6-20-94; Ord. No. 618, § 1, 8-3-98; Ord. No. 01-706, § 1, 4-16-01)

## ARTICLE IV.

### SCHEDULE OF DISTRICT REGULATIONS

#### Sec. 4.1. Schedule of statements of purpose and intent.

The following array presents for the several districts the statements of purpose and intent applicable to each district.

- (a) *Single-family residential districts:* Single-family districts provide for detached residential housing development on a variety of lot sizes in accordance with the Palmetto Comprehensive Plan. Accessory uses and certain conditional uses are also permitted.
  - (1) *E-R Estate Residential District:* The purpose of the E-R Estate Residential District is to serve as a transitional area between primarily agricultural areas and suburban developments. The transitional nature of this district is furthered by permitting general

gardening and agricultural pursuits to such an extent as to supply the occupants' personal needs. In addition, maintaining bovine and equine animals for the occupants' use or need only, not exceeding two (2) farm animals per acre, is permitted. (1 du/ac.)

- (2) *RS-1 Single-family residential:* This district provides areas primarily for single-family detached dwellings on spacious lots (fifteen thousand (15,000) square feet or larger) wherein a property owner may obtain reasonable assurance of compatible development. For restrictions with respect to the keeping of cows and/or horses, refer to Section 6.19 Cows and horses in RS-1 District, requirements. (2.9 du/ac.)
  - (3) *RS-2 Single-family residential:* This district provides areas primarily for single-family detached dwellings on ten thousand (10,000) square foot or larger lots. (4.36 du/ac.)
  - (4) *RS-3 Single-family residential:* This district provides areas primarily for single-family detached dwellings similar to those provided in RS-1 and RS-2 but with smaller (seven thousand five hundred (7,500) square feet) lot size requirements. (5.8 du/ac.)
  - (5) *RS-4 Single-family residential:* This district provides areas primarily for single-family detached dwellings similar to those provided in RS-1, RS-2, and RS-3 but with smaller (five thousand (5,000) square feet) lot size requirements. (8.7 du/ac.)
  - (6) *MHP-1 Mobile home park district:* The intent of the MHP-1 Mobile Home Park District is to identify and stabilize those geographic areas within the City of Palmetto that are presently platted or developed as mobile home parks. The district is intended to be used primarily for mobile homes for residential occupancy upon lots owned by the resident or rented or leased by the designated tenant. Travel and transient trailers may be considered as conditional uses.
- (b) *Multiple-family residential districts:* Multiple-family districts provide for residential development at a variety of densities in accordance with the Palmetto Comprehensive Plan. Accessory uses and certain conditional uses are also permitted.
- (1) *RM-5 Duplex and Single-family Residential:* This district provides primarily medium density residential uses including single-family and two-family (duplex) developments. (10 du/ac.)
  - (2) *RM-6 Multiple family residential:* This district provides for primarily medium density residential multifamily developments. (10 du/ac.)
- (c) *Office district (GO):* The office district is intended to provide for office uses and related support uses. Office uses permitted in this district are to be of an intensity and character so that they do not compete with office uses permitted in the core. All types of office uses are included in this zoning district: business, professional and health-related.
- (d) *Commercial districts:* The commercial districts provide for various retail sales, personal services, office and institutional uses, accessory uses as appropriate, compatible supporting uses.







Travel and transient trailers (see section 6.16)	--	--	--	--	--	C	--	--	--	--	--	--	--	--
<i>Retail</i>														
Convenience goods														
Convenience stores	--	--	--	--	--	--	--	--	--	X	X	X	X	--
Tobacco shop	--	--	--	--	--	--	--	--	--	X	X	X	X	--
Newsstand	--	--	--	--	--	--	--	--	--	X	X	X	X	--
Bakery	--	--	--	--	--	--	--	--	--	X	X	X	X	--
Delicatessen	--	--	--	--	--	--	--	--	--	X	X	X	X	--
Meat, produce, seafood market	--	--	--	--	--	--	--	--	--	X	X	X	X	--
Dairy products store	--	--	--	--	--	--	--	--	--	X	X	X	X	--
Eating establishments	--	--	--	--	--	--	--	--	--	X	X	X	X	--
Drinking establishments	--	--	--	--	--	--	--	--	--	--	X	X	X	--
Shoppers goods	--	--	--	--	--	--	--	--	--	X	X	X	X	--
Gas station	--	--	--	--	--	--	--	--	--	--	X	X	X	--
Liquor stores	--	--	--	--	--	--	--	--	--	--	X	X	X	--
Lumber and other building materials	--	--	--	--	--	--	--	--	--	--	--	X	X	--
Mobile home, boat, and RV sales	--	--	--	--	--	--	--	--	--	--	--	X	X	--
Motor vehicle sales and rental	--	--	--	--	--	--	--	--	--	--	C	X	X	--

New boat sales (see section 6.20)	--	--	--	--	--	--	--	--	--	--	C	--	--	--
Service station	--	--	--	--	--	--	--	--	--	--	X	X	X	--
<i>Services</i>														
Banking	--	--	--	--	--	--	--	--	X	X	X	X	X	--
Bed and breakfast home	C	C	C	C	C	--	C	C	--	--	--	--	--	--
Business services	--	--	--	--	--	--	--	--	X	X	X	X	X	--
Funeral homes	--	--	--	--	--	--	C	C	X	X	X	X	X	--
Health services														
Animal hospital	--	--	--	--	--	--	--	--	--	--	X	X	X	--
Hospitals	--	--	--	--	--	--	--	--	--	--	X	X	X	X
Medical and dental laboratories	--	--	--	--	--	--	--	--	--	--	X	X	X	--
Nursing, convalescent and extended care facilities	--	--	--	--	--	--	--	C	C	--	X	X	X	--
Lodging places														
Boarding/rooming house	--	--	--	--	--	--	--	X	--	X	--	X	--	--
	E-R	RS-1	RS-2	RS-3	RS-4	MHP-1	RM-5	RM-6	GO	CN	CC	CG	CHI	P
Hotels/motels	--	--	--	--	--	--	--	--	--	--	X	X	X	--
Business/professional offices	--	--	--	--	--	--	--	--	X	X	X	X	X	--



Marinas	--	--	--	--	--	--	--	--	--	--	X	X	X	X
Parking, accessory	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Parking, principal	--	--	--	--	--	--	--	--	--	--	--	X	X	X
Packing plant	--	--	--	--	--	--	--	--	--	--	--	--	X	--
Wholesale distribution	--	--	--	--	--	--	--	--	--	--	--	--	X	--
Place of assembly	--	--	--	--	--	--	--	--	--	--	--	--	X	--
Printing, light	--	--	--	--	--	--	--	--	X	C	X	X	C	--
Printing, medium	--	--	--	--	--	--	--	--	C	--	--	X	X	--
Printing, heavy	--	--	--	--	--	--	--	--	--	--	--	--	X	--

(Ord. No. 444, § 3, 11-19-90; Ord. No. 517, § 2, 6-20-94; Ord. No. 535, § 2, 4-3-95; Ord. No. 607, § 1.A, 12-15-97; Ord. No. 618, § 2, 8-3-98; Ord. No. 01-706, § 2, 4-16-01)

**Sec. 4.3. Schedule of area, height, and placement regulations.**

	Minimum Lot						Maximum
	Area	Width	Required Yards (Ft.)				Height
District	(Sq. Ft.)	(Ft.)	Front	Side	Rear	Corner <sup>1</sup>	(Ft.) <sup>2</sup>
E-R	43,560 (1 du/ac)	125	50	20	50	50	50
RS-1	15,000 (2.9 du/ac)	100	30	10	20	30	35
RS-2	10,000 (4.36 du/ac)	75	25	8	15	25	35
RS-3	7,250 (6.0 du/ac)	70	25	7	15	25	35
RS-4	5,000 (8.7 du/ac)	50	20	5	15	20	35
RM-5 <sup>8</sup>	4,356/du <sup>9</sup> (10 du/ac)	70	25	8	20	25	35
RM-6 <sup>8</sup>	4,356/du <sup>9</sup> (10 du/ac)	100	30 <sup>3</sup>	15	20	30 <sup>3</sup>	50
MHP-1	4,000 <sup>6</sup>	50	5 <sup>10</sup>	5	5	5	35
GO	7,000	70	25	8	20	25	35
CN	10,000	100	25	15 <sup>4</sup>	20 <sup>5</sup>	25	35
CC	15,000	100	0	15 <sup>4</sup>	15 <sup>5</sup>	0	60
CG	15,000	100	20	15 <sup>4</sup>	15 <sup>5</sup>	20	60
CHI	15,000	100	20	15 <sup>4</sup>	15 <sup>5</sup>	20	45
P <sup>7</sup>							

<sup>1</sup> Corner lots shall be considered to have two (2) front yards where boundaries of such lots abut streets. All other boundaries shall be considered as side yards.

<sup>2</sup> For those uses located within the flood hazard area, as defined in Ordinance No. 305, the maximum height of the structure shall be measured from the lowest measurable area as described in Ordinance No. 305 [Chapter 14].

<sup>3</sup> Above thirty-five (35) feet, an additional three (3) feet for every one (1) foot of height over thirty-five (35) feet is required.

<sup>4</sup> No side yard shall be required where nonresidential districts adjoin side by side. If a side yard is provided, the minimum separation between structures shall be eight (8) feet. Common structure walls shall not be permitted between properties of separate ownership. In the case of a series of adjoining structures on lots of single and separate ownership abutting and paralleling a public right-of-way, a passage of at least twenty (20) feet in width shall be provided at grade level at intervals not greater than four hundred (400) feet or as required for public access from adjacent residential areas or for the safety of the public.

<sup>5</sup> When adjacent to commercial or industrial districts, no rear yard shall be required.

<sup>6</sup> A minimum parcel size of ten (10) acres is required for a rezoning to this district.

<sup>7</sup> Public uses, as defined herein, shall be reviewed by city council on a case-by-case basis for minimum dimensional requirements.

<sup>8</sup> Single-family detached units shall meet all of the dimensional regulations of the RS-4 district.

<sup>9</sup> A minimum parcel size of eight thousand seven hundred twelve (8,712) square feet is required for a rezoning to this district.

<sup>10</sup> For lots abutting a public street, the setback shall be measured from the right-of-way line. For lots abutting a private street, the setback shall be measured from the edge of pavement.  
(Ord. No. 419, § 2, 6-18-90; Ord. No. 444, § 4, 11-19-90; Ord. No. 516, § 1, 6-20-94)

## **ARTICLE V.**

### **APPLICATION OF AREA, HEIGHT AND PLACEMENT REGULATIONS**

#### **Sec. 5.1. Regulations encumbering land required to satisfy regulations.**

No portion of a lot, used in connection with an existing or proposed building, structure or use, and necessary for compliance with the area, height, and placement regulations of this code, shall, through sale or otherwise, be used again as a part of the lot required in connection with any other building, structure, or use.

#### **Sec. 5.2. Height regulations generally.**

(a) *Excluded portions of structures:* Except as specifically provided herein, the height limitations of this code shall not apply to any roof structures for housing elevators, stairways, tanks, ventilating fans, solar energy collectors, or similar equipment required to operate and maintain the building, provided that such structures shall not cover more than twenty (20) percent of roof area or extend over ten (10) feet in height. Additionally, church spires, steeples, belfries, cupolas, domes, monuments, water towers, skylights, flag poles, vents, construction or mining cranes or draglines, or similar structures may be erected above the height limit. Fire or parapet walls shall not extend more than five (5) feet above the roof.

(b) *Exceptions to height regulations:* Public, semipublic or public services buildings, hospitals, public institutions or schools, when permitted in a district, may be constructed in excess of district height limitations provided that the height does not exceed sixty (60) feet and provided that applicant can demonstrate that the proposed height does not affect adjoining and nearby properties.

Churches or temples may be constructed in excess of district height limitations, provided that the height does not exceed seventy-five (75) feet and provided that the applicant can demonstrate that the height of the church does not adversely affect adjoining and nearby properties.

In determining whether height has an adverse affect, the following shall be considered:

- (1) Relationship of structure to surrounding neighborhood, including yards, distance from existing residential dwellings and other structures; and
- (2) A guideline for additional building setback shall be an additional one (1) foot for every two (2) feet in height above the maximum height in the respective zoning district.

### **Sec. 5.3. Permitted projections into required yards.**

(a) Certain architectural features, such as cornices, eaves and gutters, may project no more than three (3) feet into the required front yard, five (5) feet into the required rear yard and two (2) feet into the required side yard.

(b) Mechanical equipment, such as air conditioning units, pumps, heating equipment, solar panels, and similar installations, may not project into the required front yard(s) but may project five (5) feet into the required rear yard(s). An unobstructed five-foot side yard shall be maintained.

### **Sec. 5.4. Visibility at intersections.**

No structure or portion of any structure shall be placed or erected, no motor vehicle, trailer or equipment shall be allowed to park, stand, stop or be stored, and no vegetation shall be maintained, planted or allowed to grow in a manner which materially impedes the visibility from a street, alley or driveway of lawfully oncoming traffic. A visibility triangle shall be measured as described below:

- (a) The area of property on both sides of a driveway formed by the intersection of each side of the public right-of-way line for a distance of fifteen (15) feet in length along the driveway and fifteen (15) feet in length along the public right-of-way.

- (b) The area of property, located at the intersection of two (2) streets, formed by a triangle constructed with two (2) thirty-foot lengths adjacent to the subject rights-of-way and the third side of the triangle formed by connecting the terminal points of the two (2) thirty-foot sides.

No structure, motor vehicle or vegetation, as described above, between the heights of two and one-half (2.5) feet and eight (8) feet shall be parked, stored, or located within said triangle.

#### **Sec. 5.5. Yards between residential buildings on the same lot or parcel.**

The minimum distance between separate buildings shall be measured between the two (2) closest building lines. The requirements for the tallest building among adjacent buildings of varying heights shall govern and shall be as follows:

- (a) Ten (10) feet for buildings one (1) story or fifteen (15) feet in height.
- (b) Fifteen (15) feet for buildings two (2) stories or thirty (30) feet in height.
- (c) Twenty (20) feet for building two and one-half (2.5) stories or thirty-five (35) feet in height.
- (d) Twenty (20) feet, plus one (1) foot for each one (1) foot of building height above thirty-five (35) feet.

#### **Sec. 5.6. Average existing residential front setback line.**

In a residential district where the average of the front yards for all adjacent lots which are located within two hundred (200) feet of either side of a lot is greater than the required front yard specified in this code, the required setback line shall be provided on the lot equal to this greater average depth but shall not exceed forty (40) feet. Where such average of the front yards is less than the minimum front yard required by this code, the required setback line may be reduced to this lesser average depth, but in no case shall the required front yard setback be less than ten (10) feet. For the purpose of computing these averages, an adjacent vacant lot shall be considered as having the minimum required front yard specified for the zoning district.

#### **Sec. 5.7. Reserved.**

**Editors Note:** Section 3 of Ord. No. 419, adopted June 8, 1990, deleted § 5.7 of App. B, which pertained to setback requirements for construction in waterfront property and was derived from Ord. No. 387, adopted Nov. 20, 1989.

## **ARTICLE VI.**

### **SUPPLEMENTAL REGULATIONS**

#### **Sec. 6.1. Introduction.**

The regulations in this article shall apply generally or in groups of districts as indicated, unless district regulations or regulations for particular uses specifically provide to the contrary. These regulations qualify or supplement other regulations appearing in this code.

**Sec. 6.2. General requirements concerning arrangements and location of structures and landscaping access.**

In addition to minimum yard and building spacing requirements specified in this code, all buildings and other structures, land preparation, and landscaping shall be so located and arranged on lots as to provide safe and convenient access for emergency purposes, fire protection, servicing, and off-street parking and loading located on the premises. As to access through such premises, the following limitations shall apply:

- (a) *Prohibition of use of residentially zoned private property for access to uses not permitted in residential districts; exceptions:* No private land which is residentially zoned shall be used for vehicular or pedestrian access to land or structures in other districts used for any purpose not permitted in such residential districts, except as provided below or otherwise authorized by this code or other lawful regulations:
  - (1) Where provision does not exist for safe access for emergency and public service vehicles and such access is not reasonably feasible except through privately owned residentially zoned land. Access reserved for and limited to such vehicles may be authorized by the board of adjustment, subject to conditions and safeguards designed to protect the tranquility and character of the residential land so traversed.
  - (2) Where convenience and safety would be promoted, walkways and bicycle paths to nonresidentially zoned land may be authorized by the zoning administrator across privately owned residentially zoned land, subject to conditions and safeguards to protect the tranquility and character of the residential land so traversed.

**Sec. 6.3. Repair of automobile or motor vehicle in residential districts.**

The repair of an automobile or a motor vehicle in any residential zoning district is subject to the following restrictions:

- (a) Only minor repairs and maintenance may be performed which, for purposes of this section, are defined as the changing and replenishment of fluid levels such as hydraulic fluid, windshield washer fluid, and lubricating oil; the replacement of sparkplugs, ignition points; the rotation of tires and the checking of adequate pressure; and the replacement of drive belts and hydraulic lines.
- (b) Any other repairs on the motor vehicle or automobile shall be restricted to totally enclosed spaces and only accomplished on privately registered vehicles having current license plates, or motor vehicles designated by the State of Florida as qualifying for an antique, or horseless carriage designation.
- (c) The automobile or motor vehicle referred to in (a) and (b) above shall be registered to the occupant showing the address at which the minor repairs and maintenance or other repairs are to be performed. Such repairs shall not exceed fourteen (14) consecutive days or twenty-eight (28) days in any one (1) calendar year.

#### **Sec. 6.4. Garage, yard, etc., sales.**

Garage, yard, tag, patio and apartment sales are specifically permitted, as an accessory use, in all residential districts. Such sales shall be limited to one (1) during each six-month period, for a duration not to exceed three (3) days. (Refer to chapter 24, Code of Ordinances.)

#### **Sec. 6.5. Parking of domestic and commercial vehicles and recreational vehicles.**

(a) *Domestic vehicles and recreational vehicles:* Any owner of domestic or recreational vehicles may park or store such vehicles on their own private residential property subject to the following conditions:

- (1) At no time shall such vehicles be occupied or used for living, sleeping, or housekeeping purposes.
- (2) Parking is permitted anywhere on a lot for loading and unloading purposes for a period not exceeding twenty-four (24) hours.
- (3) At no time shall such vehicles be connected to any utility service.
- (4) If a domestic vehicle or recreational vehicle is parked or stored outside of an enclosed garage, it shall be parked or stored not less than five (5) feet from any interior lot line. Recreational vehicles shall not be parked or stored in the required front yard.
- (5) Parking is not permitted within a waterfront yard, except for private pleasure craft, when provisions have been made to place the craft directly into the water from its place of parking.

(b) *Commercial vehicles:* The parking of commercial vehicles in any residential district is prohibited. This requirement shall not be interpreted to prohibit vehicles from loading and unloading in any residential district. Parking of such vehicles is, however, permitted within entirely enclosed structures which meet the regulatory requirements for the applicable zoning district.

#### **Sec. 6.6. Screening of open storage.**

Open storage areas shall be screened from view of any street and from all residentially zoned land as follows:

- (a) When an open storage area abuts a collector or arterial street, the method of screening shall consist of solid masonry walls or solid wooden fences at least six (6) feet in height with access from said street only through solid gates which shall be closed except when in use. Screening shall run at least one hundred (100) feet back from the street property line unless an existing permanent structure shields the storage area.
- (b) When an open storage area abuts a residentially zoned district, the method of screening shall consist of solid wooden fences or masonry walls at least six (6) feet in height along the boundary of the storage areas and the residential district.

- (c) When an open storage area does not abut a collector or arterial street and is not within two hundred (200) feet of a residential district but is in view of a residential district, the method of screening from said residential district shall consist of walls or fences at least six (6) feet in height which shall be seventy-five (75) percent opaque.

### **Sec. 6.7. Swimming pools.**

Swimming pools, both aboveground and belowground, are permitted as accessory structures to residential or nonresidential structures, provided that the following requirements are met. Similar structures such as spas shall also meet these requirements.

- (a) *Location:* Swimming pools may be located within side, rear, or corner yards but shall not be allowed in the required front yards. Swimming pools shall be located a minimum of five (5) feet from any side, rear, or corner lot line as measured from the water's edge.
- (b) *Enclosure:* Swimming pools shall be enclosed, except along that side of the pool which abuts the waterfront, with a fence or wall with a minimum height of six (6) feet. The fence or wall shall be equipped with a self-latching gate. A screened cage may be installed instead of or in addition to a fence or wall, provided the screened cage meets the protection requirements described above. In addition, all screened cages shall be located a minimum of five (5) feet from any side, rear, or corner lot line.

### **Sec. 6.8. Accessory structures.**

The following requirements shall apply to all accessory structures.

- (a) *Permanent accessory structures in residential districts.*
  - (1) Accessory structures shall not exceed fifteen (15) feet in height, and the total square footage of all accessory structures shall not exceed forty (40) percent of the total lot coverage.
  - (2) Accessory structures shall not be erected in any required front yard.
  - (3) Accessory structures may occupy required corner or side yards, provided they are located an equal distance from the front property line as any part of the principal structure(s) on the same lot. Accessory structures shall be located a minimum of three (3) feet from the side or corner lot line.
  - (4) Accessory structures may occupy required rear yards, provided they are located a minimum of five (5) feet from the rear lot line.
- (b) *Portable accessory structures in residential districts.* Portable accessory structures are those structures without a permanent foundation and capable of being moved intact.

Portable accessory structures shall meet all of the requirements for permanent accessory

structures as outlines in subsection (a) above and shall also meet the following specific requirements:

- (1) Only one (1) portable accessory structure shall be allowed per lot.
  - (2) The portable accessory structure shall be properly anchored in a method approved by the building department.
  - (3) Portable accessory structures shall not be permitted within the required waterfront setbacks of waterfront property.
  - (4) No mechanical equipment not customarily associated with residential uses shall be operated within or attached to the structure.
- (c) *Accessory structures in nonresidential districts.*
- (1) Accessory structures shall meet all the requirements of subsection (b) above.
  - (2) Trailers, mobile homes, and tractor trailers shall not be used as permanent or portable accessory structures.
  - (3) Said structures shall meet the yard requirements of the zoning district in which it is located.
  - (4) Accessory structures shall not exceed fifteen (15) feet in height.
- (d) *Accessory parking structures.*
- (1) Parking structures which are accessory to the principal residential use of the property may be permitted in any multifamily district or any multifamily PD project provided the structure meets the schedule of height, bulk and placement regulations for primary structures in that district.
  - (2) Parking structures which are accessory to nonresidential uses are permitted, provided they meet the schedule of height, bulk, and placement regulations for primary structures in that district.

### **Sec. 6.9. Enclosure of existing porches.**

Where a lawful screened or porch structure existed on or before March 31, 1953, except those constructed as accessory structures within required rear yards, such structure may be enclosed without application to, or approval by, the board of adjustment for a variance to a required yard, provided no part of the structure, excluding eaves, is closer than ten (10) feet to any street right-of-way or closer than six (6) feet to any other property line.

### **Sec. 6.10. Solid waste storage area.**

All new buildings and uses, except for single-family and two-family dwellings, shall provide facilities for the central storage of solid waste within the lot. Where such facilities are provided outside of a building, they shall be screened from the public right-of-way and adjacent property by an enclosure containing materials compatible with the materials on the front building wall of the main building.

The storage facilities shall contain equipment, space and access that will be compatible with the City of Palmetto's mechanical solid waste collection system and HRS sanitation regulations.

#### **Sec. 6.11. Temporary uses.**

Only the following uses are permitted temporarily (for a period of one (1) to four (4) weeks in any one (1) calendar year) after issuance of a permit:

- (a) Christmas tree sales in commercial districts.
- (b) Carnival, circus and street fairs in general or heavy commercial districts.
- (c) Mobile amusements and lighting equipment for promotion, advertisement and grand openings in general and heavy commercial districts.

#### **Sec. 6.12. Home occupation.**

The following specific standards shall be used in deciding applications for approvals of home occupations:

- (1) No person shall be employed other than members of the immediate family residing on the premises.
- (2) The use of the dwelling unit for the home occupation shall be clearly incidental and secondary to its use for residential purposes. Not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation; and no outside display, storage, or use of land is permitted.
- (3) There shall be no change in the outside appearance of the building or premises as a result of such occupation with the exception of an unlighted sign or nameplate, not more than one (1) square foot in area, attached to and not projecting from the building.
- (4) No home occupation shall be conducted in any accessory building.
- (5) No mechanical equipment shall be used on the premises except such that is normally used for purely domestic or household purposes, nor shall it create levels of noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses outside the dwelling unit in excess of that normally associated with household use. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television sets off the premises or causes fluctuations in line voltage in excess of that normally

associated with household use.

- (6) No traffic shall be generated by such home occupation in greater volume than would normally be expected from the principal use. Any need for off-street parking shall be met in an area other than in the required front yard.
- (7) Comply with other applicable laws and ordinances, including but not limited to, the occupational license ordinance of the city.

### **Sec. 6.13. Junkyards.**

All junkyards existing at the effective date of this code, within one (1) year thereafter, and all new junkyards where permitted, shall comply with the following provisions:

- (a) Any junkyard shall be completely enclosed by a solid fence or masonry wall which complies with the City of Palmetto Fence Ordinance.
- (b) All junk shall be stored or arranged so as to permit access by firefighting equipment and to prevent the accumulation of water.
- (c) No junk pile shall exceed the height of the fence or eight (8) feet, whichever is less, unless it is two hundred (200) feet from any property line.
- (d) No oil, grease, tires, gasoline or other similar material shall be burned at any time, and all other burning shall require written notification to the North River Fire District and Manatee County Pollution Control.
- (e) Any junkyard shall be maintained in such a manner as to cause no public or private nuisance, nor to cause any offensive or noxious sounds or odors, nor to cause the breeding or harboring of rats, flies, or other vectors.
- (f) No hazardous wastes, as defined herein, shall be stored, allowed to accumulate or leach into the ground.

### **Sec. 6.14. Reserved.**

**Editors Note:** Ord. No. 618, § 3, adopted August 3, 1998, amended the Code by repealing App. B, § 6.14 in its entirety. Former § 6.14 pertained to radio and television transmitting and receiving facilities, and carried no history note.

### **Sec. 6.15. Parking requirements--Residential.**

All residential uses shall provide a minimum of two (2) parking spaces per unit. Each space shall be a hardened surface.

In addition to the above requirements, the ER, RS-1, RS-2, and RS-3 zoning districts require that one (1) of the required two (2) spaces shall be a garage or carport.

### **Sec. 6.16. Mobile home park requirements.**

Mobile home parks are required to meet the standards set forth below.

- (a) Prior inspection is not required for mobile homes less than four (4) years of age at the time of building permit application.
- (b) If the mobile home is more than four (4) years old at building permit application, the following criteria shall apply:
  - (1) Written approval from the park owner, park manager, or other authorized representative stating the subject mobile home meets the minimum standards of the park shall be provided to the city at time of permit application.
  - (2) A written inspection report, by a mobile/manufactured home inspector, licensed by the state, shall be submitted at the time of permit application. This report shall contain, at a minimum, the following information:
    - Certification that the mobile home meets or can meet current wind load standards. If the home does not currently meet minimum standards, provide a detailed accounting of the requirements to bring the home to current standards.
    - Certification that the mobile home meets current structural, electrical, and plumbing codes. If the home does not currently meet minimum standards, provide a detailed accounting of the requirements to bring the home to current standards.
    - Proof that the individual performing the inspections is licensed to render such an inspection report document.
  - (3) Prior to setup on lot any required permits shall be obtained from the city.
- (c) The plumbing, mechanical, electrical, and structural [components] of the mobile home shall meet the requirements of the code for the houses in the city. Mobile homes shall not have less than sixty (60) amperes of electrical service.
- (d) All lots upon which mobile homes are placed or setup shall have carports twelve (12) feet by twenty (20) feet or larger, with a driveway constructed of asphalt, concrete, brick, or paver block. All awnings must have tie-downs.
- (e) The bottoms of the mobile homes setup or placed on lots within the mobile home park (MHP) district shall be skirted with materials acceptable to the building official. Untreated wood may not be used for such skirting.
- (f) No boats, boat trailers, utility trailers or travel trailers shall be placed on any individual lot within this district; except that owners of such lots may keep them in carports. Owners of waterfront lots may keep boats tied up at their waterfront or on davits, or where the boat can be picked up by davits.

- (g) Fuel tanks and garbage cans shall be allowed only at the rear of lots and must be enclosed by cement blocks.

(Ord. No. 389, § 1, 1-15-90; Ord. No. 01-705, § 1, 4-16-01)

**Sec. 6.17. Performance standards for manufacturing and processing operations.**

Manufacturing and processing operations shall observe the following performance standards:

- (a) Direct illumination resulting from the operation shall not fall upon any land that is not a part of the use requiring the illumination.
- (b) Equivalent sound levels shall not exceed the following standards:

If the receiving use is residential:

Between 7:00 a.m. and 10:00 p.m.--60 dBA  
Between 10:00 p.m. and 7:00 a.m.--55 dBA

If the receiving use is commercial:

Between 7:00 a.m. and 10:00 p.m.--65 dBA  
Between 10:00 p.m. and 7:00 a.m.--60 dBA

If the receiving use is industrial:

Anytime--75 dBA

In the case of uses in the CG District, measurements to determine compliance shall be made at the boundaries of the lot containing the use.

In the case of uses in the CHI District, measurements to determine compliance shall be made at the nearest boundary of the CHI District to the use being evaluated.

**Sec. 6.18. Bed and breakfast home requirements.**

(a) Parking. One (1) parking space shall be provided for the manager/owner and one (1) parking space shall be provided for each guest room. Parking shall be screened from adjacent residential uses and residential zoning. Screening shall consist of either a six-foot-high opaque fence plus one (1) canopy tree every fifty (50) linear feet or an opaque landscaping buffer. The landscaping plantings shall achieve opacity within six (6) months of planting.

(b) Common areas. Within each bed and breakfast home, a common area must be provided for a central dining area and for at least one (1) reading/discussion, living room.

(c) Breakfast shall be the only meal served and it shall be served family style, without ordering of

individual portions from a menu. The breakfast meal shall not be served after 11:00 a.m. No cooking facilities are permitted in guest rooms.

(d) Guest rooms may share a toilet and bathing facilities; however, in no instance shall the owner and guests have shared bathrooms.

(e) The maximum number of rooms for guests shall be as follows:

Building Size (gross floor area)	Max. Guest Rooms
Less than 1200 sq. ft.	1
1200--1800 sq. ft.	2
1801--2400 sq. ft.	3
2401--3000 sq. ft.	4
3001--3600 sq. ft.	5
Over 3600 sq. ft.	6

(f) Rentals shall be on a daily basis. The maximum stay for an individual guest shall be thirty (30) days in a twelve-month period. A guest book which accurately identifies all customers for each night's lodging shall be maintained by the owner/manager.

(g) Changes to the gross floor area shall not be allowed unless it can be demonstrated that the change is only necessary to add a bathroom and will not alter the residential character of the building.

(h) One (1) sign shall be allowed not to exceed twelve (12) sq. ft.  
(Ord. No. 517, § 3, 6-20-94)

**Sec. 6.19. Cows and horses in RS-1 District, requirements.**

(a) The minimum lot size required for keeping cows and/or horses in the RS-1 District is two (2) acres.

(b) The number of animals cannot exceed one (1) animal per one (1) acre.

(c) All animals shall be for the private use of the property owner. No boarding of animals is permitted.

(d) If a stable or barn is to be erected on the property, it shall not be located within fifty (50) feet of any property line.

(e) Any property where cows and/or horses are kept shall be fenced. It is the responsibility of the property owner with the animals to maintain such fences to ensure that the animals are kept on owner's property.  
(Ord. No. 535, § 3, 4-3-95)

**Sec. 6.20. New boat sales in commercial core (CC) district; requirements.**

- (a) The number of conditional uses shall be limited to one conditional use per property. If the property for this conditional use application is currently subject to a conditional use permit, the existing conditional use permit shall cease upon approval of this conditional use. If approval of this conditional use is not granted, the existing conditional use permit shall remain in full force and effect.
- (b) The sale of boats is limited to new boats.
- (c) The sale of new boat trailers shall be limited to trailers sold as part of a complete package (boat, motor, trailer).
- (d) The length of a boat and trailer shall not exceed forty (40) feet.
- (e) The rental, storage, repair or maintenance of boats is prohibited. The washing, polishing, installation of accessories and general upkeep of boats is not part of this prohibition.
- (f) No flags or pennants are allowed.
- (g) The hours of operation shall be limited to no earlier than 8:00 a.m. and no later than 10:00 p.m. The term "operation" shall include preparing the site for the business day.
- (h) All outside lighting shall be directed away from any residential use between the hours of 8:00 p.m. and 8:00 a.m.
- (i) The amount of impervious surface (both structure and parking) shall not exceed fifty (50) percent of the lot area. For existing lots exceeding this amount, compliance with this provision shall be attempted. If not feasible to meet this requirement, there shall be no increase to the amount of impervious surface.
- (j) All sales and display areas shall be paved to meet minimum city standards.
- (k) All applicable provisions of the land development code, including, but not limited to, landscaping, signage, parking, etc. shall be met.  
(Ord. No. 607, § 1.B, 12-15-97)

## **ARTICLE VII.**

### **NONCONFORMITIES**

#### **Sec. 7.1. Classification.**

Nonconformities shall be classified as:

- (a) Lot;
- (b) Uses of land without structures or minor structures only;
- (c) Uses of major structures and premises;

- (d) Structures; and/or
- (e) Characteristics of use.

To be considered a nonconformity, it must have been in compliance with the zoning requirements which were lawful when it was established, but would be prohibited, regulated, or restricted by the enactment of this code or subsequent amendments hereto. A nonconformity shall be established by one (1) of the following methods:

- (a) The nonconformity must have been legally nonconforming under the former zoning code, Ordinance No. 466, as amended, and continues to be designated nonconforming under the provisions of this code or subsequent amendments hereto; or
- (b) The nonconformity must have been legally conforming under the former zoning code, Ordinance No. 466, as amended, and made nonconforming by the provisions of this code or subsequent amendments hereto; or
- (c) A nonconformity is created where lawful public taking or actions pursuant to a court order have the same effect as violations of this code.

#### **Sec. 7.2. Intent concerning nonconformities generally.**

It is the intent of this code to require the cessation of certain nonconformities and to permit others to continue until they are removed or cease. It is not the intent to encourage their survival.

It is further the intent of this code that nonconformity shall not be used as grounds for addition of other prohibited uses or structures on the site or in the area, nor the enlarging by means of extension or expansion, except as specifically provided by this code.

All rights and obligations associated with a nonconforming status run with the land and are not personal to the present ownership or tenant of the land and are not affected by a change in ownership or tenancy, unless abandoned. (See sections 7.6(b) and 7.7(c))

#### **Sec. 7.3. Intent concerning nonconforming uses.**

It is the intent of this code that nonconforming uses shall be considered to be incompatible with the permitted uses within the several districts. Such nonconforming uses shall not be intensified, enlarged or extended in any respect.

#### **Sec. 7.4. Conditional uses not to be considered nonconforming.**

Any existing use which would require a conditional use permit approval under the terms of this code shall be deemed a conforming use. However, enlargement, replacement or modification of such a use shall require approval of a conditional use permit application as though it were a new use.

## Sec. 7.5. Nonconforming lots.

(a) *Use of single nonconforming lots for a single-family dwelling.* In residential districts, a single-family dwelling and customary accessory structures may be erected, occupied and used on a nonconforming lot of record which is not in continuous frontage with other lots in the same ownership (except as provided below) in accord with other requirements applying in the separate districts.

(b) *Rules concerning combination of contiguous nonconforming lots in same ownership and with continuous frontage; exception.*

- (1) *Combinations required, where nonconforming status was created at enactment or amendment of this code:* Where two (2) or more nonconforming lots in single ownership and with continuous frontage exist, they shall be considered a single zoning lot and a zoning compliance permit authorizing their use shall only be issued when the lot area and lot width requirements for the district in which the lots are located are satisfied. Full setback requirements shall apply to all of the newly created lots.
- (2) *Use of single nonconforming lots for nonresidential uses:* In nonresidential districts, a nonconforming lot of record, which is not in continuous frontage with other lots in the same ownership (except as provided in (3) below), may accommodate uses permitted with all other requirements applying in that district.
- (3) *Combination not required where nonconformity created by public or court order:* Where the nonconforming lots were created by the exercise of the power of eminent domain or threat thereof or as a result of a court order, combination of the lots shall not be required.
- (4) *Combination not required where fifty-one (51) percent or more of the lots within the same block do not meet the minimum frontage requirements:* Where fifty-one (51) percent or more of the lots within the same block do not meet the minimum frontage requirement for the district in which the lots are located, combination is not required. In order to qualify for this exception the following conditions shall be met:
  - a. The property owner shall provide to the zoning administrator a map showing the ownership and development pattern of the block on which the subject lots are located. The map shall graphically show the ownership and development patterns and shall provide DPID numbers for each property.
  - b. For purposes of this exception, "block" shall be defined as those lots parallel to the right-of-way extending in both directions until said right-of-way intersects with another right-of-way or dead-ends.
  - c. For purposes of this exception, vacant parcels with two (2) or more lots in the same ownership and with continuous frontage shall be considered to meet the minimum frontage requirement for the district in which the lots are located.

(Ord. No. 548, § 1, 11-6-95)

**Sec. 7.6. Nonconforming uses of land without structures or with minor structures.**

Nonconforming uses of land involving any permanent structure with a replacement cost of less than two thousand dollars (\$2,000.00) or a combination of permanent structures with replacement cost not exceeding five thousand dollars (\$5,000.00), as determined by the zoning administrator, shall cease within two (2) years of the adoption of this code, or any amendment which shall cause such uses to assume nonconforming status.

Prior to termination, the following limitations shall apply:

- (a) There shall be no enlargement, increase in intensity or alterations to the use, its permanent structure or both.
- (b) If the use ceases for more than ninety (90) consecutive days, subsequent use of the premises shall conform to the district regulations.
- (c) No such use shall be relocated or moved to any portion of the lot other than that occupied at the time that nonconforming status was created.
- (d) No such land shall be subdivided nor any structure added, except for purposes and in a manner conforming to district regulations. Subdivision, however, which does not increase the degree of nonconformity, shall be permitted.

**Sec. 7.7. Nonconforming uses of major structures, or structures and premises in combination.**

Nonconforming use of structures with a value higher than specified in section 7.6 above, or of such structures and premises in combination, may be continued, provided:

- (a) Such uses may not be enlarged, extended, altered or replaced, except for a change to a use permitted in the district in which located, except as provided in (b) below.
- (b) A nonconforming use may be extended through portions of a building manifestly arranged or intended for such use, but not otherwise extended, and shall not extend to occupy land outside such building or any additional building not used for such nonconforming use at the time that nonconforming status was established.
- (c) If a nonconforming use ceases for more than one hundred eighty (180) consecutive days, subsequent use shall conform to the regulations of the district in which located.
- (d) When a building or structure devoted to a nonconforming use is damaged or deteriorated, as determined by the zoning administrator, to the extent of fifty (50) percent or more of the building's or structure's assessed taxable value, such building, if restored, shall thereafter be devoted to conforming uses.
- (e) A dwelling made a nonconforming use by the adoption of this code or amendments thereto, which is the principal residence of the owner, may be replaced or reconstructed because of destruction or deterioration, notwithstanding the fact that the destruction or deterioration

exceeds the fifty (50) percent standard contained in (d) above. This exception to the general rule contained in this article applies only to deterioration or destruction and is not intended to apply to the loss of nonconforming status due to cessation of use as described in (c) above.

**Sec. 7.8. Nonconforming structures other than signs.**

A structure which is nonconforming, due to noncompliance with the dimensional requirements of the official schedule of district regulations of this code and which is used for a use permitted in the district in which it is located may remain, provided:

- (a) That any structural change to the structure shall not increase the degree of nonconformity. Structural changes which decrease or do not affect the degree of nonconformity shall be permitted.
- (b) A nonconforming structure, or a portion thereof, if damaged, deteriorated or destroyed to the extent of more than fifty (50) percent of its current assessed valuation, may only be reconstructed in accordance with the regulations of the district in which it is located.
- (c) Routine repairs and maintenance of a nonconforming structure, fixtures, wiring and plumbing or the repair or replacement of nonload bearing walls shall be permitted.

**Sec. 7.9. Nonconforming characteristics of use.**

Nonconforming characteristics of use, which may include, by way of illustration but not limitation, inadequate parking and loading facilities, inappropriate landscaping, lighting, emission, etc., may continue to operate but shall not be expanded, altered, changed or relocated in such a manner as to increase the degree of nonconformity.

**Sec. 7.10. Nonconforming structure, unsafe.**

Nonconforming structures or portions thereof which are declared unsafe by the zoning administrator or other competent authority may be repaired and restored except as provided in sections 7.7(d) and 7.8(b).

**ARTICLE VIII.**

**PLANNED DEVELOPMENT DISTRICTS--GENERAL REGULATIONS**

**Sec. 8.1. Intent and purpose.**

It is the intent and purpose of these regulations that the planned development (PD) concept be utilized to promote:

- (a) Economical and efficient land use;
- (b) An improved level of amenities;

- (c) Appropriate and harmonious variety in physical development;
- (d) Improve living environments;
- (e) Orderly and economical development;
- (f) The protection of existing and future city development; and
- (g) Conservation of environmentally sensitive land.

Planned development is suitable for development, redevelopment, and the conservation of the land, water, and other resources of the City of Palmetto. Regulations for planned developments are intended to be consistent with the overall land use, intensity, open space, etc., of the Palmetto Comprehensive Plan and to accomplish the purposes of zoning and other applicable city regulations to the same degree as in instances where such city regulations are intended to control development on a lot-by-lot basis rather than on a unified development approach.

### **Sec. 8.2. Relation to general zoning, subdivision or other applicable regulations.**

Planned developments shall meet the requirements of all other sections of this code, including, but not limited to, parking, landscaping, and open space requirements, as well as the subdivision and other city codes as applicable. Where there are conflicts between the PD provisions and general zoning, subdivision or other applicable regulations, those adopted by and shown on the master plan shall apply. Variances may be requested by the applicant but must be specified on the master plan and approved by the city council. The planned development district shall in no way be used to circumvent requirements of other districts or other codes of the city. The proposed master plan shall be consistent with the land use plan designation of the site.

### **Sec. 8.3. Unified ownership control.**

All land included for purpose of development as a PD shall be under the legal control of the applicant, whether that applicant be an individual, partnership, or corporation or group of individuals, partnerships, or corporations. Applicants requesting approval of a PD shall present firm evidence of unified control of the entire area within the proposed PD together with a certificate of apparent ownership and encumbrance with the opinion of counsel representing the developer establishing that the developer has the unrestricted right to impose all of the covenants and conditions upon the land as are contemplated by the provisions of these regulations.

The applicant shall state agreement to:

- (a) Proceed with the proposed development according to the provisions of these zoning regulations and such conditions as may be attached to the PD master plan;
- (b) Provide agreements, contracts, deed restrictions, and sureties acceptable to the city council for completion of the development according to the approved plans, and maintenance of such areas, functions and facilities are not to be provided, operated, or maintained at public expense; and

- (c) Bind their successors in title to any commitments made under (a) and (b) preceding.

All such agreements and evidence of unified control shall be examined by the city attorney and no PD shall be approved without a certification by the attorney that such agreements and evidence of unified control meet the requirements of these zoning regulations.

#### **Sec. 8.4. Procedure for rezoning property to planned development.**

- (a) *Conceptual plan review.*
  - (1) *Preapplication conference:* Prior to initiating a petition to rezone a parcel of land to planned development, a preapplication conference with appropriate city staff is required. The purpose of this meeting shall be to discuss informally the minimum requirements and design standards for planned development projects as well as to discuss existing or proposed developments which may affect or be affected by the proposed planned development project. For the purpose of such discussions, it is advised that the applicant have a sketch plan indicating the proposed project area, its relationship to the surrounding area, and its general development scheme. Formal application or filing of a plan with the city council is not required for the preapplication conference.
  - (2) *Conceptual plan requirements:* Following the preapplication conference, an applicant wishing to undertake a planned development project shall file an application with the city council which includes ten (10) copies of the conceptual development plan.
    - a. The title of the project and the names of the professional project planner and the developer;
    - b. Scale, date, north arrow, and general location map;
    - c. Boundaries of the property involved, all existing streets, buildings, watercourses, easements, section lines, and other existing important physical features in and adjoining the project;
    - d. Show the locations and the acreages of each component thereof of the different uses proposed by dwelling types, open space designations, recreational facilities, commercial uses, and other permitted uses, and off-street parking and off-street loading locations;
    - e. Plan showing access and traffic flow and how vehicular traffic will be separated from pedestrian and other types of traffic;
    - f. Tabulations of total gross acreage in the development and the percentage thereof proposed to be devoted to the several dwelling types, other permitted uses, recreational facilities, open spaces, streets, parks, schools, and other reservations. Tabulations of projected density by dwelling types shall also be submitted. Gross residential density shall be computed by deducting gross acreage used for nonresidential purposes other than open space or recreation uses;

- g. Environmental and community facilities impact statement as required by the city council including, but not limited to, water, sewer, drainage, transportation, air quality, water quality, wetlands, woodlands, wildlife, and community appearance describing the nature, location, extent and duration of the impact, alternative actions available, and means of mitigating or preventing any adverse impact. All community facilities impacts shall be quantified and all pollution impacts shall be quantitatively compared with applicable standards and guidelines unless determined by the city council to be insignificant;
  - h. Proposed development schedule showing the approximate starting and completion dates for the entire project and any phases thereof, together with appropriate identification of such phases;
  - i. Current aerial photographs of the site at a scale of one (1) inch equals two hundred (200) feet or larger showing all property boundaries and adjacent land within one thousand (1,000) feet of the project boundaries; and
  - j. Such additional information as the planning and zoning board or city council may reasonably require.
- (3) *Planning and zoning board review:* Within thirty (30) days of receipt of the complete application, the planning and zoning board shall hold a public hearing to discuss the plan.
- a. The planning and zoning board shall review the application and make its recommendations to city council within thirty (30) days of the close of the public hearing. Such recommendation:
    - 1. May include any modifications or revisions to the application;
    - 2. Shall be for approval; approval with modifications or revisions, including reasons for any modification or revisions; or denial of the application.
- (4) *City council review:* The city council shall review the application and the findings and recommendations of the planning and zoning board within thirty (30) days of receipt of the planning and zoning board recommendation: City council shall within thirty (30) days of the close of its public hearing, approve, approve with modifications or revisions, or deny the application.
- (b) *General development plan review.*
- (1) *Authorization to submit and timeframe for submittal:* The granting of a rezoning application for a planned development and the approval of its accompanying conceptual development plan by the city council shall constitute authority for the applicant to submit a general development plan. Within twelve (12) months of authorization to submit a general development plan, unless an extension is granted, applicant shall submit ten (10) copies of the general development plan prepared in substantial accordance with the approved conceptual development plan with all

conditions as may have been adopted by the city council, and in accordance with the provisions of this article.

Extension of the one-year submittal timeframe may be approved by the city council. Any such extension for submittal of the general development plan shall not exceed one (1) year. No more than two (2) one-year extensions may be granted.

The failure on the part of the petitioner to meet this requirement and, if applicable, any approved extensions, shall automatically terminate the rezoning application.

(2) *General development plan requirements:*

a. *General information:*

1. Name of subdivision/PD.
2. Section, township and range in which subdivision/PD is located.
3. Vicinity map of not less than one (1) inch equals one (1) mile.
4. Legal description of subdivision/PD.
5. Proof of ownership of property (i.e., warranty deed).
6. North point, legend, and scale (not less than one (1) inch equals fifty (50) feet).
7. Total gross and net acreage of the site.
8. Gross residential density, if applicable.
9. Development schedule, including initiation and completion dates for all phases of development, recreation facilities, common areas, street and utility system.

b. *Existing conditions:*

1. Existing zoning, land use plan designation, and development on site and on property adjacent to the site.
2. Names and locations of all adjacent subdivisions.
3. Name, location, and width of all platted rights-of-way, alleys, and existing streets within and/or adjacent to the site.
4. Location and size of all sewer lines, water lines, and drainage facilities within and adjacent to the site.

5. Location and width of all easements for utilities and drainage within and/or adjacent to the site.
6. Topographic contours at vertical intervals of no longer than one (1) foot.
7. Approximate location, size and type of trees, water bodies, and other natural significant features.

c. *Design:*

1. Numeric designation, location and width of proposed streets and their required rights-of-way.
2. Location, width and intended use of proposed utility easements.
3. Location and dimensions of all proposed lots.
4. Proposed land elevations.
5. Location, purpose, dimensions and general description of common open space, parks, and recreational facilities.

d. *Improvements:*

1. Location and dimensions of proposed utilities (sewer and water).
2. Location and dimensions of proposed drainage facilities.
3. Location of all proposed fire hydrants.
4. Location and dimensions of proposed streets and sidewalks.

- (3) The general development plan may serve as the preliminary plat if subdivision is required for the subject property.

**Sec. 8.5. Development guidelines.**

The purposes of these guidelines is to establish a general checklist for the preparation and review of the planned development proposal. The guidelines serve to identify minimum or maximum standards from which the proposal should not deviate, unless otherwise approved by the city council.

(a) Minimum setbacks:

- (1) Perimeter landscaped setbacks: thirty-five (35) feet between the walls of all structures and the perimeter of the district.

- (2) Building setback: twenty-five (25) feet from wall-to-wall between structures.
  - (3) Public or private right-of-way setback: thirty-five (35) feet from any structure to right-of-way.
  - (4) Structures over thirty-five (35) feet in height: Additional one (1) foot of setback at ground level for each additional two (2) feet of height.
- (b) Building height: Twelve (12) stories or one hundred thirty (130) feet whichever is less.
  - (c) Minimum off-street parking and loading requirements: Refer to Ordinance No. 226 for requirements. Off-street loading shall be located and designed to ensure that it does not encroach on any public or private right-of-way.
  - (d) Frontage and accessibility for each use shall be from either a public street directly or via an approved private driveway, pedestrian way, court or other area dedicated to public or private use or common element guaranteeing access.
  - (e) Underground utilities: All utilities, including telephone, television cables, and electrical systems, shall be installed underground. Appurtenances to these systems which require aboveground installation must be screened. Primary facilities providing service to the site of the PD may be excepted.
  - (f) Solid waste containers: All central refuse, trash and garbage collection containers shall be screened from sight or located in such a manner so as not to be visible from any street within or adjacent to the PD district. Individual garbage containers not exceeding a twenty-gallon capacity are permissible.
  - (g) Public access to the waterfront, if applicable, shall be dedicated or reserved.
  - (h) As a minimum, the standard requirement for parkland shall be dedicated through the PD rezoning (e.g., 4 acres/1,000 people; projected population = 500; dedicate 2 acres).
  - (i) Minimum common open space and recreation areas: Twenty-five (25) percent of the gross site acreage shall be delineated as tracts for common open space and recreation areas.

For purposes of this article, common open space and recreation areas are defined as the total amount of improved usable area, including outdoor space, permanently set aside and designated on the site plan as common open space or recreation area for use by residents of the PD. Common open space shall be integrated throughout the planned development or provide for a linked recreation/open space system. Such usable space may be in the form of active or passive recreation areas including, but not limited to: playgrounds, golf courses, beach frontage, nature trails and lakes. Common open space shall be improved to the extent necessary to complement the residential uses and may contain compatible and complementary structures for the benefit and enjoyment of the residents of the PD.

Easements, parking areas, storage and utility areas, perimeter setback areas, road right-of-way and minimum yards, and minimum spacings between dwelling units may not be included in determining open space. Perimeter setback areas may be included as open space if improvements such as bikeways, pedestrian ways or equestrian trails are provided.

Water bodies may be used to partially fulfill common open space requirements; calculations for such may not exceed fifty (50) percent of the required open space. The exclusion of water bodies which are in whole or part drainage easements may be waived by the city council after adequate measures are provided which guarantee in perpetuity a level of water quality acceptable for recreational purposes. Private navigable canals shall not be utilized in fulfilling the common open space requirement beyond that which is allowed pursuant to water bodies as previously provided. All water area included as part of the open space requirement shall be permanent water bodies and shall be improved with 5:1 minimum sloped edge extending at least twenty (20) feet into the water areas, and planted with grass and maintained around all sides so as not to harbor mosquitoes, insects and rodents, unless it is determined by an environmental review of the water body that such slope or improvements would be detrimental to the ecology of such water body site. The foregoing requirements relating to water areas to be included in the open space requirements shall apply to existing water bodies whether natural or manmade. Existing water bodies may be left in their natural state and need not be improved or sloped.

Where a golf course is utilized to partially fulfill the open space requirement, other facilities to meet the active residential needs of children and adults shall be provided.

#### **Sec. 8.6. Common lands or facilities.**

Prior to application for final development plan approval, the petitioner shall provide a legally constituted maintenance association agreement for improving, perpetually operating, and maintaining the common facilities including private streets, drives, parking areas, and common open space and recreation facilities or shall file such documents as are necessary to show how the said common areas are to be improved, operated or maintained.

Such agreements may be changed from time to time provided the new agreement continues to guarantee the perpetual operation and maintenance of the common open space and recreation area and is approved by the city council.

#### **Sec. 8.7. Implementation.**

No zoning, clearance, building permit or any other permit shall be issued for a development in a PD zoning district until the conditions and requirements for obtaining such permits have been met. Following the approval of the general development plan by the city council, the developer shall be authorized to submit the required documents to proceed with the construction and development of the planned development project.

#### **Sec. 8.8. Changes in approved general development plans.**

(a) *Modifications:* The city council may approve any modification of an approved general development plan which is of a minor nature and not contrary to the intent and purpose of the general

development plan approval. City council may approve such minor modifications upon making a finding that such changes are:

- (1) In accord with all applicable regulations in effect at the time of the amendment creating the PD district, as modified in the amending action;
  - (2) In accord with all applicable regulations currently in effect; and
  - (3) In accord with all the conditions and requirements specified in the amendment creating the PD.
- (b) *Substantial deviation:* City council shall use the following guidelines to determine if the requested changes constitute a substantial deviation:
- (1) Any increase in intensity of use. An increase in intensity of use shall be considered to be an increase of more than five (5) percent usable floor area, or an increase of more than three (3) percent in the number of dwelling units, or an increase of more than five (5) percent in the amount of outside land area devoted to sales, displays or demonstrations. In no case shall the intensity or density be increased over the maximum permitted by the PD district in general or the comprehensive plan.
  - (2) Any change in parking areas resulting in an increase or reduction of ten (10) percent or more in the number of spaces approved.
  - (3) Structural alterations significantly affecting the basic size and form of the building(s) as shown on the approved plan. Changes in form will only be considered substantial if they occur within two hundred (200) feet of the boundary of the PD district.
  - (4) Any reduction in the amount of open space of more than five (5) percent or any substantial change in the location or characteristics of open space.
  - (5) Substantial changes in location or type of pedestrian or vehicular accesses or circulation.
  - (6) An increase in traffic generation by more than ten (10) percent.
  - (7) Any increase in the area allocated to any land use type by more than ten (10) percent.
  - (8) An increase in structure height greater than eight (8) feet.
  - (9) Any change in the number of pedestrian or vehicular access points.
  - (10) Any changes in the phasing schedule.
  - (11) Any changes in yards of more than ten (10) percent.
  - (12) Any change in a condition specifically required by the city council as part of the PD amendment.

If any of the above changes are present, the change shall be considered a substantial deviation and shall be handled as a new application.

## **ARTICLE IX.**

### **PLANNED DEVELOPMENT HOUSING DISTRICT (PD-H)**

#### **Sec. 9.1. Purpose and intent.**

The purpose and intent of the PD-H District is primarily for residential and related uses and facilities.

#### **Sec. 9.2. Minimum area.**

A minimum area for residential planned development is not required. However, if commercial uses are to be considered, as defined hereinafter, the minimum size shall be ten (10) acres.

#### **Sec. 9.3. Permitted principal and accessory uses and structures.**

- (a) Dwellings: Single-family, two-family and multi-family.
- (b) Churches.
- (c) Schools.
- (d) Noncommercial social, recreational and cultural facilities such as neighborhood or community centers, gamerooms, library, golf courses, swimming pools, marinas, tennis courts and the like.
- (e) Structures and uses required for operation of a public utility, performance of a governmental function, or performance of any function necessary for the operation or maintenance of the planned development and otherwise permitted under these or general regulations, subject to the requirements thereof.
- (f) Uses and structures which are customarily accessory and clearly incidental to permitted principal uses and structures.
- (g) In a multifamily building or closely related complex of multifamily buildings having a total of at least fifty (50) dwelling units, establishments for sale of convenience goods, eating and drinking establishments, and professional and personal service establishments, provided that the floor area occupied by all such establishments shall not total an amount equal to ten (10) percent of the residential floor area of such multifamily building or complex.

Except where such establishments adjoin and are oriented toward shopping centers permitted under section 9.4, they shall be designed and scaled to meet only the requirements of occupants and their guests. There shall be no evidence of the existence of such establishment from any public street.

#### **Sec. 9.4. Uses and structures permissible in PD-H District larger than ten acres.**

In addition to the principal and accessory uses and structures permitted in section 9.3, nonresidential facilities planned for development as part of the district which are internally oriented and serving needs not otherwise served in the general area, may be permitted by the city council as part of the PD-H rezoning.

- (a) Such facilities shall include only convenience goods retail, personal service, and office uses intended primarily to serve the needs of occupants of the district; and
- (b) The design and location shall be such so as to protect the character of the district and surrounding residential districts; and
- (c) Such facilities, with their related off-street parking and other open space, shall not occupy in total more than ten (10) percent of the gross land area of the district.
- (d) Convenience establishments in PD-H Districts are permissible as accessory uses.

Location; grouping. Such establishments shall be located only in portions of PD-H Districts not served by similar facilities within one-quarter mile by normal pedestrian routes.

Where more than one (1) type of convenience establishment is proposed, establishments shall be grouped, arranged and designed for maximum pedestrian convenience. Vehicular access and parking areas shall be combined where such combination will result in substantial improvement in public convenience and vehicular circulation.

Control of potential adverse effects. Such establishments shall not create substantial adverse effects on residential uses within the district or in adjoining districts by reason of their location, design, construction, manner or timing of operation, signs, lighting, parking or access arrangements, or other characteristics. There shall be no evidence of the nonresidential character of such establishments visible from first story residential windows outside the PD-H District.

Maximum size of establishments. In the PD-H environment, it is the intent of these regulations that no such establishment or group of establishments shall be of such size or character as to create the impression of general commercial development. Therefore, in addition to other limitations designed to achieve these ends, no individual convenience establishment created under the provisions of this section shall have a gross floor area in excess of five thousand (5,000) square feet, and no combination of establishments in any one (1) location shall have a total gross floor area of more than ten thousand (10,000) square feet.

Lot coverage limitations. No minimum lot area or width requirements are set specifically for convenience establishments in PD-H Districts, but lot coverage shall not exceed forty (40) percent of the net area of the lot or building site.

Yards, landscaping. Yards shall have at least the same depth as required for residential uses on buildings of the same height and length, provided that in no case shall a yard be less than ten (10) feet in minimum dimension. Yards adjacent to streets shall be landscaped for a minimum depth of ten (10) feet from the street property line, except for driveways not exceeding the width reasonably necessary to provide access to parking. Parking and service areas shall be screened

from view from first floor windows on directly adjacent residential lots or building sites by appropriate structural or vegetative screening which shall be maintained in a functional and sightly condition.

**Building spacing.** Where space is left between buildings in a convenience goods complex in this district, it shall be at least five (5) feet in width.

Off-street parking shall be provided at a minimum ratio of one (1) space for each two hundred (200) square feet of gross floor area in convenience goods establishments. Where there is more than one (1) establishment in a complex, parking may be grouped. Where appropriate, in terms of the relation of uses to each other and the timing of their operations, accessways and parking areas may be so located as to serve other uses in the district, if such multiple use will not lead to an overload of the parking facilities or to congestion or hazards to pedestrian or vehicular traffic. There shall be no on-street loading in conjunction with any such convenience establishment.

Signs intended to be read from off the premises shall be limited to one (1), not exceeding ten (10) square feet in surface area, mounted flat against the wall of the principal building exposed to a public street. Where more than one (1) such establishment is located in the same building or on the same premises, signs as above shall be permitted for each. No such sign shall extend above or beyond the wall of the building.

**Lighting.** During hours of darkness, when convenience goods establishments are in operation, parking areas and pedestrian ways on the premises shall be lighted to an intensity of at least six (0.6) footcandle. No such lighting shall be directed in a manner which illuminates adjoining residential buildings, and no source of incandescent, mercury vapor or similar illumination shall be directly visible from any residential building or from any street. Neon lights shall not be visible from any residential building or from any street.

**Hours of operation.** No such convenience establishment shall be open for business except between the hours of 7:00 a.m. and 11:00 p.m.

**Conduct of operations.** All sales, service or displays shall be within completely enclosed buildings. There shall be no open storage on the premises.

## **Sec. 9.5. Density bonuses.**

(a) *Purpose.* The city acknowledges through its Comprehensive Plan that certain needs exist. One method to meet those needs is to provide certain amenities which would fulfill those needs. Accordingly, the city council may increase the maximum number of units per acre in a PD-H District up to a maximum of sixteen (16) dwelling units per acre where the preliminary and final development plans include one (1) or more of the following amenities.

(b) *Criteria for density bonus.* In order to qualify for such density bonus, a development is required to provide at least one (1) or a combination of the amenities described as follows:

(1) Ten (10) percent of the dwelling units in a PD-H District shall be comprised of affordable

housing units. Such units shall qualify provided they are affordable to buyers or renters who earn no more than eighty (80) percent of the median income for residents of the city as determined by the most recent data available from the U.S. Bureau of the Census.

- (2) The restoration and preservation of buildings, structures, or sites that have unique historic, archaeological or architectural significance as determined by city council.
- (3) A portion of developable land shall be dedicated for public facility sites (i.e. public park, public library, public school, public emergency services facility, etc.).
- (4) The provision, construction and on-going maintenance of public access to the recreational waters of the city.
- (5) Redevelopment or infill development within the Community Redevelopment Area.

(c) *Development Guarantees.* The developer shall prepare a draft developer agreement describing the nature and timing of the amenity or amenities proposed, desired density increase and penalty for noncompliance. The agreement, which meets the requirements of Chapter 163.3220, F.S. shall be entered into between the developer and the city prior to or simultaneous with the site plan district public hearing. (Ord. No. 507, § 1, 1-11-93)

## **ARTICLE X.**

### **PLANNED DEVELOPMENT DISTRICT MULTI-USE (PD-MU)**

#### **Sec. 10.1. Purpose and intent.**

The purpose and intent of the PD-MU District is to permit a wide range of uses, complementary to each other, within a single development project. The uses that may be considered include resort and recreational commercial, general/specialty retail, and/or residential.

#### **Sec. 10.2. Minimum area.**

A minimum area for planned development district multi-use (PD-MU) is not required. (Ord. No. 580, § 1, 3-17-97)

#### **Sec. 10.3. Permitted principal and accessory uses and structures.**

The following permitted principal uses and structures are allowed:

- (a) Dwellings: single-family, two-family and multifamily.
- (b) Recreation and amusement establishments.
- (c) Marinas.

- (d) Golf courses and clubs.
- (e) Cultural facility.
- (f) Tennis club.
- (g) Swimming club.
- (h) Amusement park.
- (i) Hotels and motels.
- (j) Offices; clinics; studios; laboratories.
- (k) Banks, savings and loan associations, and similar financial institutions.
- (l) Retail sales.
- (m) Eating and drinking establishments; catering establishments; delicatessens and bakeries with products sold at retail on the premises.
- (n) Barbershops, beauty shops and similar personal service establishments.
- (o) Tailoring, custom dressmaking, millinery and similar establishments with on-premises retail sales only.
- (p) Churches, synagogues, temples and the like.
- (q) Any other use deemed appropriate by city council.

The following permitted accessory uses and structures are allowed: Uses and structures which are customarily accessory and clearly incidental to permitted principal uses and structures shall be permitted in this district.

#### **Sec. 10.4. Pedestrian and landscaped common areas.**

For uses other than residential, the same amount of area shall be required in pedestrian and landscaped areas as would be required as open space for a residential use. In relation to nonresidential uses, such space may include covered malls for general pedestrian use as well as exterior walkways, play areas for children, outdoor seating areas and the like. When covered malls are so included, they shall be excluded in computing floor area.

#### **Sec. 10.5. Recreation space.**

Recreation space shall not be required except in connection with residential uses.

#### **Sec. 10.6. Internal relationship.**

The site plan shall provide for safe, efficient, convenient and harmonious groupings of structures, uses, facilities and open spaces in a manner facilitating pedestrian movement between major origins and destinations within and adjacent to the district with a minimum of conflicts with vehicular traffic.

- (a) *Pedestrian systems and open space network:* Pedestrian [systems] through buildings shall relate to a network of exterior open spaces reserved for pedestrian use and enjoyment. Interior and exterior pedestrian ways shall be scaled for anticipated traffic and form a convenient pattern connecting major concentrations of uses within the district.
- (b) *Streets, parking areas and service areas:* Shall be so located and designed as to separate private vehicular use within the district from principal pedestrian areas. Such separation may be horizontal, with vehicular areas concentrated and grouped in a logical location or locations at edges of the district adjacent to major or collector streets, or vertical, with vehicular areas under buildings.
- (c) *Relationship of uses:* Shall be such that major commercial and service establishments are grouped for maximum pedestrian convenience along frontages uninterrupted by residential or general office occupancies. Residential or general office uses may either be separated vertically from commercial and service concourses.

## **ARTICLE XI.**

### **ADMINISTRATION, ENFORCEMENT, AND AMENDMENT**

#### **Sec. 11.1. Enforcement responsibility.**

The provisions of this code shall be administered by the zoning administrator who shall be designated by the city clerk. If the zoning administrator finds that any provision of this zoning code is being violated, the zoning administrator shall notify, in writing, the person responsible for such violation, stating the nature of the violation and ordering the action necessary to correct it.

The zoning administrator shall order the discontinuance of any illegal use of land, buildings, or structures; alterations or structural changes thereof; discontinuance of any illegal work being done; or shall take any other action authorized by this code to ensure compliance with or prevent violation of its provisions.

In addition to the above-described responsibilities, the zoning administrator is responsible and has the authority to perform the following:

- (a) Conduct such inspections of buildings, structures, and use of land as are necessary to determine compliance with the terms of this code;
- (b) Maintain permanent and current records of documents and proceedings under this code;
- (c) Provide and maintain a continuing program of education and public information on zoning matters;

- (d) Receive, file, and transmit to the board of adjustment, the planning and zoning board or the city council, all appeals and all applications for variances, amendments, and special permits, and other matters on which the board of adjustment, the planning and zoning board or city council are authorized to act under the provisions of this code.
- (e) Prescribe, and from time to time, revise such forms as may be necessary to carry out the intent of this code.

### **Sec. 11.2. Amendments to zoning code and map.**

For the purpose of establishing and maintaining sound, stable, and desirable development within the City of Palmetto, this code shall not be amended except to correct a manifest error in the code or because of changed or changing conditions in a particular area or in the city generally, to rezone an area, extend the boundary of an existing zoning district, or to change the regulations and restrictions thereof, and then, only as reasonably necessary for the promotion of the public health, safety, or general welfare, and to achieve the purposes of and to achieve conformance with the comprehensive plan.

### **Sec. 11.3. Amendment initiation.**

An amendment to this code may be initiated by:

- (a) City council;
- (b) The planning and zoning board;
- (c) The zoning administrator or other city staff; or
- (d) Any property owner or his or her representative; a citizen or his or her representative.

### **Sec. 11.4. Procedure for amendment.**

(a) All applications for amendments shall be submitted to the zoning administrator. The zoning administrator shall distribute application to appropriate staff for review and recommendation.

(b) All proposed zoning amendments and changes to restrictions or regulations to be enforced therein shall be submitted to the planning and zoning board for study and recommendation. The planning and zoning board shall study such proposals to determine:

- (1) The need and justification for the change;
- (2) The effect of the change, if any, on the particular property and on surrounding properties;
- (3) The amount of undeveloped land in the general area and in the city having the same classification as that requested; and

- (4) The relationship of the proposed amendment to the purposes of the comprehensive plan with appropriate consideration as to whether the proposed change will further the purposes of this code and the comprehensive plan.

(c) Upon receipt of the planning and zoning board recommendation, city council shall authorize ordinance preparation. Such authorization does not constitute amendment approval; rather, it sets the hearing procedure before city council in motion. If city council does not act upon the planning and zoning board recommendation within six (6) months of receipt, the petition upon which the recommendation was based shall be deemed to have been denied.

#### **Sec. 11.5. Notice requirements for amendments.**

(a) *Planning and zoning board public hearing:* No recommendation for a zoning change or amendment to the restrictions or regulations to be enforced therein may be considered by the planning and zoning board until public notice has been given of a public hearing. In case of a request for a zoning change or restrictions or regulations to be enforced therein affecting particular property or properties, notice of the public hearing shall include:

- (1) Notice published in a newspaper of regular and general circulation in the City of Palmetto at least fifteen (15) days prior to the public hearing;
- (2) Notice shall be sent by regular mail at least fifteen (15) days prior to the public hearing to property owners, according to the latest ad valorem tax records, of every abutting or adjacent parcel of land excluding roads or streets, in all directions from the property line of the land upon which the applicant requests a change in the district zoning classification; and
- (3) In the case of a request to rezone a parcel of land, a sign shall be posted at least fifteen (15) days before the planning and zoning board public hearing containing language as provided by the City of Palmetto.

(b) *City council public hearing--Property owner/agent initiated amendment:* No decision for a zoning change or amendment to this code shall be made by city council until public notice has been given for the public hearing. Notice shall include:

- (1) Notice published in a newspaper of regular and general circulation in the City of Palmetto at least fifteen (15) days prior to the public hearing;
- (2) Notice shall be sent by regular mail at least fifteen (15) days prior to the public hearing to property owners, according to the latest ad valorem tax records, of every abutting or adjacent parcel of land excluding roads and streets, in all directions from the property line of the land upon which the applicant requests a change in the district zoning classification; and
- (3) In the case of a request to rezone a parcel of land, a sign shall be posted at least fifteen (15) days before the city council public hearing containing language as provided by the City of Palmetto.

(c) *City council public hearing--City initiated amendment:*

- (1) Where the rezoning involves less than five (5) percent of the total land area of the City of Palmetto, the city council shall direct the city clerk to notify each affected real property owner by use of the procedures established in Chapter 166, Florida Statutes.
- (2) Where the rezoning involves more than five (5) percent of the total land area of the City of Palmetto, the city council shall hold two (2) advertised public hearings, directing the city clerk to give notice of the public hearings by use of the procedures established in Chapter 166, Florida Statutes.

#### **Sec. 11.6. Fees and charges.**

City council shall establish a schedule of fees, charges, and expenses and a collection procedure for appeals and other matters pertaining to this code.

No application for variance or rezoning shall be accepted unless or until charges and fees have been paid in full. City initiated petitions shall not be subject to such charges and fees. Fees may be waived for an applicant who presents a certificate from the director of the county welfare department stating that the applicant is qualified to receive either federal, state, or county welfare assistance and is unable to afford the subject application fee.

#### **Sec. 11.7. Limitations.**

No amendment to rezone property shall contain conditions, limitations, or requirements not applicable to all other property in the district to which the particular property is rezoned, except that planned development rezonings shall not be subject to the limitations of this section.

Whenever city council has taken action to deny a petition to rezone property, the city shall not:

- (a) Consider any further petition for the same rezoning of all or any part of the same property for a period of one (1) year from the date of such action;
- (b) Consider a petition for any kind of zoning on all or any part of the same property for a period of one (1) year from the date of such action.

Whenever city council has, by amendment, changed the zoning of any property, the planning and zoning board shall not consider any petition for rezoning of all or any part of the same property for a period of six (6) months from the effective date of the amendatory ordinance.

The time limits of this subsection may be waived by city council when such action is deemed necessary to prevent injustice or to facilitate property development.

#### **Sec. 11.8. Administrative interpretation and permits.**

- (a) The zoning administrator shall be generally responsible for interpretation of this code and shall maintain adequate written records of all such interpretations.

(b) Persons may apply to the zoning administrator for written interpretation of portions of this code or for administrative permits for such minor uses as may be specifically authorized herein.

(c) Administrative permits may be issued for minor uses, based on the following procedure:

(1) Application is submitted to the zoning administrator, who shall promptly post a notice at the location of the proposed use;

(2) Zoning administrator has ten (10) working days from the date of posting the notice to receive written or oral comment on the application and to consider it;

(3) Within five (5) working days of the end of the comment period, above, the zoning administrator shall ordinarily act on the application, unless this five-day period is extended;

(4) The zoning administrator may schedule a public administrative hearing for further information regarding the application. If such administrative hearing is held, the zoning administrator shall act on the application within one (1) working day;

(5) In the event the zoning administrator fails to act on the application in a timely manner, such failure shall be deemed to be a denial of the application.

(d) The zoning administrator shall, from time to time but not less often than annually, inform the planning and zoning board of all such interpretations and administrative permits.

(e) Any person aggrieved by a decision of the zoning administrator may, within ten (10) days, appeal said decision to the city clerk in a manner similar to that set out in section 13.4 of this code. Further appeals may be taken pursuant to article XIII of this code.

(f) An appeal stays all proceedings in the same manner as section 13.5 of this code.

### **Sec. 11.9. Development review committee established.**

(a) The development review committee (DRC) hereby established as an operational and procedural review process relating to all applications for development approval or the issuance of development orders by the city, unless otherwise provided for by subsequent rule as authorized for herein. The DRC is authorized and specifically provided with the authority and duty to review applications for development and to submit written findings or comments, proposed conditions and stipulations of approval, and such other provisions relating to development approval or the issuance of a development order in keeping with the city's zoning code. The DRC has authority to comment on the advisability of development approval, the site plans submitted by the applicant, and whether or not the application and proposed use complies with the requirements of the city's zoning code and other applicable regulations. The DRC is authorized to perform such other functions as may be subsequently directed by resolution of the city council.

(b) The DRC shall be composed of and include representatives of the following:

- (1) City planning/zoning;
- (2) City public works;
- (3) North River Fire District; and
- (4) City's engineer.

In addition to the foregoing, such advisory entities to the DRC shall be determined by the DRC, depending on the nature of the development activity or the application involved.

(Ord. No. 657, § I, 10-18-99)

#### **Sec. 11.10. DRC procedures.**

Review by the DRC shall be coordinated by the director of public works, or designee, in accordance with operating procedure's to be established by the DRC. Depending on the complexity of the development issues involved and the need to specifically address required stipulations and conditions which the applicant must accept, the DRC may require the attendance of the applicant or the applicant's agent at a meeting to review the application for development approval and the collateral matters involved. An applicant may request a meeting with the DRC to facilitate communication and understanding of various issues involved in the development approval process in addition to any mandatory DRC review.

(Ord. No. 657, § I, 10-18-99)

#### **Sec. 11.11. Action by DRC.**

Within a reasonable period of time after receipt a completed application and any response for additional information from the applicant, the DRC shall either take administrative action required by the proposed application or prepare an appropriate staff report and recommendation to the planning and zoning board or city council, or both as the case may be according to the application for development involved.

(Ord. No. 657, § I, 10-18-99)

#### **Sec. 11.12. Authority to enter.**

The submission of an application for development approval shall confirm and authorize the right of reasonable entry to the premises, lot, parcel or property associated with the development approval request by representatives of the city, including the DRC. This right of entry shall extend to all DRC members as well as appropriate ad hoc or advisory members in the review of the application.

(Ord. No. 657, § I, 10-18-99)

#### **Sec. 11.13. DRC rules.**

The DRC is hereby authorized to promulgate such operational and procedural rules as may be necessary in order to efficiently and effectively implement the authority granted hereby and to achieve the purpose of the DRC. Any such rules promulgated by the DRC shall solely pertain to procedures relating to the application process and shall be submitted to the city council for its confirmation approval prior to implementation.

(Ord. No. 657, § I, 10-18-99)

## ARTICLE XII.

### PLANNING AND ZONING BOARD

#### **Sec. 12.1. Establishment and composition.**

The planning and zoning board shall consist of seven (7) members. None of the members shall be employed by the City of Palmetto.

The terms of office shall be staggered three (3) years. Members shall be appointed from among persons in a position to represent the general public interest. No person shall be appointed with private or personal interests likely to conflict with the general public interest.

#### **Sec. 12.2. Removal of members and vacancies.**

Members of the planning and zoning board may be removed by city council where a majority of the members of the city council feel that such action is in the best interests of the city. In case of vacancies occurring in membership, city council shall fill such vacancies within sixty (60) days for the unexpired term of the original appointment.

#### **Sec. 12.3. Officers; rules of procedure; meetings; compensation.**

(a) *Officers.* The planning and zoning board shall elect a chair and a vice-chair from among its members. They shall serve for one (1) year.

(b) *Rules of procedure.* The planning and zoning board shall adopt such additional rules necessary to conduct its affairs and in keeping with the provisions of this code.

The zoning administrator shall be the secretary to the planning and zoning board and shall be responsible for keeping the records of the board's actions, provide necessary background material, keep a record of attendance, keep a record of all official findings and determinations of the board, showing the vote of the members on each question requiring a vote or if absent or abstaining from voting indicating such fact. The official actions of the planning and zoning board shall be a public record.

Applicant or representative shall be present at the designated planning and zoning board meeting. If no one is present at the meeting, the item shall be continued to the next scheduled meeting.

(c) *Meetings.* The planning and zoning board shall meet on an as-needed basis.

The board shall not transact any business at any regular or special meeting unless a quorum of four (4) members is present and every official action taken and every decision rendered by the board shall be approved by a majority or at least three (3) members present. If necessary, by a majority vote of the board, the board may table any petition or case before it, provided such case be heard at a subsequent meeting not later than thirty (30) days after the meeting at which it was tabled.

- (d) *Compensation.* Members of the planning and zoning board shall receive no salaries.

**Sec. 12.4. Powers and duties.**

The planning and zoning board shall serve only in an advisory capacity to city council. The planning and zoning board shall consider all requests for changes in zoning, restrictions or regulations to be enforced therein, and other matters as may be specifically requested by city council.

**ARTICLE XIII.**

**BOARD OF ADJUSTMENT**

**Sec. 13.1. Establishment and composition.**

A board of adjustment is hereby established which shall consist of five (5) members to be appointed by city council each for a term of three (3) years. Not more than two (2) members of the board of adjustment may be members of the planning and zoning board. Members of the board of adjustment may be removed by city council for cause and after a public hearing. Vacancies shall be filled by city council for the unexpired term of the member affected.

In addition to the regular members of the board of adjustment, the city council may appoint up to two (2) alternate members who shall be appointed or reconfirmed annually with the appointment of the regular members, or at such times as vacancies may exist. Said alternate members shall have the same qualifications as regular members, and upon the request of the presiding officer, shall act in place of a regular member who is temporarily absent, and when so acting, shall have the full power for a regular member of the board.

**Sec. 13.2. Rules and procedures.**

The board of adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this code. Meetings shall be held at the call of the chair and at such times as the board of adjustment may determine. The chair, or in his/her absence, the acting chair may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The board of adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question or if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions.

The zoning administrator will act as secretary to the board of adjustment to keep the minutes of its proceedings as hereinabove set out and to present staff recommendations on issues coming before the board.

**Sec. 13.3. Powers and duties.**

(a) *Administrative review:* To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the administrative official charged with the enforcement of this code.

(b) *Variations, general:*

- (1) The board of adjustment may authorize, upon appeal from the decision of the zoning administrator, such variance from the terms of this code as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this code would result in unnecessary hardship.
- (2) In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this code. Violation of such conditions and safeguards when made a part of the terms under which the variance is granted shall be deemed a violation of this code and punishable as provided by this code.
- (3) Under no circumstances shall the board of adjustment grant a variance to permit a use not generally or conditionally permitted in the district involved, or any use expressly or by implication prohibited by the terms of this code in said district.'
- (4) Nonconforming uses of neighboring lands, structures, or buildings in the same district and permitted use of lands, structures, or buildings in other districts shall not be considered grounds for the issuance of a variance.

#### **Sec. 13.4. Administrative appeals, hearings and public notice.**

Appeals to the board of adjustment may be taken by any person aggrieved or by any officer or bureau of the city affected by any decision of the zoning administrator. Such appeals shall be taken within a reasonable time not to exceed sixty (60) days or such lesser period as may be provided by the rules of the board of adjustment. Appeal shall be filed with the zoning administrator and shall specify the grounds for the appeal. The zoning administrator shall forthwith transmit to the board of adjustment all papers constituting the record upon which the action appealed from was taken. The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or representative.

#### **Sec. 13.5. Stay of proceedings.**

An appeal stays all proceedings in furtherance of the action appealed from unless the zoning administrator, from whom the appeal is taken, certifies to the board of adjustment after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the board of adjustment or by a court of competent jurisdiction, on notice to the zoning administrator, from whom the appeal is taken, on due cause shown.

#### **Sec. 13.6. Variances, procedures for approval.**

A variance from the terms of this code shall not be granted by the board of adjustment unless and until:

- (a) A written application for a variance is submitted to the zoning administrator demonstrating:
  - (1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, buildings, or structures

in the same district;

- (2) That literal interpretation of the provisions of this code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this code;
  - (3) That the special conditions and circumstances do not result from the actions of the applicant; and
  - (4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.
- (b) No petition for a variance may be considered by the board of adjustment until public notice has been given of a public hearing. Notice shall include:
- (1) Notice published in a newspaper of regular and general circulation in the City of Palmetto at least fifteen (15) days prior to the public hearing;
  - (2) Notice shall be posted in City Hall at least fifteen (15) days prior to the public hearing;
  - (3) Notice shall be sent by regular mail to property owners, according to the latest ad valorem tax records, of every parcel of land within a distance of one hundred fifty (150) feet, excluding roads and streets, in all directions from the property line of the land upon which the applicant requests a variance; such notice shall be sent not less than fifteen (15) days prior to public hearing; and
  - (4) A sign shall be posted at least fifteen (15) days before the board of adjustment public hearing containing language as provided by the City of Palmetto.
- (c) The board of adjustment shall make findings that the above notice requirements have been met.
- (d) The board of adjustment shall make findings that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- (e) The board of adjustment shall make findings that the granting of the variance will be in harmony with the general purpose and intent of this code, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

### **Sec. 13.7. Appeals from the board of adjustment.**

Any person or persons aggrieved by any decision of the board of adjustment may apply for relief to a court of competent jurisdiction in the manner provided by law.

## **ARTICLE XIV.**

## **CONCURRENCY MANAGEMENT SYSTEM**

### **Sec. 14.1. Purpose and intent.**

Concurrency is a term used in Chapter 163, Florida Statutes, and in 9J-5, Florida Administrative Code, to describe the situation that exists when the facilities necessary to support development are in place and operational at the same time that the development will use those facilities.

The concurrency management system must provide the city with the ability to make determinations that specific development projects will not degrade the levels of service below those adopted by the Palmetto City Council for any concurrency facility. To fully perform as a management system and meet the requirements established by the capital improvements element of the comprehensive plan, the following components of the system must be available at a minimum:

- (1) The ability to identify existing capacities and current usage of those capacities within the defined service area for concurrency facilities.
- (2) The ability to determine the project demand and compare that demand against available capacity.
- (3) An updating capability that allows for the periodic correction of databases to account for expansion of capacity within facility types, new facilities and service areas, and corrections based on actual data on facility usage.

### **Sec. 14.2. Concurrency review--General requirements.**

A concurrency determination shall be required prior to the issuance of any development permit. However, neither a draw-down of facility capacity nor a certificate of concurrency will be issued until the building permit stage. Inadequate capacity in any facility/service is grounds for denial of a development permit. The concurrency certificate shall be valid for six-months with a six-month extension or until the building permit expires, whichever is less. The development of a single-family home and a nonresidential use of less than one thousand five hundred (1,500) square feet shall be exempt from a concurrency determination. However, note that cumulative impacts must be monitored periodically.

### **Sec. 14.3. Minimum requirements for concurrency.**

In order to obtain a certificate of concurrency, one (1) of the following conditions must be satisfied.

For water, wastewater, drainage and solid waste:

- (1) Necessary facilities and services are in place at the time the development permit is issued;  
or
- (2) Necessary facilities will be in place when the impacts of development occur (a conditional development permit); or
- (3) Necessary facilities are under construction at the time the permit is issued; or

- (4) Necessary facilities/services are guaranteed in an enforceable development agreement pursuant to Sections 163.3220 through 163.3243, Florida Statutes or an agreement or development order issued pursuant to Chapter 380, Florida Statutes; or

For transportation and recreation/open space, any one (1) of the above and:

- (5) Necessary facilities and services are the subject of a binding executed contract between the city and a contractor which provides for the commencement of actual construction or provision of services within one (1) year after the issuance of a development permit.

#### **Sec. 14.4. Facility/service demand calculations.**

The following calculations shall be used to determine the projected demand of the proposed project described in an application for a development permit on the public facilities and services. The calculations are listed by public facility and service type. The city clerk or his designee shall be authorized to review calculations in paragraphs (a) through (f). All required data shall be provided by the applicant to the city.

- (a) *Potable water:*

Adopted LOS = 105 gal./day/capita (nonresidential uses are included in the adopted LOS)

105 gal. × 2.2 persons/household × \_\_\_\_\_ units = demand

- (b) *Wastewater:*

Adopted LOS = 100 gal./day/capita (nonresidential uses are included in the adopted LOS)

100 gal. × 2.2 persons/household × \_\_\_\_\_ units = demand

- (c) *Stormwater management (drainage):*

Adopted LOS = 25-year, 24-hour storm event.

Drainage calculations shall meet the standards adopted in the City of Palmetto Engineering Design Criteria Manual and the Palmetto Comprehensive Plan.

- (d) *Solid waste:*

Adopted LOS = 7.1 lbs./day/capita (nonresidential uses are included in the adopted LOS)

7.1 lbs. × 2.2 persons/household × \_\_\_\_\_ units = demand

- (e) *Recreation:*

Refer to the Palmetto Comprehensive Plan for the adopted level of service standards.

Project population = \_\_\_\_\_ units x 2.2 persons/household

Project population/LOS = demand

(f) *Transportation:*

Refer to the Palmetto Comprehensive Plan for the adopted level of service standards.

- (1) Determine the number of trips generated by the proposed project during the p.m. peak hour, using the most recent edition of the ITE Trip Generation Report, with no adjustment for internal capture or passerby trips.
- (2) If the total number of trips is equal to or greater than fifty (50) trips, a transportation study shall be done. The report shall be signed and/or sealed by either a registered professional engineer or a member of the American Institute of Certified Planners.
  - a. If no transportation study is required, the applicant is required to provide only the existing directional p.m. peak hour traffic volumes and level of service for the roadway link to which project driveways connect. This information shall include project traffic.
  - b. The data shall be in conformance with section 14.6(c), notes a. and b.

**Sec. 14.5. Performance of transportation study.**

If a transportation study is required, it shall be performed by a registered professional engineer or a member of the American Institute of Certified Planners.

The transportation study shall be performed in accordance with the requirements set forth in section 14.6 hereof.

**Sec. 14.6. Requirements of transportation study.**

(a) *Preapplication meeting:* A preapplication meeting between the city and the applicant is required. The purpose of this meeting will be to review the methodology and procedure, and to determine the study period. This will usually be a p.m. peak hour analysis; however, other time periods may require analysis.

(b) *Define study area:* The study area is defined as roadways impacted by the project at four and one-half (4.5) percent of LOS "D" capacity.

(c) *Existing conditions:* The following existing conditions shall be provided:

- (1) Existing directional p.m. peak hour traffic volumes and level service on all collectors and arterials within the study area.

- (2) Existing turning movement volumes at the impacted intersection(s) and intersection(s) level(s) of service.

Notes:

- a. The above required data shall be no older than the previous calendar year. Volumes shall be adjusted to reflect annual conditions using current FDOT seasonal adjustment factors for Manatee County or other adjustment factors approved by the city.
- b. The above required level(s) of service for roadways shall be determined in accordance with current FDOT generalized service volume procedures.
- c. The above required intersection capacity(s) shall be determined using computer software based on the 1985 Highway Capacity Manual, Special Report 209, Transportation Research Board, National Research Council.

(d) *Projection of background traffic:* Volume(s) shall be projected for the year of project completion. Volumes can be determined using one (1) of the following procedures:

- (1) Multiply existing volumes by an annual growth factor provided by the city. Traffic generated by any major project approved since the traffic counts were conducted shall be included as background traffic.
- (2) Multiply existing volumes by an annual growth factor developed by the applicant and approved by the city. This growth factor must be based on data collected on three (3) roadways in the vicinity of the project over the last three (3) years. Traffic generated by any major project approved since the traffic counts were conducted shall be included as background traffic.
- (3) Develop a computer model.

(e) *Project traffic generation:* The following procedures and information shall be provided:

- (1) To determine project traffic generation, the current edition of the ITE Trip Generation Report shall be used.
- (2) Identify all land use codes, amount of development and trip rates.
- (3) Trip rates may be obtained from studies of comparable sites in the City of Palmetto or using data from previous traffic generation studies. The city must approve the trip rates.
- (4) Any proposed reduction factors for capture of trips between land uses of a mixed use project or for passerby trips shall be provided by the applicant at the preapplication/methodology meeting and approved by the city.

(f) *Project traffic distribution:* One (1) of the following methods shall be used:

- (1) If the project generates fewer than one hundred (100) peak hour trips, the distribution can be developed based upon those of similar projects.
- (2) For any project, manual gravity model distribution can be developed. The travel-time method described in Chapter 3 of ITE Transportation and Land Development shall be used.
- (3) For any project, a computerized distribution model, such as FSUTMS or QRSII, can be developed.

*Note:* The applicant for a development permit shall provide the city with all information required by the city so as to enable the concurrency evaluation. This includes all of the information required for calculating projected demand for certificates of concurrency.

#### **Sec. 14.7. Alternative demand calculations.**

If the applicant claims the standards provided in the demand calculations are not applicable to the proposed project, the applicant shall submit appropriate documentation supporting the proposed alternative demand calculation to the city. Any alternative calculation standard shall be subject to the approval of the city clerk or his designee.

#### **Sec. 14.8. Appeals.**

Any appeal of a decision to deny a certificate of concurrency shall be received in writing within ten (10) working days to the office of the city clerk. The appeal request will be heard by the board of adjustment.

### **ARTICLE XV.**

#### **CONDITIONAL USES\***

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\* **Editors Note:** Per instruction of the city, Ord. No. 196, §§ 1--7, adopted Nov. 7, 1983, has been included herein and has been designated as Art. XV, §§ 15.1--15.7, by the editor, with the city's concurrence.

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#### **Sec. 15.1. Purpose and intent.**

This section is established to provide for the approval of conditional uses in various zoning districts, which are not allowed by right as permitted uses but which when subjected to careful review according to definite standards and procedures, including the opportunity for public notice and hearing where appropriate, can be conditionally approved.

(Ord. No. 196, § 1, 11-7-83)

#### **Sec. 15.2. Approving authority.**

Where specially authorized by the provisions of this ordinance and in accordance with all applicable law, the building inspector, planning commission, and city council may act as the approving authority for particular conditional uses.

(Ord. No. 196, § 2, 11-7-83)

### **Sec. 15.3. Standards and procedures.**

A. *Site plan:* The site plan requirements shall be the same as required by the Subdivision Ordinance.

B. *General regulations:* Parking, sign or other applicable requirements as provided by the Code of Ordinances of the City of Palmetto.  
(Ord. No. 196, § 3, 11-7-83)

### **Sec. 15.4. Special permits.**

A. *Purpose and intent:* This section is established to provide for the granting of special permits where allowed under the provisions of this ordinance. For the purposes of this ordinance, the term "special permit" means a special exception and "special exception" means a use that would not be appropriate generally or without restriction throughout the particular zoning district in which it is allowed, but which, if controlled as to number, area, location, relation to the neighborhood, mode of operation, size, design, establishment, construction, appearance, or similar matters, would promote the public health, safety, comfort, order, appearance, convenience, morals, prosperity, or general welfare.

B. *Authorization.*

1. *Approving authority:* The city council shall decide all applications for special permits; provided, that where permitted by this ordinance, the city council may authorize the planning commission to decide applications for particular types or classes of special permits by appropriate amendments to this ordinance.
2. *Restrictions, stipulations, and safeguards.* In connection with the approval of any special permit under this section, the approving authority may make the grant of a special permit conditional upon such restrictions, stipulations, and safeguards as it may deem necessary to ensure compliance with the intent and purpose of this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the special permit is granted, shall be deemed a violation of this ordinance. Such restrictions, stipulations, and safeguards may include, but are not limited to:
  - (a) *Time limitations:* Reasonable time limits within which the action for which the special permit is required shall be begun or completed, or maintained, as well as provisions for extensions or renewals.
  - (b) *Transfer:* Limitations upon the transfer of the special permit to persons other than the applicant.
  - (c) *Guarantees:* The posting by the applicant of a guarantee or bond in an appropriate form and reasonable amount.
  - (d) *Approval under past ordinances:* Nothing in this ordinance shall in any way modify or abrogate any restrictions, stipulations, safeguards, time limitations, guarantees, or

limitations upon the transfer to persons other than the applicant, which may have been applicable to or conditioned in connection with the approval of special exceptions granted prior to the effective date of this ordinance.

3. *Waiver of requirements:* In connection with the approval of any special permit under this section, the approving authority may waive or modify any nonprocedural requirement of the use limitations or dimensional regulations of the district wherein located, or any other nonprocedural requirements of this ordinance and where:
  - (1) Purpose and intent, The Comprehensive Plan: The waiver or modification is consistent with the stated purpose and intent of the applicable district regulations and this ordinance and is consistent with the Comprehensive Plan;
  - (2) Public interest; adjacent property: The waiver or modification will not adversely impact on the public interest or on adjacent property and all necessary alternative measures shall be taken by the applicant to prevent any such impact;
  - (3) Not discriminatory: The waiver or modification is not discriminatory, considering similar situations in the general area and in past decisions under this ordinance; and,
  - (4) Purpose of requirement: The purpose of the requirement is otherwise fully achieved, or more important purposes of this ordinance or the Comprehensive Plan will be served thereby, or the requirement serves no valid public purpose in this particular case.
- C. *Standards:* The following standards shall apply to all applications for specific permit approval.
  - a. *Purpose and intent; The Comprehensive Plan:* The proposal shall be consistent with the stated purpose and intent of the applicable district regulations and this ordinance, and consistent with the Comprehensive Plan.
  - b. *Applicable district regulations:* The proposal shall comply, where applicable, to the regulations of the zoning district in which the proposed use is most commonly permitted.
  - c. *Compatibility:* The proposal shall be compatible with surrounding land uses and the general character of the area, considering, without limitation, such factors as traffic, noise, drainage, dust, lighting, appearance, and effect on property values.
  - d. *Environment:* The site shall be environmentally suitable for the proposed use and such use shall not have a substantially adverse impact on the natural environment. Soils, drainage, flood hazards, wildlife, and air and water quality shall be among the factors considered in this regard.
  - e. *Orderly development:* The proposal shall be consistent with providing for efficient and orderly development, considering, without limitation, such factors as provision of public facilities and services, growth patterns, and energy conservation.
  - f. *Public facilities and services:* Necessary public facilities and services, such as sanitation, water,

drainage, emergency services, education, recreation, and similar facilities and services shall be adequate to serve the proposed use.

- g. *Traffic:* The proposal shall not create hazardous vehicular or pedestrian traffic conditions nor result in traffic exceeding the capacity of streets and intersections serving the use.
- h. *Screening and buffering:* The proposal shall include screening and buffering as necessary to minimize adverse impacts on surrounding land uses.
- i. *Signs; lighting:* Signs and outdoor lighting which may be involved in the proposal shall be designed to ensure that the use harmoniously fits into its surroundings.

D. *Procedures.*

- a. *Pre-application conference:* Prior to filing an application for a special permit, the developer shall confer with the staff of the planning department to discuss informally the requirements of this section and the nature of his proposal. For the purposes of this conference the developer shall provide a sketch plan of the proposal drawn to scale, showing the general layout, the relationship to the surrounding area, and the general development program.
- b. *Filing of application:* Following the pre-application conference, the developer may file an application for a special permit prepared as provided below. Such application shall be filed with the building inspector in ten (10) copies, on such forms as the building inspector may provide.
  - 1. *Submission requirement:* All applications for special permits shall be submitted as provided below.
    - (a) *Preliminary site plans:* All applications for special permits shall include a preliminary site plan, prepared in accordance with subdivision regulation requirement, site plans, unless specifically provided otherwise in this ordinance.
    - (b) *Requests for waivers or modifications:* Any requirements of this ordinance which the applicant is requesting be waived or modified as may be allowed under this section, shall be clearly indicated by section and paragraph numbers in the application, together with the rationale for the request.
- c. *Administrative review:* Upon receipt of the application, the building inspector shall forward it to all appropriate city reviewing agencies, and shall initiate his review of the application for conformance with the standards of this section.
- d. *Planning commission review.*
  - (1) *Notice and hearing:* The planning commission shall hold a public hearing on the application within a reasonable period of time following its receipt by the building inspector. Notice shall be provided in accordance with city ordinance regarding public hearings.

- (2) Decision: Within a reasonable period of time following the close of the public hearing on the application, the planning commission shall make its report and recommendation to the city council for approval, approval with conditions or denial of the application, stating in writing its reasons for any recommendation of denial.

e. *City council review.*

- (1) Notice and hearing: The city council shall hold a public hearing on the application, report, and recommendation of the planning commission within a reasonable period of time following receipt from the planning commission. Notice shall be provided in accordance with city ordinance regarding public hearings.
- (2) Decision: Within a reasonable period of time following the close of the public hearing, the city council shall approve, approve with conditions or deny the application, furnishing the developer a written statement of the reasons for any denial; a special permit shall be granted upon an affirmative vote of a majority of all the members of the city council.

(Ord. No. 196, § 4, 11-7-83)

**Sec. 15.5. Transfer of conditional permits.**

1. *Generally:* All conditional permits hereafter granted pursuant to the ordinance shall be deemed to run with the land which was the subject of the conditional permit application, *unless* the provisions of this ordinance of the terms of the approval specifically provide that the conditional permit is issued personally to the applicant.

2. *Approval:* The transfer of all conditional permits which do not run with the land shall require the prior approval by the same approving authority and according to the same procedures as for the original conditional permit. No such transfer shall be approved unless the subject property is in full compliance with this ordinance and the terms and conditions of the applicable conditional permit.

3. *Effect of transfer:* Upon the transfer of any conditional permit, whether by virtue of it running with the land or by specific city approval, all rights, privilege, and obligations connected with such conditional permit shall pass entirely to the transferee unless the terms of transfer clearly indicate otherwise.

(Ord. No. 196, § 5, 11-7-83)

**Sec. 15.6. Extensions, renewals.**

1. *Extensions.*

a. *Applicability:* Where an extension of a conditional permit is specifically authorized by the provisions of this ordinance or by the terms of any approval of a conditional permit, the holder of the conditional permit may request such an extension from the city council. Such request shall be filed no later than thirty (30) days prior to the expiration date of the conditional permit.

b. *Review:* The city council shall inspect the conditional permit use; review the applicant's record of

compliance with those restrictions, stipulations and safeguards previously imposed in connection with its prior approval, and make a determination on whether the conditional permit use still satisfies the special permit standards. Upon an favorable finding, the extension shall be issued. Upon an unfavorable finding, the request shall be denied.

- c. *Applicable law:* All ordinances and regulations in effect at the time an application is filed for an extension shall apply to the conditional permit in the same manner as when a new conditional permit is issued, except that no alteration of a structure shall be required if such structure was in conformity with the provisions of the Building Code and other applicable regulations at the time the conditional permit was first granted.

2. *Renewals.*

- a. *Procedure:* The procedure for the renewal of a conditional permit shall be the same as specified for the issuance of a new conditional permit, unless the approving authority specifically waives or modifies such procedure for a given conditional permit, or unless the procedure is qualified for a particular use category. The application for renewal shall be filed ninety (90) days prior to the expiration of any special permit.
- b. *Applicable law:* All ordinances and regulations in effect at the time an application is filed for a renewal shall apply to the conditional permit in the same manner as when a new conditional permit is issued except that no alteration of a structure shall be required if such structure was in conformity with the provisions of the Building Code and other applicable regulations at the time the conditional permit was first granted.

(Ord. No. 196, § 6, 11-7-83)

### **Sec. 15.7. Expirations, revocations.**

1. *Expirations.*

- a. *Generally:* Unless a time limit is specified for a conditional permit the same shall be valid for an indefinite period, but all conditional permits granted for a specified period shall automatically expire without notice at the end of such period unless extended or renewed pursuant to this section.
- b. *Failure to commence:* Where no building permit has been issued or the authorized use is not clearly established within six (6) months of the issuance of any special permit, the city council may declare the conditional permit expired pursuant to the procedures of paragraph 3, Procedure, below; Provided, however, a different time limit may be established by the provisions of this ordinance or the terms of any conditional permit approval.

2. *Revocations:* Where the holder of any conditional permit fails to observe any requirements of law with respect to the establishment and maintenance of the conditional use permitted and any terms, stipulations, conditions or requirements in connection with the respective conditional permit, the city council, in accordance with the provisions of paragraph 3, Procedure, below, may revoke such conditional permit.

3. *Procedure:* Before revoking any conditional permit however, the city council shall give the holder thereof at least ten (10) days written notice. If within such ten (10) days, the holder so requests in writing, the city council shall hold a hearing on the proposed action and shall give the holder at least ten (10) days' advance written notice of the hearing date and place either by registered mail or by having the notification served personally on him or his agent for service of process under Florida Law.

4. *Other remedies preserved:* The foregoing provisions shall not be deemed to preclude the use of any other remedy prescribed by law or by this ordinance with respect to violations of the provisions of this ordinance.

(Ord. No. 196, § 7, 11-7-83)

## **ARTICLE XVI.**

### **DEVELOPMENT AGREEMENTS**

#### **Sec. 16.1. Purpose and intent.**

Development agreements may be entered into by a developer and the city council of the City of Palmetto to guarantee that the requirements of the Florida Local Comprehensive Act are followed.

(Ord. No. 527, § 1, 11-21-94)

#### **Sec. 16.2. Procedures for adoption.**

Application for a development agreement should be made to the city planner in conjunction with an application for development approval in a form to be prescribed by the city planner. Applications shall be signed by all property owners.

- (a) The applicant shall demonstrate that the adoption of a local government land development agreement requiring or committing either the City of Palmetto or a private party, to invest in any new construction or improvement of any facility is based upon compliance with all other applicable concurrency standards, unless compliance with adopted concurrency standards is made a condition of the local government land development agreement.

(Ord. No. 527, § 1, 11-21-94)

#### **Sec. 16.3. Development agreement.**

The development agreement shall include the following:

- (a) A legal description of the land subject to the agreement and the names of all persons with a legal or equitable interest in such land;
- (b) A listing of all parties to the agreement and the relationship between said parties;
- (c) The duration of the agreement, which shall not exceed the maximum length of time allowed by law;

- (d) A statement indicating the sole means of relief from this agreement shall be by an action for injunctive relief filed in a circuit court of Manatee County and any appropriate appeal thereof;
- (e) The development uses permitted on the land, including population and unit densities, and building intensities and height.
- (f) A description of the public facilities that will service the development, including who shall provide such facilities; the date any new facilities, if needed, will be constructed; and a schedule to assure public facilities are available concurrent with the impacts of the development.
- (g) A description of any reservation or dedication of land for public purposes;
- (h) A description of all local development permits approved or needed to be approved for the development of land;
- (i) A finding that the development, permitted or proposed, is consistent with the Comprehensive Plan and this Code;
- (j) A description of any conditions, terms, restriction, or any other requirements determined to be necessary by local government for the public health, safety, or welfare of its citizens;
- (k) A statement indicating that failure of the agreement to address a particular permit, condition, term or restriction shall not relieve the applicant of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions; and
- (l) A statement that the burdens of the development agreement shall be binding upon, and the benefits of the agreement shall inure to, all successors in interest including all mortgages to the parties of the agreement.
- (m) The effective dates shall not begin until all time periods for appeals have expired.

(Ord. No. 527, § 1, 11-21-94)

#### **Sec. 16.4. Public hearings; notice.**

There shall be two (2) public hearings prior to approval of a proposed development agreement or a proposed amendment or revocation.

Public hearings shall be conducted in accordance with the procedures and requirements of section 11.5(b) of the City of Palmetto Zoning Code.

Notice of intent to consider a development agreement shall be published and shall also be mailed to all affected property owners in accordance with section 11.5(b) of the City of Palmetto Zoning Code. The day, time and place at which the second public hearing will be held shall be announced at the first public hearing.

(Ord. No. 527, § 1, 11-21-94)

#### **Sec. 16.5. Preparation of draft agreement.**

With their application, the applicant shall provide sufficient information to staff for preparation of the draft development agreement. Upon preparation, the draft shall be forwarded to the city attorney for review. (Ord. No. 527, § 1, 11-21-94)

**Sec. 16.6. Review and recommendation.**

Review of a development agreement shall be performed by the city planner and the Palmetto Department of Public Works Superintendent or their designees. Recommendations on the proposed development agreement shall be provided to the applicant, the Palmetto Planning and Zoning Board, and to the city council.

(Ord. No. 527, § 1, 11-21-94)

**Sec. 16.7. Review and action by the Palmetto Planning and Zoning Board and the city council.**

The Palmetto Planning and Zoning Board and the city council shall each hold a public hearing to review the application for development agreement and hear recommendations from the city planner and the Palmetto Department of Public Works Superintendent.

- (a) *Palmetto Planning and Zoning Board.* The Palmetto Planning and Zoning Board shall hold a public hearing on each application for a development agreement. After conducting the public hearing, the Palmetto Planning and Zoning Board shall make a recommendation to the city council on each application for a development agreement.
- (b) *City council.* The city council shall conduct a public hearing in accordance with the procedures and requirements of section 11.5(b) of the Palmetto Zoning Code and after a review by the city attorney for consistency with prior approvals and actions of the city council, the mayor shall execute the development agreement on behalf of the city. If the application is denied, the city council shall provide reasons for said action.

(Ord. No. 527, § 1, 11-21-94)

**Sec. 16.8. Recording.**

The city, at the applicant's expense, shall record the development agreement within fourteen (14) days after execution by the mayor, and shall provide a copy to the applicant. The city planner shall forward a copy to the state land planning agency within one (1) month after recording.

(Ord. No. 527, § 1, 11-21-94)

**Sec. 16.9. Periodic review.**

The city planner shall review land subject to a development agreement at least once every twelve (12) months to determine if there has been demonstrated good faith compliance with the terms of the development agreement. If the city planner finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of the development agreement, the city planner, shall notify the parties to the agreement of the failure. A reasonable time period, not less than fourteen (14) days shall be provided for the parties to come into compliance with the agreement. If the violating parties have failed to comply within the

specified time period, the city planner shall forward to the city council a recommendation that the agreement be revoked or modified. Notice of this recommendation, the reasons therefore, and the time and place of the hearing on this matter will be sent to all parties not less than fourteen (14) days prior to said hearings.  
(Ord. No. 527, § 1, 11-21-94)

**Sec. 16.10. Amendment or cancellation.**

A development agreement may be amended or cancelled by mutual consent of the parties to the agreement or their successors in interest.  
(Ord. No. 527, § 1, 11-21-94)

**Sec. 16.11. Modification or revocation.**

(a) The development agreement may be modified or revoked by the city council:

- (1) For failure to comply with the terms of the agreement; or
- (2) In order to apply subsequently adopted local laws pursuant to section 16.12.

(b) A development agreement shall be modified as is necessary to comply with relevant state or federal laws enacted after the execution of the agreement which preclude the parties' compliance with the terms of the agreement.  
(Ord. No. 527, § 1, 11-21-94)

**Sec. 16.12. Application of subsequently adopted local laws and policies.**

The city may apply subsequently adopted laws and policies to a development that is subject to a development agreement only if the city council has held a public hearing and determined that the subsequently adopted laws and policies:

- (a) Are not in conflict with the laws and policies governing the development agreement and do not prevent development of the land uses, intensities, or densities in the development agreement; or
- (b) Are essential to the public health, safety, or welfare, and expressly state that they shall apply to a development that is subject to a development agreement; or
- (c) Are specifically anticipated and provided for in the development agreement; or
- (d) The development agreement was based on inaccurate information supplied by the parties to the agreement or agents.

(Ord. No. 527, § 1, 11-21-94)

**Sec. 16.13. Enforcement.**

Any party, any aggrieved or adversely affected person as defined herein, or the state land planning agency may file an action for injunctive relief in the Circuit Court of Manatee County to enforce the terms of a

development agreement.  
(Ord. No. 527, § 1, 11-21-94)

## ARTICLE XVII.

### TELECOMMUNICATIONS TOWERS, ANTENNAE AND FACILITIES REGULATIONS

#### Sec. 17.1. Purpose.

The purpose and intent of this article is to provide a uniform and comprehensive set of standards for the development and installation of telecommunications towers, antennae and related facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare and the aesthetic quality of the city, while at the same time not unduly restricting the development of needed telecommunications facilities and encouraging managed development of telecommunications infrastructure.  
(Ord. No. 618, § 4, 8-3-98)

#### Sec. 17.2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

*Accessory antennae* shall mean antennae utilized for amateur radio, citizen's band, or other strictly noncommercial hobbyist use and radio or television receiving antennae and dish as defined in the zoning code. These specifically are not private mobile service or public service antennae or facilities as defined in this section. Accessory antennae and their supporting structures do not fall into the categories of "telecommunications equipment," "telecommunications facility," or "telecommunications tower," as defined in this section.

*Amateur radio* or *ham radio* refers to the amateur radio services, a noncommercial licensed radio service regulated under the Code of Federal Regulations, Title 47, Telecommunications, Part 80 to End.

*Antenna* shall mean any exterior apparatus designed for telecommunication and any electronic communicating devices or services through the sending or receiving of electromagnetic waves. This term includes satellite dish antennae, utility pole mounted antennae, and antenna arrays and excludes accessory antennae as defined herein.

*Applicant* shall mean any person applying for a permit to build, place or operate a cellular, PCS or wireless telecommunication tower or facility within the city.

*Backhaul provider* shall mean a fiber-optic network connecting cell sites to each other and to the control center, and then to a conventional telephone network.

*Building mounted antenna* shall mean any antenna, as defined herein, directly attached or affixed to a building or structure. The building mounted antenna shall not be higher than twenty (20) feet above the roof, unless a conditional use permit is applied for and granted.

*Camouflage tower* shall mean man-made "trees," lighthouses, bell steeples, light poles, and similar

alternative-design mounting structures which camouflage or conceal the presence of antennae or towers.

*City-owned property* shall mean all property and facilities which are solely owned by the city.

*Collapse zone* shall mean the designated area of a telecommunications facility surrounding a telecommunications tower, which, in the event of a structural failure of all or part of the telecommunications tower, would contain the failed or collapsed telecommunications tower.

*Co-location* shall mean the use of or the ability to use a common telecommunications facility for more than one telecommunications service provider, or more than one type of telecommunications technology by one provider.

*Existing structure* shall mean any building or other structure, other than a tower, which can be used for location of wireless telecommunications facilities.

*Federal Communications Commission (FCC)* shall mean the federal agency with the oversight of all aspects of communications, including broadcast radio, broadcast television, wireless telephone, cellular, radio, public safety and cable television.

*Height, telecommunications tower* shall mean the distance measured from the base (top of foundation) to the highest point of the tower. This measurement excludes any attached antennae, and lighting. Any part of the base which exceeds four (4) feet above grade shall be included in the height of the tower.

*Monopole tower* shall mean a telecommunications tower of a single pole design.

*PCS* shall mean personal communications service.

*Person* shall mean any individual, firm, partnership, corporation, association, governmental body or other legal entity.

*Platform* shall mean a support system that may be used to connect antennae and antenna arrays to telecommunications towers or alternative support structures.

*Private mobile service* shall mean a radio communication service that is not a commercial mobile service or the functional equivalent of a commercial mobile service, as specified by the Federal Communications Commission (FCC). This term shall also include aviation and emergency services.

*Public communication facility* shall mean a telecommunication facility owned, operated or used by a public entity solely for any of the following services: public education, parks and recreation, fire and police protection, public works and general government.

*Residential zoning district* shall have the same meaning as the terms "single family residential district" and "multiple family residential district" in sections 4.1(a) and (b) of the zoning code.

*Right-of-way* shall mean the surface and the space above and below any strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied or is occupied by a public

street, sidewalk, road, alley, utility lines or pipes, including under or along bridges, located in the city.

*Satellite dish antenna* shall mean parabolic or spherical antennae whose diameter or width exceeds one (1) meter in residential zoning districts or two (2) meters in nonresidential zoning districts.

*Screening* shall mean a solid enclosed fence six (6) feet in height surrounding the base of the tower and its telecommunications equipment building and a continuous evergreen hedge, preferably native and salt-tolerant, or other plantings as approved by the city. When mature, such plantings shall be at least the height of the fence and satisfactorily maintained at all times.

*Telecommunications equipment* shall mean antennae, towers, satellite dishes and other communications devices and/or equipment which are used for transmitting, receiving, or relaying communications signals, except such equipment as has been preempted from regulation by the Telecommunications Act of 1996.

*Telecommunications equipment building* shall mean the telecommunications support facility structure located on a tower site which houses the electronic receiving and relay equipment.

*Telecommunications facility* shall mean a facility, site, or location that contains telecommunications equipment.

*Telecommunications tower* shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennae, including camouflage towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone and PCS towers.

*Utility pole mounted antenna* shall mean an antenna attached to or upon an existing or replacement electric transmission or distribution pole, street light, traffic signal, athletic field light or other approved similar structure.

(Ord. No. 618, § 4, 8-3-98)

### **Sec. 17.3. Application procedure.**

All applications for a telecommunication facility must contain the following information.

- (1) Plot plan which shows all structures and identifies land usage within five hundred (500) feet of the property boundary of the telecommunication facility.
- (2) A written report including a description of any tower proposed with technical reasons which supports its design in relation to its proposed site.
- (3) Documentation establishing the structural integrity of the tower or the structure on which the antenna is to be mounted.
- (4) General capacity of the proposed tower design and the information necessary to assure that American National Standards Institute (ANSI) standards are met.

- (5) A statement of intent on whether co-location space will be available and information regarding proposed co-locators.
  - (6) Proof of ownership of the proposed site or proof of authorization to utilize it including copies of any lease agreements.
  - (7) A review deposit of two thousand five hundred dollars (\$2,500.00). All work performed by city employees and city consultants directly and reasonably attributable to review of a telecommunication facility application shall be paid by the applicant. Fees will be based upon the hourly rate of pay of each employee performing the work multiplied by the number of hours worked multiplied by thirty-three and seventeen-hundredths (33.17) percent except for the city attorney and consultant review time which will be charged at actual cost to the city. Any balance due over the established deposit amount will be billed. Any amount under the deposit amount will be refunded.
  - (8) Copies of any easements necessary.
  - (9) The fiber optic network, if any, utilized by the facility and the names and addresses of the back haul providers.
  - (10) All structures shall be designed to meet or exceed the standards established by the Standard Building Code and the city's building code.
  - (11) Plans must be sealed by a professional engineer registered in the state.
  - (12) Copies of all approvals issued by other agencies with jurisdiction including but not limited to FCC and FAA.
  - (13) Those telecommunication facilities which are required to obtain a conditional use permit must also comply with the requirements of Article XV of the city's zoning code.
- (Ord. No. 618, § 4, 8-3-98)

#### **Sec. 17.4. Use regulations.**

The following use regulations shall apply to telecommunication facilities:

- (1) Telecommunication facilities may be permitted as a conditional use in the public, office, commercial and industrial zoning districts as established in the zoning code; provided, however that building mounted antennae as defined herein are allowed as permitted uses in the public, office, commercial, and industrial zoning districts provided the requirements of this article are met.
  - (2) Public communication facilities are allowed as permitted uses on city-owned property and in the public zoning district, provided, however, that the requirements set forth in sections 17.3, 17.6, 17.9, 17.13 and 17.14 are met.
- (Ord. No. 618, § 4, 8-3-98)

### **Sec. 17.5. Co-location; availability of suitable existing structures.**

No new telecommunication tower shall be permitted unless the applicant demonstrates that no existing tower or structure regardless of whether it is located within the city can accommodate the applicant's proposed antenna. All evidence submitted shall be signed and sealed by appropriate licensed professionals or qualified industry experts. Evidence submitted to demonstrate that no existing tower or structure can accommodate the proposed antenna shall consist of one or more of the following:

- (1) That no existing towers or suitable alternative structures are located within the geographic antenna placement area required to meet the applicant's engineering requirements.
- (2) That existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
- (3) That existing towers or structures do not have sufficient structural strength to support the applicant's antenna and related equipment.
- (4) That the applicant's proposed antenna(s) would cause electromagnetic interference with the antennae on the existing towers or structures, or the antennae on the existing towers or structures would cause interference with the applicant's proposed antenna.
- (5) That the cost or contractual provisions required by the tower owner to use an existing tower or structure or to adapt an existing tower or structure for shared use are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

(Ord. No. 618, § 4, 8-3-98)

### **Sec. 17.6. Standards of approval of all telecommunication facilities.**

The following standards shall apply to approval of all telecommunication facilities.

- (1) The applicant shall demonstrate, using the latest technological evidence, why the antenna or tower must be placed in a proposed location in order to serve its necessary function in the company's grid system. Part of the demonstration shall include a drawing showing the boundaries of the area around the proposed location which would also permit the antenna to function properly in the company's grid system. The area shall be considered the allowable zone.
- (2) The applicant shall demonstrate that the telecommunication tower is no higher than necessary to function satisfactorily and to accommodate the co-location requirement. All towers shall be designed to accommodate the co-location of other telecommunication antennae as follows:
  - (a) For towers up to one-hundred fifty (150) feet in height, the tower and telecommunication equipment building shall be designed to accommodate at least two (2) providers; and
  - (b) For towers greater than one-hundred fifty (150) feet in height, the tower and telecommunication equipment building shall be designed to accommodate at least three

(3) providers.

- (3) Telecommunication towers shall be monopole construction unless it is demonstrated that another type of tower is required for safety purposes.
- (4) All telecommunication towers shall be fitted with anti-climbing devices as approved by the manufacturers.
- (5) If the installation and/or the operation of any telecommunication facility is determined by the city council, to be inherently dangerous, or a demonstrable health hazard, the facility shall be declared to be a nuisance and all operation thereof shall cease. This provision shall be applicable to telecommunication facilities located in the city prior to adoption of this ordinance.
- (6) Screening shall be required around the telecommunication facility unless the antenna is mounted on an existing structure.
- (7) The applicant shall demonstrate that the proposed tower and its antennae are safe and that the surrounding properties will not be adversely affected by tower failure, falling debris, electromagnetic fields or radio frequency interference. However, if a specific safety issue in question is determined to be regulated by either FCC regulations and the operation or construction is in compliance with such regulations, then this requirement for safety shall be deemed to have been met.
- (8) Adequate parking shall be required for users of the tower and such maintenance personnel as normal operations require. If the site is not fully automated, the number of required parking spaces shall equal the number of employees working on the largest shift.
- (9) The owner of property used as a telecommunication facility shall maintain such property and all structures in good condition and free of trash, outdoor storage, weeds and other debris.

(Ord. No. 618, § 4, 8-3-98)

### **Sec. 17.7. Change of ownership.**

Any owner of a telecommunication facility shall be required to notify the city of its intent in writing within thirty (30) days of any transfer, merger or change of ownership. The new owner must fully comply with all provisions of this article and acknowledge in writing acceptance of the conditional use permit.

(Ord. No. 618, § 4, 8-3-98)

### **Sec. 17.8. Annual report.**

The owner of each company operating a telecommunications facility must provide current information on the facility by the first of October each year by filing an annual report and paying a registration fee of five hundred dollars (\$500.00). This annual registration process consists of providing a list of all users of the telecommunications facility with names, addresses and phone numbers of responsible management personnel. Each user shall provide the city with a copy of each user's license with the FCC. Each telecommunication facility must submit annual registration separately. No approval will be granted to any annual report unless

proof of current FCC license is provided. All owners of telecommunication facilities must also obtain an occupational license from the city.  
(Ord. No. 618, § 4, 8-3-98)

### **Sec. 17.9. Aesthetics.**

The provision of this section shall govern the design and construction of all telecommunication towers, and the installation of all antennae, governed by this article.

- (1) Towers and/or antennae shall either maintain a galvanized steel or concrete finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
- (2) The design of all telecommunication equipment buildings, towers, and related structures shall use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and building environment.
- (3) For antennae installed on a structure other than a tower, the antenna and supporting electrical and mechanical ground equipment shall be of a neutral color so as to make the antenna and related equipment visually unobtrusive.
- (4) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
- (5) No signage or other identifying markings of a commercial nature shall be permitted upon any tower or antennae within the city.

(Ord. No. 618, § 4, 8-3-98)

### **Sec. 17.10. Setbacks and separation.**

The following setbacks and separation requirements shall apply to all telecommunication towers and facilities.

- (1) Towers shall be setback a distance equal to one foot for every foot of tower height to any public right-of-way or property line of the lot or parcel containing the tower. The city council may reduce this setback upon a showing that the collapse zone is less than this distance, however, in no event can the setback be less than the minimums established for the zoning district in which the tower is located.
- (2) Telecommunication equipment buildings shall meet the setback requirements of the zoning district in which it is located.
- (3) Towers which are one-hundred fifty (150) feet or greater in height shall not be located closer than fifteen hundred (1,500) feet from any existing tower that is one hundred (100) feet or greater in height. Towers which are one hundred (100) feet or greater in height shall not be

located closer than one thousand (1,000) feet from any other tower.

- (4) Antennae which are mounted on existing structures (i.e. water towers or other tall structures) must meet the minimum setback requirements for the district in which the structure is located.

(Ord. No. 618, § 4, 8-3-98)

#### **Sec. 17.11. Pre-existing towers and antennae.**

Any tower or antennae for which a permit has been properly issued prior to the effective date of this article shall not be required to meet the provisions of this article except for sections 17.13 and 17.14. If an additional antennae is proposed to be co-located on a pre-existing tower, the screening and landscaping requirements of section 17.6(6) and 17.12 shall be met.

(Ord. No. 618, § 4, 8-3-98)

#### **Sec. 17.12. Landscaping.**

The following requirements shall govern landscaping surrounding all towers.

- (1) Where adequate vegetation is not present, telecommunication facilities shall be landscaped with a landscaped strip of plant materials which effectively screens the view of the tower and equipment building. Landscaped strips shall be a minimum of ten (10) feet in width and located outside the fenced perimeter of the facility. Landscaped strips shall satisfy the minimum design and planting requirements for buffers established in chapter 7 of the Code of Ordinances.
- (2) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. Where natural vegetation around the perimeter of the site would provide an adequate visual screen, this area may be utilized to provide the required buffer.

(Ord. No. 618, § 4, 8-3-98)

#### **Sec. 17.13. Federal requirements.**

All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennae. If such standards and regulations are changed, the owners of the towers and antennae governed by this article shall bring such towers and antennae into compliance with such revised standards and regulations within ninety (90) days of the effective date of such standards and regulations unless a more or less stringent compliance schedule is mandated by the controlling federal agency. Extensions may be granted by city council upon a showing of good cause. Failure to bring towers and antennae into compliance with such revised standards and regulations shall constitute a violation of this ordinance are grounds for fines or revocation of the conditional use permit. After a public hearing, the city council may remove the tower or antennae at the owner's expense. A lien may be placed on the property to recover said costs.

(Ord. No. 618, § 4, 8-3-98)

#### **Sec. 17.14. Building codes--Safety standards.**

To ensure the structural integrity of towers and antennae, the owner of a tower or antennae shall ensure

that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers and antennae that are published by the Electronic Industries Association, as amended from time to time. If a tower or antennae fails to comply with all applicable codes and standards, or constitutes a danger to persons or property, then upon receipt of written notice the owner, of the telecommunications facility, shall have fifteen (15) days to bring the facility into compliance with such standards. If the owner, fails to bring the facility into compliance within the fifteen (15) days, the city may remove the facility at the owner's expense. Prior to the removal of any facility, the city may consider detailed plans submitted by the owner, for repair of substandard facilities, and may grant a reasonable extension as determined by the city council of the above referenced compliance period. A lien may be placed on the property to recover said costs.

(Ord. No. 618, § 4, 8-3-98)

### **Sec. 17.15. Abandonment of towers, antennae and facilities.**

(1) Any owner of a telecommunication facility shall notify the city of its intent in writing of any cessation of business or discontinued use and the date such use will cease. If at any time the use of the facility is discontinued for ninety (90) days, the city may declare the facility abandoned. (This excludes any dormancy period between construction and the initial use of the facility.) "Discontinued" shall mean that the structure has not been properly maintained, has been abandoned, become obsolete, is unused or has ceased the daily activities or operations for which it is permitted. The facility's owner will receive written notice from the city, and be instructed to either re-activate the facility's use within thirty (30) days or dismantle and remove the facility. If reactivation or dismantling does not occur, the city shall schedule a public hearing to determine the action to be taken.

(2) After such hearing has been provided, the city shall have the authority to initiate proceedings to either acquire the facility and any appurtenances attached thereto at the then fair market value, or in the alternative, order the removal of the facility and all appurtenances, at owner's expense. A lien may be placed on the property to recover said costs.

(3) No telecommunications tower shall be constructed, replaced or altered without obtaining the applicable building permits.

(Ord. No. 618, § 4, 8-3-98)

### **Sec. 17.16. Conditions of permit issuance.**

The applicant shall:

(1) Maintain public liability and property damage insurance that protects the applicant and the city; naming the city and the city's officers and agents and employees as an additional insured. The insurance shall provide uninterrupted coverage of not less than five million dollars (\$5,000,000.00) for personal injury to each person and five million dollars (\$5,000,000.00) for each occurrence involving property damage, plus costs of defense. The policy shall provide that the insurance shall not be canceled or materially altered without thirty (30) days written notice first being given to the city.

(2) Maintain on file with city a certificate of the insurance required by section (1) above. Failure to

maintain insurance coverage or to provide proof of insurance shall constitute a violation of this article and grounds for fines and/or revocation of the conditional use permit.

- (3) Provide specific performance bond from a company authorized to do business in Florida to the city as guarantee of fulfillment of the owner's obligation to remove the telecommunication tower and facilities upon its abandonment or discontinuation of use. The amount of the bond shall be equal to the removal and disposal cost as certified by a cost estimate submitted by an engineer approved by the city. Failure to maintain such bond or to show proof of such bond upon request of the city shall constitute a violation of this article and shall be grounds for revocation of the conditional use permit. The performance bond may be invoked in accordance with the procedures set forth therein by the city upon a determination by the city council that the tower has been abandoned and that the owner has failed to remove it as required by this article.
- (4) Provide a copy FCC's permits or a copy of documents showing the applicant has applied for a permit from the FCC showing their status as a telecommunications provider and/or carrier doing business as either a wireless, PCS or other telecommunications provider. The actual permit must be provided prior to a issuance of a certificate of occupancy by the city.
- (5) A copy of the finding from the FAA's aeronautical study determination regarding the proposed telecommunication tower siting.

(Ord. No. 618, § 4, 8-3-98)